

## Decision Summary LA25006

This document summarizes my reasons for issuing Registration LA25006 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25006. 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 a registration. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On January 20, 2025, the Hutterian Brethren of Wheatland (Wheatland Colony) submitted a Part 1 application to the NRCB to construct a new poultry CFO.

The Part 2 application was submitted on January 21, 2025. On January 29, 2025, I deemed the application complete.

The proposed CFO involves:

- Permitting 30,000 chicken broilers
- Constructing a broiler barn – 108.2 m x 19.5 m

#### a. Location

The proposed CFO is located at NW 22-26-22 W4M in Wheatland County, roughly nine km east of the village of Rosebud. The terrain is sloping in south-north direction. The closest common body of water is an ephemeral creek, running in the south-north direction, 50 m east of the proposed chicken broiler barn.

### 2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by a registration 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 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 ½ mile (805 m) from the CFO
- all persons who own or reside on land within the greater of ½ mile (805 m) or the minimum distance separation for the land on which the CFO is located

The land zoning on which the CFO is located would require a minimum distance separation of 161 metres. Therefore, the notification distance is 805 metres (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's border is within the notification radius.

A copy of the application was sent to Wheatland County, which is the municipality where the CFO is to be located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in the Strathmore Times newspaper in circulation in the community affected by the application on January 29, 2025, and
- sending 6 notification letters to people identified by Wheatland County as owning or residing on land within the notification distance.

The full application was made available for viewing during regular business hours.

### **3. Notice to other persons or organizations**

Under NRCB policy, 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), Alberta Transportation and Economic Corridors (TEC), and the Western Irrigation District.

I also sent a copy of the application to Rosebud Natural Gas Coop Ltd., and Lynx Energy ULC who are right of way holders on this land.

A response was received from Mr. Gerry Benoit, a development technologist with TEC. In his response, Mr. Benoit stated that a permit is not required for this development.

No other responses were received from any of the persons or organizations that were notified of this application.

### **4. Alberta Land Stewardship Act (ALSA) regional plan**

Section 22(9) 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. Municipal Development Plan (MDP) consistency**

I have determined that the proposed CFO is consistent with the land use provisions of Wheatland County's municipal development plan. (See Appendix A for a detailed discussion of the county's planning requirements.)

## **6. AOPA requirements**

With respect to the technical requirements set out in the regulations, the proposed CFO:

- 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

## **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.” Wheatland County is an affected party (and directly affected) because the proposed CFO is located within its boundaries.

Ms. Suzanne Hayes, a development officer with Wheatland County, provided a written response on behalf of Wheatland County. Ms. Hayes stated that the application is consistent with Wheatland County’s land use provisions of the municipal development plan and that the parcel is not within any area structure plan or intermunicipal development plan. The application’s consistency with the land use provisions of Wheatland County’s municipal development plan is addressed in Appendix A, attached.

Ms. Hayes also listed the setbacks required by Wheatland County’s land use bylaw (LUB) and noted that the application should meet these setbacks.

No other responses were received.

## **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 an approval officer may require groundwater monitoring for the facility. In this case, the information on this file supports the assumption that risks to groundwater and surface water are low.

## **9. Terms and conditions**

Registration LA25006 specifies the cumulative permitted livestock capacity as 30,000 chicken broilers and permits the construction of the chicken broiler barn.

Registration LA25006 contains terms that the NRCB generally includes in all AOPA registrations, 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, Registration LA25006 includes conditions that generally address the construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

## **10. Conclusion**

Registration LA25006 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25006.

March 7, 2025

(Original signed)  
Carina Weisbach  
Approval Officer

### **Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Registration LA25006

## APPENDIX A: Consistency with the municipal development plan

Under section 22 of AOPA, an approval officer may only approve an application for a registration or amendment of a registration 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 22(2.1) 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.)

Wheatland Colony’s CFO is located in Wheatland County and is therefore subject to that county’s MDP. Wheatland County adopted the latest revision to this plan in 2022, under Bylaw #2022-11.

The relevant parts can be found in section 3.1 Agriculture, Policy 3.1.3 which states that the county shall act as referral agency and respond in accordance with the MDP and LUB when the Natural Resources Conservation Board is processing applications for CFO’s. In my interpretation, this is not a land use provision. Therefore, I will not consider this section in my consistency determination, regardless, I notified the county and considered their response (see section 7 of this Decision Summary).

In my view, the text in 4.2.2 of Wheatland County’s MDP also provides a clear intent to adopt provisions from the land use bylaw (LUB). Following the NRCB Operational Policy 2016-7: *Approvals*, part 9.2.4, I also consider Wheatland County’s Land Use Bylaw #2016-01 (with its last amendment on March 24, 2020 under Bylaw 2020-04). Under that bylaw, the subject land is currently zoned as Agricultural General District. Confined feeding operations are not listed as a permitted, discretionary or prohibited use. There is a general listing “Agricultural Operation” which does not require a permit. Section 4.2.7 of Part 4 specifies these as ‘*an agricultural operation*’ as defined in the Act on a parcel designated AG. This is understandable as Section 8.6 of the LUB states that the NRCB has full authority over CFOs and manure storage facilities and that applicants/landowners are responsible for obtaining the necessary permits required by the NRCB under AOPA.

In her response, Ms. Hayes stated that all setbacks should be met. The proposed chicken broiler barn also meets all applicable setbacks.

Based on my analysis, I determined that the development is consistent with the land use provisions of the MDP and the county’s LUB.

## **APPENDIX B: Explanation of conditions in Registration LA25006**

Registration LA25006 includes several conditions, discussed below:

### **a. Construction deadline**

Wheatland Colony proposes to complete construction of the proposed new chicken broiler barn by December 2025. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of December 31, 2025, is included as a condition in Registration LA25006.

### **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, Registration LA25006 includes conditions requiring:

- a. Wheatland Colony to provide evidence or written confirmation from a qualified third party that the concrete used for the manure collection and storage area meets the required specifications.

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. Registration LA25006 includes a condition stating that Wheatland Colony shall not place livestock or manure in the manure storage or collection portions of the new chicken broiler barn until NRCB personnel have inspected the chicken broiler barn and confirmed in writing that it meets the registration requirements.