

Decision Summary RA25031

This document summarizes my reasons for issuing Approval RA25031 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25031. 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 an approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On April 16, 2025, Abby and Anthony Reimer, on behalf of Battle River Broilers Ltd. (Battle River Broilers), submitted a Part 1 application to the NRCB to construct a new poultry CFO.

The Part 2 application was submitted on May 1, 2025. On May 22, 2025, I deemed the application complete.

The proposed CFO involves:

- Increasing livestock numbers from zero to 180,000 chicken broilers
- Constructing 4 chicken broiler barns – 121.9 m x 20.7 m (each)

a. Location

The proposed CFO is located at NE 18-44-22 W4M in the County of Wetaskiwin, roughly 28 km northeast of the town of Ponoka. The terrain is relatively flat with a gentle slope to the south. The nearest body of water is a slough approximately 89 metres south of the proposed CFO.

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 (805 m). (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 County of Wetaskiwin, 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 Pipestone Flyer newspaper in circulation in the community affected by the application on May 22, 2025, and
- sending 7 notification letters to people identified by the County of Wetaskiwin as owning or residing on land within the notification distance.

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

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) and Alberta Transportation & Economic Corridors (TEC).

I also sent a copy of the application to Lynx Energy ULC as they are a right of way holder.

Mr. Matthew Osinowski, a senior water administration hydrogeologist with EPA, responded directly to the applicant by indicating the amount of water required for the proposed CFO, and explained that because there are no active groundwater authorizations for the site, a *Water Act* licence will need to be obtained. Mr. Osinowski also stated that because of the annual water requirement for the proposed operation, the applicant will be required to submit a Groundwater Evaluation Report with their *Water Act* application which must be written by a qualified groundwater specialist. The applicant is reminded that it is their responsibility to obtain sufficient licensing under the *Water Act* for the proposed CFO.

Ms. Brittany Van Norman, an assistant development and planning technologist with TEC, responded to the application and stated that because the proposed development is within the setbacks to Highway 822, the applicant must obtain a permit from TEC under the *Highways Development and Protection Act's* regulation. Ms. Van Norman's response has been forwarded to the applicant for their information and action.

I did not receive any other responses.

Approval RA25031 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.

There is no ALSA regional plan for the area where the proposed CFO is to be located.

5. Municipal Development Plan (MDP) consistency

I have determined that the proposed CFO is consistent with the land use provisions of the County of Wetaskiwin's municipal development plan. (See Appendix A for a more detailed discussion of the County's planning requirements.) There is no applicable intermunicipal development plan.

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 C, 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 County of Wetaskiwin is an affected party (and directly affected) because the proposed CFO is to be located within its boundaries.

Ms. Kimberly Mickelson, a development planner with the County of Wetaskiwin, provided a written response on behalf of the County of Wetaskiwin. Ms. Mickelson stated that the application is consistent with the County of Wetaskiwin's land use provisions of the municipal development plan (MDP). The application's consistency with the land use provisions of the County of Wetaskiwin's MDP is addressed in Appendix A, attached.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received a response from one party.

The party that submitted a response owns or resides on land within the ½ mile notification distance. Because of their location within this distance, and because they submitted a response, they qualify for directly affected party status. (See NRCB Operational Policy 2016-7: Approvals, part 7.2.1.)

The directly affected party raised concerns regarding water supply, avian influenza and increased predators. These concerns are addressed in Appendix B.

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 groundwater monitoring for the facility. Based on the information gathered through the course of the application, as well as from a site visit, I am of the opinion that the presumption of low risk to groundwater and surface water is sound, and therefore 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.

Ms. Mickelson listed the setbacks required by the County of Wetaskiwin's land use bylaw (LUB) and noted that the application meets these setbacks.

I have considered the effects the proposed CFO may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concern submitted under section 73 of the *Environmental Protection and Enhancement Act* or section 109 of the *Water Act* in respect of the subject of this application. Furthermore, the application meets AOPAs technical requirements, and the applicant has been reminded that it is their responsibility to ensure they receive the appropriate water licensing for the proposed CFO.

