

Natural Resources Conservation Board

2006-2009 Business Plan



NRCB | Natural Resources
Conservation Board

www.nrcb.gov.ab.ca

INTRODUCTION

The Natural Resources Conservation Board (NRCB) is an agency of the Province of Alberta. It is identified in the Government of Alberta's business planning framework under the Ministry of Sustainable Resource Development.

The NRCB was established in 1991 under the *Natural Resources Conservation Board Act (NRCBA)* to review proposed developments that affect Alberta's non-energy natural resources, including forestry, recreation, tourism, mines and water management projects. The mandate of the NRCB is to ensure that before these developments proceed, the social, economic and environmental needs of the public are addressed.

On January 1, 2002, as a result of amendments to the *Agricultural Operation Practices Act (AOPA)*, the NRCB also became responsible for regulating Alberta's confined feeding operations. While this legislation falls under Alberta Agriculture, Food and Rural Development, the NRCB reports to the Minister of Sustainable Resource Development for both mandates.

The Board of the NRCB is responsible for conducting reviews under the NRCBA and hearing appeals under AOPA.

The operational side of the NRCB is responsible for the ongoing regulation of Alberta's confined feeding operations under AOPA. Approval officers and inspectors carry out the regulatory duties of AOPA by reviewing applications for expanding or new operations, and inspecting operations for compliance and in response to complaints. Approval officers and inspectors work out of the Natural Resources Conservation Board's four regional offices, located in Fairview, Morinville, Red Deer and Lethbridge.

As a result of a 2005 governance review, the Natural Resources Conservation Board has been restructured to clearly separate the review and appeal functions of Board members from the ongoing regulatory functions of the operational side. Separate positions of Chair and Chief Executive Officer have been established, board member positions are being re-structured, and new advisory committees are being created. In 2006 the NRCB will adopt a purpose statement for AOPA, and host a multi-stakeholder accountability session in the fall to evaluate changes to its regulatory processes. The NRCB has also undertaken a commitment to build stronger relationships with its stakeholders.

Implementation of these changes is expected to affect resources and staffing.

The strategic priorities outlined on page four reflect the organization's new focus on stakeholder relations, policy development and client satisfaction with decisions issued and the regulatory process. The performance measures and targets on pages five to seven have been revised in this 2006-09 business plan to better measure results from the perspective of stakeholder satisfaction with timeliness. The goals, targets and performance measures will be reviewed again in 2006 and may be adjusted for the 2007-10 business plan.

VISION

Helping Alberta develop its natural resources and confined feeding operation industry in the best interests of current and future generations.

MISSION

Providing balanced decision making in the public interest, by delivering an accessible review process for Alberta's major non-energy natural resource projects that takes into account environmental, social and economic impacts, and a regulatory system for the confined feeding industry that supports sustainable and responsible growth.

