

Decision Summary LA25055

This document summarizes my reasons for issuing Approval LA25055 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25055. 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 July 9, 2025, Midland Hutterian Brethren and Midland Farming Co. Ltd. (collectively referred to as Midland Colony) submitted a Part 1 application to the NRCB to expand an existing multi species CFO.

The Part 2 application was submitted on July 9, 2025. On July 16, 2025, I deemed the application complete.

The proposed expansion involves:

- Adding 46,000 chicken pullets
- Constructing a pullet barn (91.5 m x 25.6 m) with attached manure storage room (18.5 m x 14.9 m)
- Decommissioning the layer barn
- Decommissioning the hog barn

The application also notified the NRCB of the proposed construction of an office space that is to be attached to the proposed pullet barn with attached manure storage room. This facility is an “ancillary structure,” under section 1(1)(a.1) of the *Agricultural Operations, Part 2 Matters Regulation*, because it will not be used to store or collect manure or to confine livestock. Therefore, under section 4.1 of that regulation, this structure is part of the CFO but does not need to be permitted under the Act.

In order to construct the proposed pullet barn with attached manure storage, the applicant is also proposing to decommission a portion of the permitted hog barn to allow for the construction. The applicant has indicated that they intend to use the remaining portion of the hog barn for non-CFO storage. In accordance with NRCB policy, because the applicant is decommissioning the hog barn, it no longer holds a permit. Therefore, in accordance with Operational Policy 2016-7 (Approvals, part 11.3), I am removing from the permit the 340 sows farrow to finish and removing the hog barn from the permitted CFO facilities, on my own motion under Section 23 of AOPA.

a. Location

The existing CFO is located at SW-25-8-15 W4M in the Municipal District (MD) of Taber, roughly 18 km southeast of Taber, AB. The terrain is relatively flat. The closest common body of

water is a marsh located approximately 500 m northeast of the existing broiler barn, across Range Road 151.

b. Existing permits

To date, the CFO is permitted under NRCB Approval LA16011, which superseded all previous permits. That permit allowed the construction and operation of a 30,000 chicken layers (plus associated pullets), 1,800 chicken broilers, 400 geese, 400 ducks, 340 sows farrow to finish, and 100 milking cows (plus associated dries and replacements) CFO. The CFO's existing permitted facilities are listed in the appendix to the Approval LA25055.

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 1.5 miles. (The NRCB refers to this distance as the "notification distance".) Without the 340 sows farrow to finish, the notification distance of this CFO is 1 mile. However, as the applicant did not propose to remove the 340 sows farrow to finish from their permit, I chose the greater 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 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 July 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 at the NRCB office in Lethbridge 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 the St. Mary River Irrigation District (SMRID).

I also sent a copy of the application to Oldman River Regional Planning Commission and Forty Mile Gas Coop Ltd. as they are utility right-of-way (ROW) holders on the subject land.

I received a response from Bradley Calder, a water administration technologist with EPA. In his response, Mr. Calder stated that it appears the applicant has sufficient water to support the CFO with their current SMRID agreement. He noted, however, that should additional water be required, the applicant is required to provide the licence numbers from any quarters that may supply water to the land locations specified in the application and additional diversions can be discussed with EPA.

No other responses were received.

Approval LA25055 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. MDP consistency

I have determined that the proposed expansion 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.) 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 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 expansion is located within its boundaries.

Mr. Tom Anderson, a development officer with the MD of Taber, provided three written responses on behalf of the MD of Taber. In the first response, Mr. Anderson stated that the application is consistent with the MD of Taber's municipal development plan (MDP) and falls outside of the confined feeding operation restricted areas as defined in the MDP. He also stated there are no intermunicipal developments plans (IDPs) or area structure plans affecting this application, and the surrounding lands within 1.5 miles are zoned "Rural Agricultural". In the second response, Mr. Anderson added an additional comment that stated the landowner may be required to enter into a road use agreement with the MD of Taber. Road use agreements are not the responsibility of the NRCB under AOPA. The responses from the MD of Taber were forwarded to the applicant for their information and action, if needed.

In both responses, Mr. Anderson stated that the proposed pullet barn with an attached manure storage would require a development permit from the MD of Taber as the building is greater than 20,000 sq ft in size. In section 619(1) of the Municipal Government Act (MGA), it states "[a] licence, permit, approval or other authorization granted by the NRCB...prevails, in accordance with this section, over any statutory plan, land use bylaw...". I phoned Mr. Anderson to discuss this section of the MGA, and he provided a third response, stating they will concede the development permit requirements from their responses.

