

## Decision Summary LA25031

This document summarizes my reasons for issuing Approval LA25031 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25031. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://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 an approval. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On April 1, 2025, Keith Ypma, on behalf of Sunset Feeders Ltd. (Sunset Feeders), submitted a Part 1 application to the NRCB to construct a new poultry CFO.

The Part 2 application was submitted on April 2, 2025. On April 16, 2025, I deemed the application complete.

The proposed CFO involves:

- Permitting 75,000 chicken broilers
- Constructing 2 chicken broiler barns – 120 m x 18 m each

#### a. Location

The proposed CFO is located at NW 16-10-14 W4M in the Municipal District (MD) of Taber, roughly 2.5 km northeast of Purple Springs. The terrain is relatively flat and slopes to the south. The nearest common body of water is a canal 105 m to the north.

### 2. Notices to affected parties

Under section 19 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by an approval 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 person or 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 specified distance from the CFO, depending on the size of the CFO
- all persons who own or reside on land within a specified distance from the CFO, depending on the size of the CFO

For the size of this CFO the specified distance is ½ mile. (The NRCB refers to this distance as the “notification distance”).

None of the CFO facilities are located within 100 m of a bank of a river, stream or canal.

A copy of the application was sent to the MD of Taber, 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 the Taber Times newspaper in circulation in the community affected by the application on April 16, 2025, and
- sending 10 notification letters to people identified by the MD of Taber as owning or residing on land within the notification distance.

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

### **3. Notice to other persons or organizations**

Under section 19 of AOPA, 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), Alberta Transportation & Economic Corridors (TEC), and the St. Mary River Irrigation District (SMRID).

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

In their response, a water administration technologist with EPA noted that the applicant chose “Option 3: additional water license not required” and stated that there are no groundwater or surface water diversion authorizations at the subject land. The applicant has stated that he will apply for a water conveyance agreement through SMRID for the proposed CFO. EPA requested that water licensing and/or conveyance agreements are provided to them. This information was passed on to the applicant for their information and action.

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 Alberta Transportation is not required.

No other responses were received.

Approval LA25031 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 20(10) 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 the MD of Taber'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 water wells, 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 B, the application meets all relevant AOPA requirements.

## **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." The MD of Taber is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Mr. Tom Anderson, a development officer with the MD of Taber, provided a written response on behalf of the MD of Taber. Mr. Anderson stated that the application is consistent with the MD of Taber's land use provisions of the municipal development plan. Additionally, he stated that the zoning of the surrounding lands are zoned Rural Agricultural. The application's consistency with the land use provisions of the MD of Taber's municipal development plan is addressed in Appendix A, attached.

Mr. Anderson stated that Sunset Feeders may be required to enter into a Road Use Agreement with the MD. NRCB policy is to not include conditions requiring operators to enter into road use agreements, because municipalities have direct authority to manage road use (NRCB Operational Policy 2016-7, *Approvals*, part 9.13). Additionally, it was noted that the application falls within an area identified in the Alberta Listing of Historic Resources and that the applicant is responsible for complying with the Historical Resources Act. This response has been forwarded to the applicant for their information and action.

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. However, there may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, an approval officer may require surface and/or groundwater monitoring for the facility. In this case a determination was made, and monitoring is not required.

## **9. Other factors**

Because the approval application is consistent with the MDP land use provisions, and meets the requirements of AOPA and its regulations, I also considered other factors.

AOPA requires me to consider matters that would normally be considered if a development permit were being issued. The NRCB interprets this to include aspects such as property line and road setbacks related to the site of the CFO. (Grow North, RFR 2011-01 at page 2). Approval officers are limited to what matters they can consider though as their regulatory authority is limited.

Mr. Anderson listed the setbacks required by the M.D. of Taber's land use bylaw (LUB) and noted that the application appears to meet these setbacks. He also stated that the proposed CFO is not within an intermunicipal development plan or area structure plan area.

I have also considered the effects the proposed expansion may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concerns submitted under section 73 of the *Environmental Protection and Enhancement Act* or under section 109 of the *Water Act* in respect of the subject of this application.

I am not aware of a written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>, accessed May 20, 2025).

Finally, I considered the effects of the proposed CFO on the environment, the economy, and the community, and the appropriate use of land. In doing so, I had before me information in the application, responses from the M.D. of Taber and Alberta Environment and Protected Areas, and my own observations from site visits.

Consistent with NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9, I presumed that the effects on the environment are acceptable because the application meets all of AOPA's technical requirements. In my view, this presumption is not rebutted.

Consistent with NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9, if the application is consistent with the MDP then the proposed CFO is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted (see discussion of the MDP in Appendix A).

