

## Decision Summary RA24049

This document summarizes my reasons for issuing Approval RA24049 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24049. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://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](http://www.nrcb.ca).

### 1. Background

On November 25, 2024, the Hutterian Brethren Church of Rosewood, operating as Rosewood Colony Holdings Inc., (Rosewood Colony) submitted a Part 1 application to the NRCB to expand an existing poultry CFO.

The Part 2 application was submitted on November 26, 2024. On January 8, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing livestock numbers from 15,000 to 35,000 chicken layers
- Decreasing livestock numbers from 15,000 chicken pullets to zero
- Constructing a new layer barn – 59.7 m x 18.7 m with attached manure storage 18.7 m x 9.1 m

The application also notified the NRCB of the proposed construction of an egg packing/sorting facility and office area that will be attached to the new layer barn. 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.

#### a. Location

The existing CFO is located at SE 26-41-7 W4M in the Municipal District (MD) of Provost, roughly 5.5 km northeast of Hughenden, AB. The overall terrain is hummocky and is intersected with areas of rolling hills with multiple small, localized sloughs. The closest surface water body is a slough approximately 60 meters northwest of the proposed barn.

#### b. Existing permits

To date, the CFO has been permitted under NRCB Registration RA16074. That permit allowed the construction and operation of a 15,000 chicken layer and 15,000 chicken pullet poultry CFO. The CFO’s existing permitted facilities are listed in the appendix to the Approval RA24049.

## 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.

A copy of the application was sent to the MD of Provost, 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 Provost News newspaper in circulation in the community affected by the application on January 8, 2025, and
- posting on the MD of Provost’s website from January 8, 2025, up to and including February 5, 2025, due to the Canada Post strike

I note that no notification letters were sent to neighbours, as Rosewood Colony owns all land located within the notification radius.

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.

A referral letter and a copy of the complete application was emailed to Alberta Environment and Protected Areas (EPA). I also sent a copy of the application to Natural Gas Co-op 52 Ltd. and Fortis Alberta Inc. as they are right of way/easement holders.

I did not receive any responses.

## 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. Municipal Development Plan (MDP) consistency**

I have determined that the proposed expansion is consistent with the land use provisions of the MD of Provost's municipal development plan (see Appendix A for a detailed discussion of the MD'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." The MD of Provost is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Mr. Ryan Tripp, assistant development officer with the MD of Provost, provided a written response on behalf of the MD of Provost. Mr. Tripp stated that the application is consistent with the MD of Provost's land use provisions of the municipal development plan. The application's consistency with the land use provisions of the MD of Provost's municipal development plan 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. In this case, a determination was made that groundwater monitoring is not necessary because the application meets all

AOPA requirements.

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](http://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 Rosewood Colony's existing CFO facilities were assessed in 2017 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. Tripp also listed the setbacks required by the MD of Provost's land use bylaw (LUB) and noted that the application meets these setbacks.

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 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 AOPA's technical requirements, and the applicant has been reminded that it is their responsibility to ensure they have received 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 (<http://eab.gov.ab.ca/status.htm>), accessed February 12, 2025.

Finally, I considered the effects of the proposed 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 the MD of Provost, 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 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.

## **10. Terms and conditions**

Approval RA24049 specifies the cumulative permitted livestock capacity as 35,000 chicken layers and permits the construction of the new layer barn.

Approval RA24049 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 RA24049 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 RA24049: Registration RA16074 (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 RA24049 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24049.

Previously issued Registration RA16074 is therefore superseded, and its content consolidated into this Approval RA24049, unless Approval RA24049 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Registration RA16074 will remain in effect.

February 26, 2025

(Original signed)  
Sarah Neff  
Approval Officer

**Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval RA24049

## **APPENDIX A: Consistency with the municipal development plan**

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).

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.)

Rosewood Colony’s CFO is located in the MD of Provost and is therefore subject to that MD’s MDP. The MD of Provost adopted the latest revision to this plan in April 2024, under Bylaw No. 2324.

Section 7 relates to CFOs and is titled “Intensive Agriculture (Confined Feeding Operations)”.

There are two interpretation issues to address before discussing these subsections. First, the MDP does not define the term “confined feeding operation” (or “CFO”). However, the introduction to part 7 of the MDP refers to the province’s assumption of “control” of CFOs under AOPA and to the NRCB’s regulatory authority over CFOs under that act. Also, the MDP’s part 16.1 states that the definitions in the Land Use Bylaw (LUB) apply in the MDP. The LUB uses almost the same definition for “confined feeding operation” that AOPA does, but the LUB makes no reference to AOPA. Based on this discussion, it is my interpretation that the MDP’s use of the term “CFO” is the same as “CFO” as defined in AOPA.

The second interpretation issue is whether, or which of, the subsections were meant to apply to both new CFOs and expansions to existing CFOs. Subsection 7.10 expressly refers to both CFO categories, but the other relevant subsections just refer to “CFOs.” However, the introduction to these subsections notes that the MD intended section 7 of the MDP to provide guidelines and comments to the NRCB “on applications for new or expanding” CFOs within the municipality. Based on this statement of intent, I interpret all subsections that refer to “CFOs” as applying to both new and expanding CFOs.

