

Decision Summary LA25023

This document summarizes my reasons for issuing Registration LA25023 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25023. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at www.nrcb.ca under Confined Feeding Operations (CFO)/CFO Search. My decision is based on the Act and its regulations, the policies of the NRCB, the information contained in the application, and all other materials in the application file.

Under AOPA this type of application requires a registration. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On March 12, 2025, Randy and Pamela Vanden Broek (the Vanden Broeks), operating as Footstep Farms, submitted a Part 1 application to the NRCB to construct a new poultry CFO.

The Part 2 application was submitted on March 17, 2025. On April 1, 2025, I deemed the application complete.

The proposed CFO involves:

- Increasing duck numbers from 0 to 1,350
- Constructing duck barn 1 - 18.3 m x 9.8 m + 7.3 m x 2.4 m x 0.9 m deep pit
- Constructing duck barn 2 – 18.3 m x 24.4 m + 7.3 m x 2.4 m x 0.9 m deep pit

The application also notified the NRCB of an already constructed, but not permitted, shop that will be modified for feed storage, bedding, and egg handling, as well as a duck run off each proposed duck barn. These facilities are “ancillary structures,” under section 1(1)(a.1) of the *Agricultural Operations, Part 2 Matters Regulation*, because they will not be used to store or collect manure or to confine livestock. Therefore, under section 4.1 of that regulation, these structures are part of the CFO but do not need to be permitted under the Act.

a. Location

The proposed CFO is located at SE 33-11-23 W4M in Lethbridge County, roughly five km south of Barons, AB. The surrounding terrain is flat. The nearest common body of water is Keho Lake, approximately 1.1 km east of the proposed CFO.

2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by a registration application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- In the case where part of a CFO is located, or is to be located, within 100 m of a bank of a river, stream or canal, a municipality entitled to divert water from that body within 10 miles downstream
- the municipality where the CFO is located or is to be located

- any other municipality whose boundary is within a ½ mile (805 m) from the CFO
- all persons who own or reside on land within the greater of ½ mile (805 m) or the minimum distance separation for the land on which the CFO is located

The land zoning on which the CFO is located would require a minimum distance separation of 150 metres. Therefore, the notification distance is ½ mile (805 m).

A copy of the application was sent to Lethbridge County, which is the municipality where the CFO is to be located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in Sunny South newspaper in circulation in the community affected by the application on April 1, 2025, and
- sending 13 notification letters to people identified by Lethbridge County as owning or residing on land within the notification distance.

The full application was made available for viewing at the NRCB office in Lethbridge during regular business hours.

3. Notice to other persons or organizations

Under NRCB policy, the NRCB may also notify persons and organizations the approval officer considers appropriate. This includes sending applications to referral agencies which have a potential regulatory interest under their respective legislation.

Referral letters and a copy of the complete application were emailed to Alberta Environment and Protected Areas (EPA) and Alberta Transportation and Economic Corridors (TEC).

I also sent a copy of the application to Little Bow Gas Coop Ltd as they are a right of way holder on the subject land.

In their response, a water administration technologist with EPA acknowledged that the Vanden Broeks have a water conveyance agreement with the LNID that would provide sufficient water for the proposed livestock. It is requested that the Vanden Broeks confirm that stock watering is authorized under the conveyance agreement, and if not, to provide EPA with water licensing and/or conveyance agreements to support the proposed CFO.

In their response, a development and planning tech with TEC stated that they do not have any concerns with the application and that a permit from TEC will not be required.

No other responses were received.

Registration LA25023 does not relieve the permit holder from complying with other applicable laws, such as safety codes, other municipal bylaws, provincial legislation (e.g. Historical Resources Act), and federal legislation (e.g. Migratory Birds Convention Act).

4. Alberta Land Stewardship Act (ALSA) regional plan

Section 22(9) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

As required by section 4(1) of the South Saskatchewan Regional Plan (SSRP), I considered that document's Strategic Plan and Implementation Plan and determined that the application is consistent with those plans. In addition, there are no notices or orders under the Regulatory Details portion of the SSRP that apply to this application.

5. Municipal Development Plan (MDP) consistency

I have determined that the proposed CFO is consistent with the land use provisions of Lethbridge County's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

6. AOPA requirements

With respect to the technical requirements set out in the regulations, the proposed CFO:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS)
- Meets the required AOPA setbacks from springs and common bodies of water
- Has sufficient means to control surface runoff of manure
- Meets AOPA's nutrient management requirements regarding the land application of manure
- Meets AOPA groundwater protection requirements for the design of floors and liners of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 10 and in Appendix C, the application meets all relevant AOPA requirements. The exemption that is required to address the AOPA requirements around water well setbacks is discussed in the following parts of this decision summary.