I also presumed that the proposed CFO is an appropriate use of land because the application is consistent with the land use provisions of the municipal development plan (see NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9). In my view, this presumption is not rebutted.

## **10. Terms and conditions**

Approval LA25031 specifies the cumulative permitted livestock capacity as 75,000 chicken broilers and permits the construction of the two broiler barns.

Approval LA25031 contains terms that the NRCB generally includes in all AOPA approvals, 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, Approval LA25031 includes conditions that generally address construction deadline, document submission, and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

## **11. Conclusion**

Approval LA25031 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25031.

May 28, 2025

*(original signed)*  
Kailee Davis  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval LA25031

## APPENDIX A: Consistency with the municipal development plan

Under section 20 of AOPA, an approval officer may only approve an application for an approval or amendment of an approval 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 20(1.1) 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.)

Sunset Feeders’ proposed CFO is located in the M.D. of Taber and is therefore subject to that county’s MDP. The M.D. of Taber adopted the latest revision to this plan on September 28, 2021, under Bylaw No. 1723.

Policies 5.1.13 - 5.1.15 of the MDP apply to CFOs.

Policy 5.1.13 states that “confined feeding operations should be discouraged in the areas shown in Map 2 as “Restricted” and as reviewed by council from time to time.”

Sunset Feeders’ proposed CFO is not within any of the “restricted” areas indicated on Map 2 of the MDP. Therefore, the application is consistent with this policy.

Policy 5.1.14 lists four development setbacks in relation to roads and property lines.

The site map included on page 6 of Technical Document LA25031 indicates that the proposed broiler barns meet the setbacks to Range Road 144 and the north property line. Therefore, the application is consistent with this policy. This is supported by the M.D.’s response to the application.

Policy 5.1.15 lists items for the NRCB to consider in its review process. These items are:

(a) The proximity of the operation to open bodies of water and the topography of the surrounding lands in order to minimize any negative impacts to drinking water supplies;

(b) The cumulative effect of a new approval on any area near other existing confined feeding operations;

(c) Environmentally sensitive areas shown in the report, Municipal District of Taber Environmentally Sensitive Areas in the Oldman River Region;

(d) Give notice to adjacent land owners even in the case of applications for registration or authorization.

Subsection (a) refers to the impact of the proposed CFO on drinking water supplies. The application meets AOPA's technical requirements, including an AOPA approved concrete liner and setbacks to common bodies of water and water wells. Therefore, the risks to surface water and groundwater are presumed to be low. For these reasons, the CFO is unlikely to contribute to contamination of drinking water supplies. Therefore, the application is consistent with this policy.

Subsection (b) is likely not a "land use provision" because it calls for project-specific, discretionary judgements about the types of cumulative effects that should be considered and the acceptable maximum levels of each of those effects. The NRCB Board stated that consideration of cumulative effects is "not within the Board's regulatory mandate. As a statutory decision maker, the Board takes its direction from the authorizing legislation. AOPA does not provide for cumulative effects assessment." (Zealand Farms, RFR 2011-02, p. 5). Therefore, I do not consider this provision relevant to my MDP consistency determination.

For subsection (c), Sunset Feeders' proposed CFO is near, but is not within any of the areas designated as of regional, provincial, or national significance in the referenced report. Therefore, the application is consistent with this policy.

Subsection(d) is likely not a "land use provision" because of its procedural focus and thus I do not consider it relevant to my MDP consistency determination. At any rate, as explained above, the NRCB sent out notification letters to people identified by the M.D. of Taber as owning or residing on land within the notification distance of ½ mile. The NRCB also gave notice in the Taber Times and on the NRCB website. The application therefore met the notification requirements of AOPA.

For these reasons, I conclude that the application is consistent with the land use provisions of the MD of Taber's MDP that I may consider.

## **APPENDIX B: Explanation of conditions in Approval LA25031**

Approval LA25031 includes several conditions, discussed below:

### **a. Construction Deadline**

Sunset Feeders proposes to complete construction of the proposed new barns by the “end of 2025/spring 2026”. In my opinion, a longer time-frame is more reasonable for the proposed scope of work. The deadline of November 30, 2027, is included as a condition in Approval LA25031.

### **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, Approval LA25031 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the proposed broiler barns to meet the specification for category D (solid manure – dry) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas.”
- b. Sunset Feeders to provide evidence or written confirmation from a qualified third party that the concrete used for the manure collection and storage area meets the required specifications.

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. Approval LA25031 includes conditions stating that Sunset Feeders shall not place livestock or manure in the manure storage or collection portions of the new broiler barns until NRCB personnel have inspected the broiler barns and confirmed in writing that they meet the approval requirements.