Apart from municipalities, any member of the public may request to be considered "directly affected."

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, porous subsurface materials, and surface water systems an approval officer may require groundwater monitoring for the facility. Based on the information in the application, as well as from a site visit, I did not identify any reasons to implement groundwater monitoring for the proposed facility.

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 Midland Colony's existing CFO facilities were assessed in 2016 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.

Mr. Anderson did not list the setbacks required by the MD of Taber's MDP, but noted that the application appears to meet these setbacks. The proposed facility meets the setbacks in the MD of Taber's MDP and Land Use Bylaw (LUB).

I have 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 (<https://www.eab.gov.ab.ca/dec/Status-of-Appeals.pdf>), accessed September 3, 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 in 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 development is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted.

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). In my view, this presumption is not rebutted. The zoning for the land where the CFO is located is "Rural Agricultural".

10. Terms and conditions

Approval LA25055 specifies the cumulative permitted livestock capacity as 30,000 chicken layers, 1,800 chicken broilers, 46,000 chicken pullets, 400 geese, 400 ducks, and 100 milking cows (plus associated dries and replacements) and permits the construction of the pullet barn with an attached manure storage room.

Approval LA25055 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 LA25055 includes conditions that generally address a construction deadline, monitoring, document submission, construction inspection, and decommissioning. For an explanation of the reasons for these conditions, see Appendix B.

For clarity, and pursuant to NRCB policy, I consolidated the following permit with Approval LA25055: Approval LA16011 (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. All conditions of Approval LA16011 have been carried forward.

11. Conclusion

Approval LA25055 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25055.

Midland Colony's NRCB-issued Approval LA16011 is therefore superseded, and its content consolidated into this Approval LA25055, unless Approval LA25055 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA16011 will remain in effect.

September 8, 2025

(Original signed)

Kelsey Peddle
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Approval LA25055

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 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 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 provisions are commonly referred to as “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.)

Midland Colony’s CFO is located in the MD of Taber and is therefore subject to that county’s MDP. The MD of Taber adopted the latest revision to this plan on September 28, 2021, under Bylaw No. 1980.

As relevant here, policies 5.1.13-5.1.15 of the MDP apply to CFOs.

Policy 5.1.13 states that “[c]onfined feeding operations should be discouraged in the areas shown in Map 2 as “Restricted” and as reviewed by council from time to time.” Midland Colony’s CFO is not within any of the “restricted” areas in 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. Midland Colony’s proposed pullet barn with attached manure storage room is not within these setbacks. Therefore, the application is consistent with this policy.

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 landowners even in the case of applications for registration or authorization.

Item (a) refers to the impact of the operation on drinking water supplies. The environmental risk of the facilities was scored by the NRCB’s ERST and found that all of the CFO’s facilities pose a

low potential risk to surface water and groundwater. In addition, there are no wells on the site, as Midland Colony has decommissioned all water wells on site, and the closest common body of water is a marsh which is located approximately 500 m from the closest CFO facility, across Range Road 151. For these reasons, the CFO is unlikely to contribute to any contamination of drinking water supplies. Therefore, the application is consistent with this policy.

Item (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. In a 2011 decision, the 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 item (c), Midland Colony’s CFO 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.

Item (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 MD of Taber as owning or residing on land within the notification distance of 1.5 miles. 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 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 LA25055

Approval LA25055 includes several conditions, discussed below, and carries forward all conditions from Approval LA16011. Construction conditions from historical permits that have been met are identified in the appendix to Approval LA25055.

a. Construction deadline

Midland Colony proposes to complete construction of the proposed new pullet barn with attached manure storage room by October 30, 2028. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of October 30, 2028, is included as a condition in Approval LA25055.

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 LA25055 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the pullet barn with attached manure storage room 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. Midland Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the pullet barn with attached manure storage room.

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 LA25055 includes a condition stating that Midland Colony shall not place livestock or manure in the manure storage or collection portions of the new pullet barn with attached manure storage room until NRCB personnel have inspected the pullet barn with attached manure storage room and confirmed in writing that it meets the approval requirements.

c. Decommissioning of facilities

As proposed by Midland Colony, a condition will be included in the approval requiring the co-permit holders to decommission the layer barn and hog barn according to Technical Guideline Agdex 096-90 “Closure of Manure Storage Facilities and Manure Collection Areas” and be inspected by NRCB personnel.