

Decision Summary BA25007

This document summarizes my reasons for issuing Approval BA25007 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document BA25007. 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 February 19, 2025, Kelberal Farms Ltd. (Kelberal Farms) submitted a Part 1 application to the NRCB to expand an existing poultry CFO.

The Part 2 application was submitted on April 28, 2025. On May 13, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing chicken layers from 17,408 to 30,240

a. Location

The existing CFO is located at SE 33-61-3 W5M in the County of Barrhead, immediately adjacent to the hamlet of Neerlandia, AB. The terrain is relatively flat sloping to the SW towards a seasonal drainage approximately 400 m from the chicken layer barn permitted under Authorization BA23001.

b. Existing permits

The CFO is already permitted under AOPA, by way of a deemed permit (PB22001). This deemed registration allows for the operation of a 17,408 chicken layer CFO. The determination of the CFO's deemed permit status and capacity under section 18.1 of AOPA is explained in Grandfathering Determination PB22001. Since then, the CFO received NRCB issued Authorization BA23001 to replace the existing layer barn and convert from a liquid manure to solid manure system. These facilities have not been built yet, and therefore, they will be included into this approval.

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 0.5 miles. (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 County of Barrhead, which is the municipality where the CFO is located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in the Barrhead Leader, the newspaper in circulation in the community affected by the application on May 13, 2025, and
- sending 67 notification letters to people identified by Barrhead County as owning or residing on land within the notification distance.

The full application was made available for viewing at the NRCB office in Morinville 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).

In a response from TEC, they indicated that the applicant needs to apply for a roadside development permit. The applicant has been made aware of this requirement.

I also sent a copy of the application to Canadian Natural Resources Ltd. as they are a utility right of way holder.

Approval BA25007 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 expansion is to be located.

5. MDP consistency

I have determined that the proposed expansion is consistent with the land use provisions of Barrhead County'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 expansion:

- Meets the required AOPA setbacks from nearby residences, with 52 exceptions (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS). The owners of these residences have signed written waivers of the MDS requirement to their residences
- Has sufficient means to control surface runoff of manure
- Meets AOPA's nutrient management requirements regarding the land application of manure

With the terms and conditions summarized in part 10, the application meets all relevant AOPA requirements.

7. Responses from the 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." Barrhead County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Debbie Oyarzun, CAO and acting development officer with the County of Barrhead, provided a written response on behalf of the County of Barrhead. Ms. Oyarzun stated that the application is consistent with the County of Barrhead's land use provisions of the municipal development plan (MDP) and there are no Area Structure Plans or Intermunicipal Development Plans. The application's consistency with the land use provisions of the County of Barrhead's MDP is addressed in Appendix A, attached.

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

The NRCB considers a person who owns a residence within the MDS of the CFO, and who waives the MDS requirements in writing to be automatically considered a directly affected (See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1). The following people provided an MDS waiver and are considered directly affected parties.

Aarsen, James and Jessica Neerlandia AB	Chipps, Frank and Mindy Neerlandia AB	De Vries, Anna Neerlandia AB
Deruiter, Dyllan Sean Neerlandia AB	DeVries, Lambertus and Janny Neerlandia AB	DeVries, Richard and Joanne Neerlandia AB

DeVries, Steven and Lisa Neerlandia AB	Elgersma, Andrew and Irene Neerlandia AB	Froma, Jeremy and Symone Neerlandia AB
Gray, Ronald Neerlandia AB	Groot, Clarence and Johanna Neerlandia AB	Hellinga, Kathleen and Henry Neerlandia AB
Hoekstra, Harrison and Janine Neerlandia AB	Hofsink, Hendrik and Greetje Neerlandia AB	Hooimeyer, Jackson and Kayley Neerlandia AB
Janssen, Bertha and Marlene Neerlandia AB	Janssen, Hinne and Angela Neerlandia AB	Kippers, Mason Neerlandia AB
Knol, Andrew and Rhea Neerlandia AB	Leonard, John Paul Neerlandia AB	Neerlandia Canadian Reformed Church and Manse Neerlandia AB
Neerlandia Christian Reformed Church Neerlandia AB	Otten, Aaldert and Saakje Neerlandia AB	Peters, Benjamin and Richard Neerlandia AB
Peters, Jeremy and Feihtje Neerlandia AB	Peters, Richard and Feihtje Neerlandia AB	Schouten, Nathan and Karen Neerlandia AB
Schouten, Richard and Francine Vega AB	Schuring, Daniel and Carline Neerlandia AB	Teitsma, Nathan and Amanda Neerlandia AB
Tiemstra, Kevin and Beatrice Neerlandia AB	Tuininga, Clifford and Angela Neerlandia AB	Van Assen, Ivan and Sarah Neerlandia AB
Van Assen, Netty Neerlandia AB	Van Assen, Rita and John Neerlandia AB	Van Assen, William and Martine Neerlandia AB
Van Beek, Shirley Neerlandia AB	Van Dasselaan, Pieter and Grace Neerlandia AB	Van Heyst, Daniel and Carmen Neerlandia AB
Van Leeuwen, Jeffrey and Jane Neerlandia AB	Vande Burgt, Matthew Anthony Nicolaas Neerlandia AB	Van Der Leest, Bryan and Catharina Neerlandia AB
Vanlaar, Tobias and Sally Neerlandia AB	Vanleeuwen, Laura Neerlandia AB	Veenstra, Anna-Marie Neerlandia AB
Weidenhammer, Wayne Neerlandia AB	Wierenga, Carolyn Neerlandia AB	Wierenga, Juluis and Geraldine Neerlandia AB
Wierenga, Kent and Andrea NE 33-61-3 W5M	Wierenga, Mark Neerlandia AB	Wierenga, Robert and Jenna Neerlandia AB
Wierenga, Wilma Neerlandia AB		

