

Decision Summary RA25048

This document summarizes my reasons for issuing Approval RA25048 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA25048. 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 25, 2025, Chrystal Jachymek, agent for Ivonne Bellerive, on behalf of Clear Sky Poultry Ltd. (Clear Sky Poultry) submitted a Part 1 application to the NRCB to expand an existing poultry CFO.

The Part 2 application was submitted on July 24, 2025. On August 6, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing permitted number of chicken broilers from 38,000 to 76,000
- Constructing broiler barn #2 – 108.5 m x 19.5 m

a. Location

The existing CFO is located at NE 10-42-27 W4M in Ponoka County, roughly 14 km southwest of Ponoka, Alberta. The terrain is slightly undulating with a general slope to the west towards an unnamed creek, located approximately 1.1 km from the existing CFO facility.

b. Existing permits

To date, the CFO has been permitted under NRCB Approval RA18092. That permit originally allowed the construction and operation of a new poultry CFO with a permitted livestock capacity of 76,000 chicken broilers. However, because only one of the two barns was constructed, the permitted livestock capacity was reduced to 38,000 chicken broilers. Application RA25048 effectively applies to build the second barn and permit those numbers. The CFO's existing permitted facility is listed in the appendix to the Approval RA25048.

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, and no other municipality has a boundary within the notification distance.

A copy of the application was sent to Ponoka County, 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 Ponoka News newspaper in circulation in the community affected by the application on August 6, 2025, and
- sending nine notification letters to people identified by Ponoka County as owning or residing on land within the notification distance.

The full application was made available for viewing during regular business hours at the Red Deer NRCB 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) and Alberta Transportation & Economic Corridors (TEC).

I also sent a copy of the application to Trans-Northern Pipelines Inc. and BTG Energy Corp. as they are right of way holders.

Ms. Brittany Van Norman, an assistant development and planning technologist with TEC, responded to the notice and stated that the application does not require a permit from TEC.

Ms. Michelle Gruszecki, a property and right of way administrator with Trans-Northern Pipelines Inc., responded to the application by stating that they currently operate a high-pressure petroleum products transmission pipeline within a 33-foot right-of-way (ROW) of the proposed development. Ms. Gruszecki reminded that permanent structures are not allowed within the ROW and are recommended to be set back 10 m. Ms. Gruszecki also included requirements pertaining to access and visibility of the ROW and stated that any activities within the ROW require an application for a Crossing Agreement. Additionally, should the applicant propose to cross the pipeline or right-of-way with a vehicle or construct a facility across, on, along or under the pipeline, the applicant would be required to contact Alberta Products prior to commencement of their work to receive the required authorization. The location of the proposed barn meets the 10 m setback from the right of way, and Ms. Gruszecki's response has been sent to the applicant for their information.

I did not receive any other responses.

Approval RA25048 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 existing CFO is located.

5. MDP consistency

I have determined that the proposed expansion is consistent with the land use provisions of Ponoka 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 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." Ponoka County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

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

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, 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.

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 Clear Sky Poultry’s existing CFO facility was assessed in 2019 using the ERST. According to that assessment, the facility 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 facility 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. Dubitz also listed the setbacks required by Ponoka County’s land use bylaw (LUB) and noted that the application meets these setbacks.

I have considered the effects the proposed CFO expansion 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 expansion.

I am not aware of any written decision of the Environmental Appeals Board for this location (<https://www.eab.gov.ab.ca/decisions.htm>), accessed September 18, 2025.

Finally, I considered the effects of the proposed CFO expansion 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 Ponoka County, 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.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, if the application is consistent with the MDP then the proposed CFO expansion is presumed to have an acceptable effect on the economy and community. The land where the existing CFO is located is zoned as agriculture. In my view, this presumption is not rebutted.

I also presumed that the proposed CFO expansion 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 RA25048 specifies the cumulative permitted livestock capacity as 76,000 chicken broilers and permits the construction of broiler barn #2.

Approval RA25048 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 RA25048 includes conditions that generally address construction deadline, document submission and construction inspection. 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 RA25048: Approval RA18092 (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. Appendix B discusses which conditions from the historical permits are or are not carried forward into the new approval.

11. Conclusion

Approval RA25048 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA25048.

Approval RA18092 is therefore superseded, and its content consolidated into this Approval RA25048, unless Approval RA25048 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval RA18092 will remain in effect.

September 25, 2025

(Original signed)

Sarah Neff
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Approval RA25048

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). There is no applicable IDP for this application.

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 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 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.)