LINKS TO GOVERNMENT BUSINESS PLANS

<p><i>20-year Strategic Plan</i></p>	<p>Unleashing Innovation</p> <ul style="list-style-type: none"> • <i>The NRCB helps manage competing interests in the development of the province's natural resources and confined feeding industry for the benefit of all Albertans.</i> <p>Making Alberta the Best Place to Live, Work and Visit</p> <ul style="list-style-type: none"> • <i>The NRCB helps support quality of life by making decisions that ensure balanced and sustainable growth and resource development, protecting the quality of Alberta's environment.</i>
<p><i>Medium-term Strategies</i></p>	<p>Rural Development Strategy</p> <ul style="list-style-type: none"> • <i>NRCB decisions support sustainable, balanced growth of the natural resource and confined feeding industries in rural Alberta.</i> <p>Agriculture Growth Strategy</p> <ul style="list-style-type: none"> • <i>NRCB decisions support sustainable growth of Alberta's confined feeding sector.</i> <p>Mineral Development Strategy</p> <ul style="list-style-type: none"> • <i>NRCB decisions address the broad framework of factors that ensure the orderly, environmentally responsible development of the province's mineral resources.</i> <p>Northern Development Strategy</p> <ul style="list-style-type: none"> • <i>NRCB natural resource decisions take into account the impact on northern residents and the environment, and provide a coordinated process for addressing the broad issues related to sustainable development.</i> <p>Integrated Land Management Program: A Strategy to Deliver Sustainability on Public Land</p> <ul style="list-style-type: none"> • <i>The NRCB provides a coordinated approach for ensuring that decisions on natural resource projects reflect government-wide policies, guidelines and practices aimed at minimizing industry footprints on public land.</i> <p>Land Use Framework</p> <ul style="list-style-type: none"> • <i>Through its regulatory role under the Agricultural Operation Practices Act, the NRCB issues balanced decisions that take into account agricultural uses and the land use planning interests of municipalities.</i> <p>Water for Life: Alberta's Strategy for Sustainability</p> <ul style="list-style-type: none"> • <i>The NRCB provides for coordination with Alberta government ministries to enable its decisions to reflect public policy under the Water for Life strategy.</i> <p>Sustainable Resource and Environmental Framework</p> <ul style="list-style-type: none"> • <i>The NRCB is reviewing its regulatory processes to ensure that they are streamlined and consistent with outcome-based management systems, and with integrated sustainable resource and environmental management policies.</i>
<p><i>Cross-ministry Initiatives</i></p>	<p>Economic Development and Innovation Initiative</p> <ul style="list-style-type: none"> • <i>NRCB decisions support a sustainable approach to economic growth, ensuring the high quality of Alberta's environment.</i> • <i>The NRCB partners with Alberta government ministries to provide a streamlined regulatory environment.</i>
<p><i>2006-09 Government of Alberta Business Plan Goals</i></p>	<p>Goal 1 – <i>Alberta will have a diversified and prosperous economy.</i></p> <ul style="list-style-type: none"> • <i>NRCB decisions on natural resource projects and confined feeding operations support long term, sustainable economic growth.</i> <p>Goal 3 – <i>Alberta's international competitiveness will be enhanced.</i></p> <ul style="list-style-type: none"> • <i>The NRCB's regulation of confined feeding operations supports the industry's access to growing international and domestic markets.</i> <p>Goal 11 – <i>the high quality of Alberta's environment will be sustained.</i></p> <ul style="list-style-type: none"> • <i>NRCB decisions balance the interests of sustainable economic growth with the protection of the environment for the benefit of future generations of Albertans.</i>

SIGNIFICANT OPPORTUNITIES AND CHALLENGES

Challenges

The Natural Resources Conservation Board has mandates under two very different pieces of legislation: the review and appeals functions under NRCBA and AOPA handled by members of the Board, and the ongoing regulatory function under AOPA handled by the operational side of the organization. These mandates pose different challenges and opportunities. Both, however, are affected by increasing pressures on Alberta's public and private landscapes.

NRCBA challenges

Under the *Natural Resources Conservation Board Act* (NRCBA), the Natural Resources Conservation Board reviews highly complex and technical proposals, and must also address the conflicting interests that emerge around proposed developments. As Alberta's economy continues to grow and prosper, there is an increase in conflicting expectations for how public and private land should be used. Natural Resources Conservation Board reviews of proposed developments must pay close attention to the interests of developers, local communities, the environment, and the long term impact on other economic sectors. The complexity of the issues and the applications requires a concentration of resources over substantial periods for each review, as well as the availability of Board members with the appropriate expertise.

AOPA challenges

As a regulatory body under the *Agricultural Operation Practices Act* (AOPA), the NRCB balances the competing interests of confined feeding operators, local municipalities, and neighbours. Alberta's growing economy has led to competing expectations for the use of land zoned for agricultural purposes, often leading to local opposition to applications to expand or build new confined feeding operations.

The challenges include the new regulatory climate introduced to the livestock industry in January 2002, and the need for additional information about the requirements of the Act and regulations among operators and directly affected parties. As well, owners and opponents of confined feeding operations seek clarity, consistency and vision in NRCB decisions and its interpretation of the Act.

A 2005 governance review recommended organizational changes to clarify the separation of the appeals function of the Board under AOPA from the ongoing regulatory mandate of the operational arm of the NRCB. The new part-time Board is smaller than previously, and is in the first year of its new structure. The review also recommended changes to clarify policy and the intent of the legislation, increase communications with stakeholders, and improve the approval process for applications under AOPA.