I am not aware of any written decision of the Environmental Appeals Board for this location (<https://eab.gov.ab.ca/status.htm>), accessed July 3, 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, views from the County of Wetaskiwin, and my own observations from a site visit.

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 and the directly affected party's concerns have been addressed (see Appendix B).

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. The land where the CFO is proposed to be located is zoned as agriculture. In my view, this presumption is not rebutted and the directly affected party's concerns have been addressed (see Appendix B).

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 MDP (see NRCB Operational Policy 2016-7: Approvals, part 9.10.9). In my view, this presumption is not rebutted.

10. Terms and conditions

Approval RA25031 specifies the cumulative permitted livestock capacity as 180,000 chicken broilers and permits the construction of chicken broiler barns 1-4.

Approval RA25031 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 RA25031 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

Approval RA25031 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25031.

July 22, 2025

(Original signed)

Sarah Neff
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Determining directly affected party status and concerns raised by directly affected parties
- C. Explanation of conditions in Approval RA25031

APPENDIX A: Consistency with municipal land use planning

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) and any applicable intermunicipal development plan (IDP). In this case, no IDP applies.

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.)

Battle River Broiler’s proposed CFO is to be located in the County of Wetaskiwin and is therefore subject to that county’s MDP. The County of Wetaskiwin adopted the latest revision to this plan on April 11, 2023, under Bylaw 2023/05.

As relevant here, section 11.6 of the MDP aims to “support” CFOs while “minimizing conflicts with surrounding land uses and negative impacts on the environment through land stewardship best practices”. Additionally, the MDP notes that, while CFOs are under provincial jurisdiction, it is the County’s intent to “restrict new or expanded CFOs only in those locations where they are incompatible with neighbouring land uses or negatively impact sensitive environmental features”. The MDP also reports the County’s view that the *Municipal Government Act* “requires” the County to identify where new CFOs may be located.

Objective 11.6.1 supports CFOs at “appropriate locations”.

Objective 11.6.2 references the requirements of AOPA in determining Minimum Distance Separation for CFOs. I do not consider this a land use provision, regardless, the application meets MDS requirements.

Objective 11.6.3 states 5 areas in which the County prohibits new or expanded CFOs within specified distances of the areas listed in the objective. Battle River Broilers’ proposed CFO is located outside all the specified setbacks, and therefore, the application is consistent with this objective.

Objective 11.6.4 states that, notwithstanding objective 11.6.3, the County will support expanding or upgrading existing CFOs where “upgrades in technology and/or practices result in improved manure management and/or mitigation of negative impacts on surrounding land uses and the environment”. This policy likely isn’t a “land use provision” because it calls for discretionary judgements about what applications the County will support. At any rate, the application is for a new CFO, not an existing CFO, and therefore this policy does not apply.

Objective 11.6.5 refers to CFOs within the setbacks in 11.6.3 that are “not in operation for a period of ten (10) years or more”, in which case the County considers these operations to be “without proper authorization to resume operation or expand.”

AOPA is provincial legislation that determines which above-threshold operations have “authorization” to operate. AOPA sets out the conditions for a CFO operating and obtaining a permit, including a few circumstances where the NRCB can cancel a permit. An MDP policy that purports to override AOPA’s regulation on that point cannot be a valid land use provision; and therefore, I am precluded from considering this provision. Additionally, Battle River Broilers’ application is for a new CFO and therefore, this policy does not apply.

Objective 11.6.6 states the County’s support for “new residences where the residence is associated with a CFO within the Minimum Distance Separation of an existing CFO”. I interpret this to be a requirement relating to the development of residences near CFOs, not development of CFOs. The permitting of residences is within the municipality’s jurisdiction.

Objective 11.6.7 states that the County requires CFO proponents to “demonstrate that their development will not result in environmental impacts from their proposed operation” and may recommend to the NRCB that an “Environmental Impact Assessment” be submitted along with the application. This is likely not a land use provision and the NRCB Board has guided approval officers to disregard requests for environmental impact assessments for being a “test or condition” (RFR 2008-02 *Hutterian Brethren of Silver Springs*, at page 4). Additionally, as noted in sections 6 and 9, the application meets AOPA’s technical requirements and is presumed to have an acceptable effect on the environment.