Municipal Development Plan (MDP)

Clear Sky Poultry’s CFO is located in Ponoka County and is therefore subject to that county’s MDP. Ponoka County adopted the latest revision to this plan in September 2023, under Bylaw 6-08- MDP.

Section 2 of the MDP contains eight numbered policies that relate to applications for CFOs under AOPA. These eight policies are discussed below. Three other MDP policies relate to CFOs below the AOPA permit threshold or to proposed residential developments near existing CFOs and as such, are irrelevant to my MDP consistency determination.

Under policy 2.1, the County “encourages” the development of CFOs to add value to crop production and provide “more employment and income per acre of land.” However, policy 2.1 also states that the environment and neighbours’ rights “must be protected.” This policy likely isn’t a “land use provision” but provides a general context for interpreting and applying the other policies in section 2.

Policy 2.2 states the County’s “belie[f] that very large CFOs are inappropriate in this part of Alberta and requests the NRCB not to allow them here.” This policy defines “very large” as “more than ten times” the threshold for approvals in the Part 2 Matters Regulation under AOPA. This policy likely isn’t a “land use provision”, as it calls for discretionary judgement about which sizes of CFOs are acceptable in the County.

Policy 2.3 has two parts. The first part lists three setbacks and two exclusion zones for new CFOs. Clear Sky Poultry’s CFO is an existing CFO. Therefore, this part is irrelevant to this application.

The second part of policy 2.3 calls for “very strict conditions on manure handling and storage” in the Chain Lakes and Maskwa Creek watersheds. This policy likely isn’t a “land use provision” because it calls for discretionary judgements about what conditions are “very strict.” In addition, this policy may be precluded from my consideration under section 20(1.1) of AOPA, which

precludes an approval officer from considering MDP provisions “respecting tests or conditions related to the construction of or the site for a confined feeding operation or manure storage facility” and regarding the land application of manure. Regardless, the application meets AOPA’s technical requirements for manure handling and storage. Therefore, the application would be consistent with this policy, if it applied.

Policy 2.4 calls for the NRCB to “set strict rules for the timely incorporation of manure spread within a mile of any urban municipality or rural residence.” This is a “test or condition” respecting application of manure under section 20(1.1) of AOPA. Therefore, I am precluded from considering this policy. Regardless, Clear Sky Poultry’s CFO is subject to the Standards and Administration Regulation under AOPA. This regulation provides rules for the land application of manure, including timely incorporation in specified circumstances. These rules are arguably “strict”, which is consistent with this policy.

Policy 2.5 precludes the siting of CFOs within two miles of “any lake” unless the “regulators” are “convinced” that the CFO’s manure management system is “fail-safe”, and the CFO poses “no reasonable risk of contamination of the lake.” I interpret this policy to refer to the siting of new CFOs. Clear Sky Poultry’s CFO is an existing CFO and therefore, I find this policy not relevant to my MDP consistency determination. Regardless, there are no lakes within two miles of the CFO.

Policy 2.6 precludes new or expanded CFOs where there is “any risk that runoff will contaminate domestic water supplies.” Policy 2.6 likely isn’t a “land use provision” because it calls for discretionary judgements about acceptable risks. On its face, “any risk” is a low-risk threshold, but the threshold is presumably more than “minor” or “insignificant”. At any rate, the existing CFO meets AOPA’s operational and construction requirements, which are designed to minimize the risks to surface water and groundwater.

Policy 2.8 states that “where a new CFO is proposed, the MDS should be contained entirely within land owned by the operator of the CFO...” Clear Sky Poultry’s application is for an existing CFO; therefore, this section does not apply.

Policy 2.11 states that the County “may develop policies to reduce nuisance caused by the spreading of manure near residences,” including ones that require immediate incorporation of manure and limits on the timing or rate of manure application. I am unaware of any manure application policies that the County has developed under policy 2.11. Regardless, section 20(1.1) of AOPA precludes me from considering policy 2.11 because it relates to the application of manure.

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

APPENDIX B: Explanation of conditions in Approval RA25048

Approval RA25048 includes several conditions, discussed below, and does not carry forward any conditions from Approval RA18092.

a. Construction deadline

Clear Sky Poultry proposes to complete construction of the proposed new broiler barn by July 2027. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of July 31, 2027, is included as a condition in Approval RA25048.

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 RA25048 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of broiler barn 2 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. Clear Sky Poultry to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of broiler barn 2, including rebar size and spacing.

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 RA25048 includes a condition stating that Clear Sky Poultry shall not place livestock or manure in the manure storage or collection portions of the new broiler barn 2 until NRCB personnel have inspected the barn and confirmed in writing that it meets the approval requirements.