### ***MDP setbacks that are “tests or conditions”***

Several subsections of section 7 list CFO setbacks from various areas or features.

Subsection 7.4 precludes the construction of “[m]anure storage facilities” (MSFs) within 40 m of any “open body of water”, or within 100 m of any springs or water wells. These setbacks appear to be MDP “test or conditions” related “to the site” of a CFO and are therefore excluded from my MDP consistency determination. At any rate, the application meets these setback requirements and meets all other AOPA technical requirements.

Subsection 7.8 sets a "minimum distance separation" between CFOs and "adjacent residences." Under this subsection, there are two different setback sizes, depending on the size of the CFO, one mile or one and a half miles (Table 1 in section 7 sets out four categories of CFOs based on their livestock types and numbers.). Table 1 does not list a "minimum distance separation" for poultry CFOs, and therefore the proposed expansion would fall under the category of "other". The "minimum distance separation" for this category is listed as "discretionary". This subsection also states that the setback "may be reduced with written permission from neighbouring residents."

Because this is not a "land use provision" as the MDP setbacks are "based on" or "directly modifying" the AOPA MDS requirement, it is my determination that this MDP setback is not relevant to my MDP consistency determination. Regardless, Rosewood Colony's CFO, including the proposed layer barn, meet the required setback to nearby residences under AOPA referred to as the "minimum distance separation" or MDS.

Subsection 7.9 provides a minimum distance separation setback between CFOs and villages, towns, hamlets and "lake districts (as identified in the Land Use Bylaw)." Because of the similarities with the setback discussed above, the same rationale applies to these setbacks. Therefore, I have determined that this setback is not relevant to my MDP consistency determination.

Subsection 7.10 essentially applies the setbacks in subsections 7.8 and 7.9 to any residences, villages, towns, hamlets and lake districts, respectively, that are in neighbouring municipalities. Rosewood Colony's CFO is not within a rural fringe area (based on the MD's maps included with its land use bylaw). Therefore, this setback requirement is not relevant to my MDP consistency determination.

### ***Other MDP provisions that are "tests or conditions"***

Of the remaining subsections of section 7, two relate to the land application of manure (subsections 7.7 and 7.17). Three other subsections (7.11, 7.13 and 7.14) provide technology requirements to minimize odours and other nuisance-type effects and are not "land use provisions". Six of the subsections (7.2, 7.3, 7.4 (setbacks to water wells and springs), 7.6, 7.12, and 7.16) provide requirements to protect groundwater from manure contamination. Three of the subsections (7.4, 7.5 and 7.15) appear to be intended to protect surface waters from manure contaminated runoff. One subsection (7.1) sets out the minimum parcel size for CFOs.

All of these MDP subsections are considered to be "tests or conditions" under section 20(1.1) of AOPA, because they either:

- Relate to the land application of manure;
- Are conditions relating to the construction of the new manure collection or storage facilities for a CFO site; and/or
- Serve the same purposes as AOPA requirements for the protection of groundwater and surface water, or to minimize nuisance impacts on neighbours.

Therefore, I have determined that these subsections are not relevant to my MDP consistency determination.

For these reasons, I conclude that the application is consistent with the land use provisions of the MD of Provost's MDP that I may consider.

## **APPENDIX B: Explanation of conditions in Approval RA24049**

Approval RA24049 includes several conditions, discussed below, and removes a number of conditions from Registration RA16074 (see section 2 of this appendix). Construction conditions from historical RA16074 that have been met are identified in the appendix to Approval RA24049.

### **1. New conditions in Approval RA24049**

#### **a. Construction Deadline**

Rosewood Colony proposes to complete construction of the proposed new layer barn by 2027. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2027, is included as a condition in Approval RA24049.

#### **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 RA24049 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portions of the new layer barn 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. Rosewood Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the new layer barn.

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 RA24049 includes a condition stating that Rosewood Colony shall not place livestock or manure in the manure storage or collection portions of the new layer barn until NRCB personnel have inspected the new layer barn and confirmed in writing that it meets the approval requirements.

### **2. Conditions not carried forward from Registration RA16074**

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that conditions 4-6 from Registration RA16074 should be deleted and therefore are not carried forward to Approval RA24049. My reason for deleting these conditions is because the applicant has decided to forgo construction of the pullet barn.

#### **4. Concrete**

*The concrete used to construct the manure storage and collection system in the pullet barn and its attached manure storage area must have a minimum 28-day compressive strength of 25 MPa. The permit holder shall provide written proof to the NRCB to confirm the specifications of the concrete used in the construction. This document must be provided to the NRCB prior to the inspection referenced in condition 6, below, or by a later date stated by the NRCB.*

#### **5. Construction completion deadline**

*The permit holder shall complete construction of the manure collection and storage portions of the pullet barn and its attached manure storage area prior to July 1, 2021. Upon request, this*

*deadline may be extended by the NRCB in writing.*

*6. Post construction inspection*

*The permit holder shall not place livestock or manure in the pullet barn or its attached manure storage area until the NRCB has inspected it and stated in writing that the facilities has been constructed in accordance with this registration.*