8. Environmental risk of CFO facilities

When reviewing a new approval application for an existing CFO, NRCB approval officers assess the CFO's existing buildings, structures, and other facilities. In doing so, the approval officer considers information related to the site and the facilities, as well as results from the NRCB's environmental risk screening tool (ERST). The assessment of environmental risk focuses on surface water and groundwater. The ERST provides for a numeric scoring of risks, which can fall within either a low, moderate, or high risk range. (A complete description of this tool is available under CFO/Groundwater and Surface Water Protection on the NRCB website at

www.nrcb.ca.) However, if those risks have previously been assessed, the approval officer will not conduct a new assessment unless site changes are identified that require a new assessment, or the assessment was supported with a previous version of the risk screening tool and requires updating. See NRCB Operational Policy 2016-7: *Approvals*, part 9.17.

In this case, the risks posed by Kelberal Farm's existing CFO facilities were assessed in 2023 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

There have been no changes related to groundwater or surface water protection, water wells, or CFO facilities since that assessment was done. As a result, a new assessment of the risks posed by the CFO's existing facilities 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. Oyarzun listed the setbacks required by the County of Barrhead's land use bylaw (LUB) and noted that the application meets these setbacks and intensive agriculture is a permitted use.

I have considered the effects the proposed CFO expansion may have on natural resources administered by provincial departments. A copy of the application was provided to EPA who did not provide a response to the application.

I am not aware of any written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>, accessed June 25, 2025).

Finally, I considered the effects of the proposed expansion on the environment, the economy, and the community, and the appropriate use of land.

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, having considered all the information before me (including in Technical Document BA25007, and from my site visit), 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 land use provisions then the proposed expansion is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted based on the information available.

I also presumed that the proposed expansion 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). The land where the expanding CFO

is located is zoned agriculture. In my view, this presumption is not rebutted because I did not see any information that suggested it was not an appropriate use of land

10. Terms and conditions

Approval BA25007 specifies the cumulative permitted livestock capacity as 30,240 chicken layers.

Approval BA25007 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.

For clarity, and pursuant to NRCB policy, I consolidated the following permits with Approval BA25007: deemed Registration PB22001 and Authorization BA23001 (see NRCB Operational Policy 2016-7: *Approvals*, part 11.5). Permit consolidation helps the permit holder, municipality, neighbours and other parties keep track of a CFO's requirements, by providing a single document that lists all the operating and construction requirements. Consolidating permits generally involves carrying forward all relevant terms and conditions in the existing permits into the new permit, with any necessary changes or deletions of those terms and conditions. This consolidation is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion.

11. Conclusion

Approval BA25007 is issued for the reasons provided above, in the attached appendices, and in Technical Document BA25007.

Kelberal Farm's deemed registration (PB22001) and NRCB-issued Authorization BA23001 are therefore superseded, and their content consolidated into this Approval BA25007, unless Approval BA25007 is held invalid following a review and decision by the NRCB's board members or by a court, in which case deemed registration PB22001 and Authorization BA23001 will remain in effect.

July 28, 2025

(Original signed)

Nathan Shirley
Approval Officer

Appendices:

A. Consistency with the municipal use planning

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).

This does not mean consistency with the entire MDP or IDP. In general, “land use provisions” cover 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.)

Municipal Development Plan (MDP)

Kelberal Farms’ CFO is located in the County of Barrhead and is therefore subject to that county’s MDP. The county adopted the latest revision to this plan on August 17, 2010, under Bylaw No. 4-2010.

Part 3.1.3 of the MDP lists 14 agricultural development policies and includes CFOs as among “primary use[s]” in agricultural use area. The first policy recognizes agriculture as the priority land use in rural areas, supports agricultural diversification, encourages siting agricultural industries in agricultural areas, and discourages non-agricultural land uses in intensive agricultural areas. Of the remaining 13 policies, only 10 and 11 relate specifically to CFOs.

Policy 10 states “input shall be provided to the NRCB in responding to applications for new or expanded CFOs based on the technical and locational merits of each application.” This policy is likely not a land use provision because it requires site-specific, discretionary determinations (see NRCB Operational Policy 2016-7, Approvals 9.2.7). Therefore, this policy is not relevant to the MDP consistency determination required by section 20 of AOPA. At any rate, there is no construction proposed with this application, but the previous application BS23001 met all the technical and locational requirements of AOPA.

Policy 11 states that “minimum distance separations shall conform to standards set out in the Agricultural Operation Practices Act.” “Minimum distance separations” appears to be a reference to the minimum distance separation (MDS) requirement in section 3 of the Standards and Administration Regulation under AOPA. MDP policy 11 is not a valid land use provision because it adopts AOPA’s MDS requirements. (See NRCB Operational Policy 2016-7, Approvals, part 8.2.5). That said, the CFO meets the AOPA requirements with the use of waivers and therefore is consistent with this MDP policy.

I conclude that the application is consistent with the relevant land use provisions of the County of Barrhead’s MDP.