7. Responses from municipality and other directly affected parties

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application and are entitled to request an NRCB Board review of the approval officer's decision. Not all affected parties are "directly affected" under AOPA.

Municipalities that are affected parties are identified by the Act as "directly affected." Lethbridge County is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Ms. Hilary Janzen, manager, planning and development with Lethbridge County, provided a written response on behalf of Lethbridge County. Ms. Janzen stated that the application is not consistent with Lethbridge County's municipal development plan because of the parcel size for the proposed CFO. The application's consistency with the land use provisions of Lethbridge County's municipal development plan are addressed in Appendix A, attached.

Ms. Janzen also listed the setbacks required by Lethbridge County's land use bylaw (LUB) and noted that the application meets these setbacks.

No responses were received from any other person, organization, or member of the public.

8. Environmental risk of CFO facilities

New CFO facilities which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. There may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, and surface water systems an approval officer may require monitoring for the facility. In this case, a determination was made and monitoring is not required because the concrete liner meets AOPA's technical requirements.

9. Exemptions

I determined that the proposed duck barns are located within the required AOPA setback from a water well. As explained in Appendix B, an exemption to the 100 m water well setback is warranted due to the construction and maintenance of the well and because the proposed concrete liner meets AOPAs technical requirements. Additionally, the manure will be fully enclosed within the proposed facilities.

10. Terms and conditions

Registration LA25023 specifies the cumulative permitted livestock capacity as 1,350 ducks and permits the construction of duck barn 1 and duck barn 2.

Registration LA25023 contains terms that the NRCB generally includes in all AOPA registrations, including terms stating that the applicant must follow AOPA requirements and must adhere to the project descriptions in their application and accompanying materials.

In addition to the terms described above, Registration LA25023 includes conditions that generally address construction deadline, document submission, and construction inspection. For an explanation of the reasons for these conditions, see Appendix C.

11. Conclusion

Registration LA25023 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25023.

May 23, 2025

(Original signed)
Kailee Davis
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Exemptions from water well setback
- C. Explanation of conditions in Registration LA25023

APPENDIX A: Consistency with the municipal development plan

Under section 22 of AOPA, an approval officer may only approve an application for a registration or amendment of a registration if the approval officer holds the opinion that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

This does not mean consistency with the entire MDP. In general, “land use provisions” cover MDP policies that provide generic directions about the acceptability of various land uses in specific areas.

“Land use provisions” do not call for discretionary judgements relating to the acceptability of a given confined feeding operation (CFO) development. Similarly, section 22(2.1) of the Act precludes approval officers from considering MDP provisions “respecting tests or conditions related to the construction of or the site” of a CFO or manure storage facility, or regarding the land application of manure. (These types of MDP provisions are commonly referred to as MDP “tests or conditions.”) “Land use provisions” also do not impose procedural requirements on the NRCB. (See NRCB Operational Policy 2016-7: *Approvals*, part 9.2.7.)

The Vanden Broeks proposed CFO is located in Lethbridge County and is therefore subject to that county’s MDP. Lethbridge County adopted the latest revision to this plan on March 10, 2022, under Bylaw #22-001.

The policies pertaining to CFOs are in part 4, section 3 “Intensive Livestock/Confined Feeding Operations.”

Section 3.0 states that the county is supportive of CFOs in areas that are less prone to conflict and where municipal infrastructure can support such developments.

This is likely not a land use provision as it is subjective what can or cannot be supported by municipal infrastructure and that is not within NRCB’s discretion.

Section 3.1 and 3.2 states that new CFOs are not permitted in the MDP CFO exclusion areas (Maps 2A and 2B), IDP CFO exclusions areas, or in CFO exclusion zones of high density residential growth centres.

The proposed CFO is not in any exclusion areas identified in these policies and is therefore consistent with this policy.

Section 3.3 states that existing operations within an urban fringe district may be permitted to expand or make improvements with consideration to any IDP that allows for such.

This proposed CFO is not an existing operation; therefore this policy does not apply. Nevertheless, it is not located in an urban fringe district.

Section 3.4 pertains to the consistency of CFO exclusion zones across the county’s planning documents.

This policy is procedural in nature and is not a land use provision. Therefore, it is not relevant to my MDP consistency determination.

Section 3.5 states that CFOs shall not be supported to establish or expand within environmentally sensitive areas identified in the *Cotton Wood Report: County of Lethbridge: Environmentally Significant Areas in the Oldman River Region (1987)*.

The proposed CFO is not located within any environmentally sensitive areas identified in that report and is therefore consistent with this policy.

Section 3.6 states that “no part of a CFO building, structure, corrals, compost area, or stockpile is to be located within the property line and public roadway setbacks, including provincial highways, as outlined in the municipal Land Use Bylaw.”