Objective 11.6.8 states that the County “requests” the NRCB to include conditions in their decisions requiring CFO proponents to “enter into agreements with the County, which may include dust control, road use, and off-site levies...”. The NRCB does not have direct responsibility for regulating road use. Section 18 of the *Municipal Government Act* gives counties “direction, control and management” of all roads within their borders. In addition, municipalities have the knowledge, expertise, and jurisdiction to implement and enforce road use agreements.

For these reasons, I conclude that the application is consistent with the land use provisions of the County of Wetaskiwin’s MDP that I may consider. The County’s response supports this conclusion.

APPENDIX B: Determining directly affected party status and concerns raised by directly affected parties

The following party qualifies for directly affected party status because they submitted a response to the application and they own or reside on land within the notification distance as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation (see NRCB Operational Policy 2016-7: Approvals, part 7.2.1):

- Pamela Mayne Correia and Dinis Correia
SE-18-44-22-W4M

The directly affected party raised the following concerns: sufficient water supply, avian influenza, and increased predators due to dead bird disposal.

Water source for the proposed CFO

In their submission, the Correia's expressed concern regarding sufficient water supply for the proposed CFO and the health of the watershed in the surrounding area.

Approval officer comments:

Alberta Environment and Protected Areas (EPA) is directly responsible for licensing the use of groundwater and surface water under the *Water Act*. Therefore, for efficiency and to avoid inconsistent regulation, NRCB approval officers generally do not consider water supply concerns when reviewing AOPA permit applications, other than ensuring applicants sign one of the water licensing declarations. As noted in Technical Document RA25031, Battle River Broilers signed Option 2: Processing the AOPA permit and Water Act licence separately and provided their licence application number. On behalf of EPA, Mr. Matthew Osinowski responded to the referral for this application by indicating that Battle River Broilers will need to obtain a *Water Act* licence for the proposed CFO. Mr. Osinowski also stated directly to the applicant that they will be required to submit a Groundwater Evaluation Report with their *Water Act* application which must be written by a qualified groundwater specialist. Battle River Broilers is reminded that it is their responsibility to obtain sufficient licensing and be compliant with the *Water Act* for the proposed CFO.

Avian Influenza

In their submission, the Correia's expressed concern regarding avian influenza, and that a large poultry operation close to their small farm could potentially affect the health of their outdoor flock of birds.

Approval officer comments:

Animal disease transmission, including avian influenza, is not under the jurisdiction of the NRCB, but rather under the Canadian Food Inspection Agency (CFIA). Additionally, highly pathogenic avian influenza is a reportable disease under the provincial *Animal Health Act*. As this concern is not under the regulatory mandate of the NRCB, I cannot provide further comment.

Dead bird disposal and increased predators

In their submission, the Correia's expressed concern regarding increased predators due to the waste birds at the CFO and stated that the coyote population in the area is already intense.

Approval officer comments:

The disposal of dead animals is not under the jurisdiction of the NRCB; Alberta Agriculture and Irrigation (AGI) has jurisdiction under the *Animal Health Act*. AGI also has jurisdiction over pests and other nuisance animals under the *Agricultural Pests Act*. Because AGI has expertise in this area, I am precluded from considering this as part of my review of the application.

APPENDIX C: Explanation of conditions in Approval RA25031

Approval RA25031 includes several conditions, discussed below:

a. Construction Deadline

Battle River Broilers proposes to complete construction of the proposed new broiler barns by July 2026. It is my opinion that a longer timeframe would be more appropriate for the scope of the construction. Therefore, a deadline of July 31, 2027, is included as a condition in Approval RA25031.

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 RA25031 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the 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. Battle River Broilers to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the broiler 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. Approval RA25031 includes a condition stating that Battle River Broilers shall not place livestock or manure in the manure storage or collection portions of the new broiler barns until NRCB personnel have inspected the barns and confirmed in writing that they meet the approval requirements.