Opportunities

The governance review has created an opportunity for the organization to make proactive changes that will result in a stronger and more effective regulatory process under AOPA, while upholding its mandate under the NRCBA. The NRCB has responded to the governance review by separating the positions of Chief Executive Officer and Chair to clearly distinguish between the operational and Board functions, by clarifying policies, streamlining approval processes, clearly delineating legal advisory roles between the Board and operations, and improving communications with stakeholders. In addition, the NRCB will demonstrate leadership in both mandates by participating in cross-government initiatives, working closely with all stakeholders, and initiating organizational change, including the following:

- The NRCB will work with industry and other stakeholders to initiate a new, proactive and consultative structure for regulation of confined feeding operations.
- Board member positions will become part-time rather than full-time.
- The NRCB will work closely with Alberta Agriculture, Food and Rural Development to coordinate access to extension services on AOPA requirements for operators, municipalities and directly affected parties.
- The NRCB will increase its focus on the use of mediation and facilitation to resolve issues at both the operational level and at the level of board reviews. Where all parties agree to the process, mediation and facilitation can arrive at long-term solutions and create a climate of mutual understanding and respect.
- The NRCB will also continue to coordinate with the Water for Life Strategy to enable its approvals, compliance and appeal functions to uphold the province of Alberta's commitment to a safe water supply for all Albertans.
- The NRCB will participate in the planning process for the province's land use framework, to enable its decisions to be consistent with the long-term vision outlined in the Government of Alberta's Cross-Ministry Priority: Using and Respecting the Land.

STRATEGIC PRIORITIES

The Natural Resources Conservation Board is committed to the following strategic priorities, in addition to the important ongoing core activities of the organization:

- 1. Accountability and consultation**
 - The NRCB will establish a new technical advisory committee and a new policy advisory committee for AOPA, and will host a multi-stakeholder AOPA consultation session in the fall of 2006.

Linkage:
NRCB goals 2 and 3

- 2. Separated functions of the Board and operations**
 - The NRCB has separated the positions of the Chair and Chief Executive Officer, and will implement changes to ensure that operations and Board functions are clearly distinguished. Policy direction will reside with the Chief Executive Officer and overall governance will reside with the Chair.

Linkage:
NRCB goals 1, 2, 3 and 4

- 3. Restructured Board**
 - Board membership will be restructured to reflect the recommendations of the governance review. Membership will move from full to part time. Acting members will be recruited and trained.

Linkage:
NRCB goals 1 and 4

- 4. Mediation and facilitation**
 - Mediation and facilitation will be used to resolve issues at both the operational and Board level, when all parties agree to the process.

Linkage:
NRCB goals 1, 2, 3 and 4

- 5. AOPA regulatory philosophy**
 - The NRCB will adopt a purpose statement and regulatory philosophy for the *Agricultural Operation Practices Act*, to provide guidance and improved predictability for staff, operators, municipalities and affected parties.

Linkage:
NRCB goals 2, 3 and 4

- 6. AOPA policy base**
 - The NRCB will review and enhance its policy base for the delivery of functions under AOPA, including regular consultation with stakeholders to ensure its continued relevance and usefulness.

Linkage:
NRCB goals 2, 3 and 4

- 7. Extension services**
 - The NRCB will coordinate with AFRD to ensure that operators, municipalities and affected parties have access to an effective AOPA extension service.

Linkage:
NRCB goals 2, 3 and 4

- 8. Improved communications**
 - The NRCB will take steps to enhance its communications with stakeholders, including improved delivery of information to operators, municipalities and affected parties, and enhanced collaboration with Agriculture, Food and Rural Development.

Linkage:
NRCB goals 1, 2, 3 and 4

CORE BUSINESSES: GOALS, STRATEGIES AND PERFORMANCE MEASURES

The Natural Resources Conservation Board has two core businesses: reviews under the *Natural Resources Conservation Board Act* of major non-energy projects that may affect Alberta's natural resources, and the regulation of Alberta's confined feeding operations under the *Agricultural Operation Practices Act*.

The organization also has two clearly delineated functions:

- the review and appeals functions of the Board under the NRCBA and AOPA, and
- the ongoing regulatory function under AOPA at the operational level.

Both functions are supported by a small administrative and technical staff.

Core Business One: Board reviews under the *Natural Resources Conservation Board Act*

Goal one Reviews of proposed non-energy natural resource projects are effective and efficient.

What it means *Natural Resources Conservation Board Act* reviews are comprehensive reviews of proposed non-energy projects, conducted by an appointed panel of members of the Board of the NRCB. The reviews often require collaboration with other government agencies.

The comprehensive nature of the reviews, and the large scale and complexity of the proposed projects, requires concentrated resources during the preparation, hearing and report-writing stages. Typically, review hearings take one to two weeks. Preparation for the reviews normally involves weeks of assessing detailed submissions. The decision writing may also require several weeks.