In my view, this is a site-specific test and is not a land use provision. However, the application meets the setbacks outlined in Lethbridge County’s Land Use Bylaw and is therefore consistent with this policy. The response received from Lethbridge County supports this finding.

Section 3.7 states that CFOs are discretionary uses only in areas zoned as Rural Agriculture with a minimum parcel size of 80 acres.

As noted in Lethbridge County’s response, the proposed CFO is within a land use district zoned as Rural Agricultural. In their response, they also stated that the proposed CFO is inconsistent with the MDP because the parcel size is 8 acres and does not meet the minimum 80 acres stipulated in this policy. In my view, this provision is a test or condition that I am unable to consider as section 22(2.1) of AOPA states that approval officers shall not consider provisions respecting tests or conditions related to the site for a CFO. The application is consistent with the parts of this policy that I may consider.

Sections 3.8, 3.9, 3.10, and 3.11 discuss CFO operational practices with respect to AOPA, manure spreading in CFO exclusion areas, the use of a reciprocal MDS, and collaboration with the NRCB, respectively.

These policies are not land use provisions (test or condition, not applicable, procedural) and therefore not relevant to my MDP consistency determination.

For these reasons, I conclude that the application is consistent with the land use provisions of Lethbridge County’s MDP that I may consider.

APPENDIX B: Exemption from water well setback

1. Water Well Considerations

The proposed duck barns are to be located less than 100 m from a water well. I have confirmed that one water well is located approximately 30 m from duck barn 2 and 60 m from duck barn 1 during a site visit and using aerial imagery. This is in conflict with the section 7(1)(b) of the *Standards and Administration Regulation* (SAR) under AOPA.

Section 7(2), however, allows for exemptions if, before construction, the applicant can demonstrate that the aquifer into which the water well is drilled is not likely to be contaminated by the manure collection area (MCA), and, if required, a groundwater monitoring program is implemented.

The potential risks of direct aquifer contamination from the MCA are presumed to be low if the applicant's proposed MCA meets AOPA's technical requirements to control runoff and leakage. Approval officers also assess whether the water well itself could act as a conduit for aquifer contamination.

In this case, I felt the following factors were relevant to determine the risk of aquifer contamination via the water well:

- a. How the well was constructed
- b. Whether the well is being properly maintained
- c. The distance between the well and the proposed MCAs
- d. Construction and manure management of the proposed MCAs

These presumptions and considerations are based on NRCB Operational Policy 2016-7: *Approvals*, part 9.10.2.

Water well ID 221823:

Based on information provided by the applicant and from the Alberta Environment and Protected Areas (EPA) water well database, the water well located approximately 30 m east of duck barn 2 and 60 m northeast of the duck barn 1 is likely EPA water well ID #221823. This well is reported to have been installed in 1988. It is a pit-less well and water is drawn from 20 m below grade. In my conversations with the applicant, I was informed that the water well is not used for domestic or non-domestic purposes as it is very saline water and not suitable for livestock. However, the applicant wants to keep the well in case of an emergency. The well appeared to be in good condition at the time of my site inspection and its casing was protected as it was located in a shed.

The NRCB has developed a "water well exemption screening tool," based on the factors listed above, to help approval officers assess the groundwater risks associated with a nearby water well.¹

¹ A complete description of this tool is available under CFO/Groundwater and Surface Water Protection on the NRCB website at www.nrcb.ca.

In this case, the results of the water well exemption screening tool suggest that an exemption is likely as seen in Technical Document LA25023.

Based on the above, I am prepared to grant an exemption to the 100 m water well setback requirement for the proposed duck barns. Water well monitoring is not required.

APPENDIX C: Explanation of conditions in Registration LA25023

Registration LA25023 includes several conditions, discussed below:

a. Construction deadline

The Vanden Broeks propose to complete construction of duck barn 1 by August 30, 2025 and duck barn 2 by 2028. In my view, a longer time-frame is more appropriate for the proposed scope of work. Therefore, a deadline of November 30, 2026 for duck barn 1 and a deadline of November 30, 2028 for duck barn 2 is included as a condition in Registration LA25023.

b. Post-construction inspection and review

The NRCB's general practice is to include conditions in new or amended permits to ensure that the new or expanded facilities are constructed according to the required design specifications. Accordingly, Registration LA25023 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the duck barns to meet the specification for category D (solid manure - dry) and the concrete used to construct the duck barn pits to meet the specifications for category B (liquid manure) in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas."
- b. The Vanden Broeks to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the duck barns.

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed in accordance with the permit requirements. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Registration LA25023 includes a condition stating that the Vanden Broeks shall not place livestock or manure in the manure storage or collection portions of the new duck barns until NRCB personnel have inspected the facilities and confirmed in writing that they meet the registration requirements.