The NRCB has completed 12 reviews into non-energy natural resource projects since it was established in 1991. Three applications may be received in 2006. Decisions made by the Board under the NRCBA may be appealed to the Alberta Court of Appeal on questions of law or jurisdiction. The Court must first grant leave to appeal.

An increase in applications will require a budgetary adjustment due to the costs associated with conducting reviews under the NRCBA.

Strategies

- 1.a Ensure resources are available to undertake NRCBA reviews in a timely fashion.
- 1.b Appoint acting board members with appropriate backgrounds.
- 1.c Train acting board members in NRCBA hearing processes.
- 1.d Support an efficient process by enhancing communications with stakeholders to ensure all participants understand the review process.
- 1.e Improve the review process through solicited feedback.

Performance measures

Efficiency of review process*

Percentage of decisions issued within 80 working days of the conclusion of the review

2006/07

100%

2007/08

100%

2008/09

100%

* revised performance measure and target

Core Business Two: Regulation of confined feeding operations under the *Agricultural Operation Practices Act*

Goal two An effective, efficient and consistently-applied application process for confined feeding operations.

What it means Approval officers review applications for new or expanding confined feeding operations. Their decisions are based on the information provided by the livestock operator, the requirements of the *Agricultural Operation Practices Act* and any environmental, social or economic concerns that may be expressed to the approval officer in writing by affected parties, the municipality and government agencies.

Time to process an application is affected by the completeness of the information provided on an application, and the time required to coordinate an application with other government and regulatory authorities. A clear and efficient application process, with extension assistance to operators, municipalities and other directly affected parties, will help promote faster processing. Steps have also been taken to allow applicants the choice of separating their AOPA application from their application for a water licence.

The performance measure “efficiency of permitting process” has been revised from the 2005-08 business plan to better reflect the time required to issue a decision. The 2005-08 performance measure looked at the number of working days required to write a decision after the last response to an application had been received in the NRCB office. The new measure, below, looks at the number of days to issue a decision from the date the operator has fully completed an application – i.e. the date the application is “deemed complete.” The time required to notify the public and other authorities, receive statements of concern, and allow the operator time to respond to the statements of concern, is now included in this measure. The new performance measure effectively reduces the targeted number of days for writing a decision to approximately 15 working days from the previous performance measure of 21 working days.

Strategies

- 2.a Coordinate with Alberta Agriculture, Food and Rural Development to facilitate an effective extension program.
- 2.b Increase use of facilitation and mediation to resolve issues.
- 2.c Streamline the application process to reduce delays in issuing decisions.
- 2.d Clearly communicate permit conditions to operators.
- 2.e Enhance communication with municipalities and other directly affected parties to promote understanding of the NRCB’s mandate under AOPA, and the role municipalities and neighbours can play.

Performance measures

Efficiency of permitting process*	2006/07	2007/08	2008/09
Percentage of decisions issued within 50 working days from the date the application is complete (all requirements have been met and the application is “deemed complete”)	85%	85%	85%

* revised performance measure and target

Goal three A confined feeding industry that is sustainable and environmentally responsible.

What it means NRCB inspectors inspect board-approved operations to ensure compliance with the Act, the regulations and conditions attached to individual permits. Inspectors also respond to complaints and inquiries from the public or other agencies. If an operation is creating a risk to the environment or inappropriate disturbance to the community, the compliance and enforcement division is required by AOPA to ensure the operator takes steps to alleviate the problem.

The performance measure “complaint response” has been revised from 2005-08. The revised measure reflects a new emphasis on developing a proactive relationship with operators to identify and resolve potential problems. Inspectors will continue to respond to complaints but priority will be given to complaints where there is a potential risk to the environment. Field work with operators will also be given priority. The 2005-08 business plan goal was 100% of complaints resolved in 90 days; this has been revised to 95% of complaints resolved in 90 days, reflecting the additional time required to work with operators to resolve problems. This measure will be further reviewed and revised during the next business planning cycle.

Strategies

- 3.a Develop and publish a formal compliance policy with the input of all stakeholders to address how the NRCB will respond to concerns and issues.
- 3.b Enhance communication and extension initiatives with individual confined feeding operators to improve awareness of the regulations and overall compliance.
- 3.c Increase use of facilitation or mediation to resolve issues.
- 3.d Implement a risk-based approach to complaint response, with priority where there is a potential for environmental risk.

Performance measures

Complaint resolution*	2006/07	2007/08	2008/09
Percentage of complaint files resolved or requiring no further action within 90 days	90%	95%	95%

* revised performance target

Goal four An effective, accessible and fair process for Board reviews of application or enforcement decisions.

What it means A panel of Board members is established by the Chair to hear appeals of approval officer decisions and enforcement orders issued by inspectors.

The Board also issues decisions on requests for review. Board decisions on requests for review are significant and represent a considerable proportion of the work conducted by members of the Board. Each request is considered on its own merits in the context of the issue being appealed and the requester's standing under the Act. Board decisions on requests for review may establish policy and set precedent for future requests.

Board decisions on appeals under AOPA may also set policy and precedent for future decisions and appeals. Board reviews of these appeals are normally public, although the Board may direct parties to mediation or may accept a voluntarily arrived at settlement. Decisions made by the Board under AOPA can be appealed to the Alberta Court of Appeal on questions of law or jurisdiction. The Court must first grant leave to appeal.

The performance measure for this goal has been revised from the 2005-08 business plan, to reflect a more ambitious goal of consistently issuing decision reports within fewer working days from the conclusion of the hearing. The previous goal for 2006/07 and 2007/08 was 95% of decisions within 30 working days; this has been revised to 100% of decisions within 30 days.

Strategies

- 4.a Ensure NRCB resources are available to undertake Board reviews of AOPA decisions in a timely fashion.
- 4.b Increase the use of mediation where appropriate to help parties resolve issues.
- 4.c Appoint acting board members with appropriate backgrounds.
- 4.d Train acting board members in AOPA appeal processes.
- 4.e Support an efficient process by enhancing communications with stakeholders to ensure all participants understand the review process.
- 4.f Improve the review process through consultation and feedback.
- 4.g Post Board decisions on requests for review on the NRCB web site.

Performance measures

Efficiency of review process*	2006/07	2007/08	2008/09
Percentage of decisions issued within 30 working days of the close of the hearing	100%	100%	100%

* revised performance target

BUDGET INFORMATION

The 2006-07 budget is based on the strategic priorities and strategies identified in the business plan, and the additional work to be undertaken to respond to the 2005 governance review recommendations.

EXPENSE BY CORE BUSINESS

	Comparable 2004-05 Actual	Comparable 2005-06 Budget	Comparable 2005-06 Forecast	2006-07 Estimates	2007-08 Target	2008-09 Target
Board reviews under the <i>NRCBA</i>	\$ 401,312	\$500,903	\$ 499,950	\$ 500,000	\$ 500,000	\$ 500,000
Regulation of confined feeding operations under <i>AOPA</i>	6,168,125	6,335,097	6,323,050	6,295,000	6,295,000	6,295,000
Total Expenses	\$6,569,437¹	\$6,836,000	\$6,823,000	\$6,795,000	\$6,795,000	\$6,795,000

STATEMENT OF OPERATIONS

	Comparable 2004-05 Actual	Comparable 2005-06 Budget	Comparable 2005-06 Forecast	2006-07 Estimates	2007-08 Target	2008-09 Target
Revenues						
Transfer from Sustainable Resource Development	\$6,192,000	\$6,792,000	\$6,792,000	\$6,751,000	\$6,751,000	\$6,751,000
Miscellaneous Investment & other revenue	125,440	11,000	51,000	11,000	51,000	51,000
Total Revenues	\$6,317,440	\$6,803,000	\$6,843,000	\$6,762,000	\$6,802,000	\$6,802,000
Expenses						
Personnel	4,506,131	4,960,150	4,960,150	5,209,841	5,209,830	5,209,830
Supplies and Services	1,524,420	1,825,850	1,777,850	1,535,159	1,542,170	1,542,170
Amortization	162,638	50,000	85,000	50,000	50,000	50,000
Total Expenses	\$6,193,189	\$6,836,000	\$6,823,000	\$6,975,000	\$6,802,000	\$6,802,000
Net Operating Results	\$124,251	(\$33,000)	\$20,000	(\$33,000)	\$ -	\$ -

¹ Includes \$365,990 leased cost for office buildings paid by Alberta Infrastructure, and \$10,258 for shared services. These amounts are not included in the Statement of Operations.