

Decision Summary RA24043

This document summarizes my reasons for issuing Approval RA24043 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24043. 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 October 11, 2024, the Hutterian Brethren Church of Donalda, operating as Donalda Colony Farming Co. Ltd., (Donalda Colony) submitted a Part 1 application to the NRCB to expand an existing multi-species CFO.

The Part 2 application was submitted on January 7, 2025. On January 23, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing livestock numbers from zero to 3,000 beef finishers
- Constructing 10 feedlot pens – 304.8 m x 103.6 m - total dimensions
- Constructing 3 additional pens (to be used as shipping/receiving pens and sick pens) – 60.9 m x 103.6 m - total dimensions
- Constructing a processing barn – 24.3 m x 36.6 m
- Constructing a catch basin – 103.6 m x 60.9 m x 2 m deep

a. Location

The existing CFO is located at W ½ 18-42-17 W4M, E ½ 24-42-18 W4M, and SW 19-42-17 W4M in the County of Stettler, roughly 9 km northeast of the village of Donalda, Alberta. The terrain surrounding the CFO gently undulates and generally slopes to the south. The closest common body of water is an intermittent creek that runs along the south and eastern portion of the existing CFO, approximately 550 metres southeast of the proposed feedlot, and approximately 50 m from the existing duck barn.

b. Existing permits

To date, the CFO has been permitted under NRCB Approval RA20018, which superseded all previous permits, including the deemed permit. That permit allowed the construction and operation of a multi-species CFO with 120 milking cows (plus associated dries and replacements), 35,000 chicken layers, 40,000 chicken pullets, 200 geese, 400 turkeys and 209 sheep. The CFO's existing permitted facilities are listed in the appendix to the Approval RA24043.

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”.)

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 County of Stettler, 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 Stettler Independent newspaper in circulation in the community affected by the application on January 23, 2025, and
- sending 24 notification letters to people identified by the County of Stettler 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 Battle River Power Coop. as they are a utility right of way holder.

Ms. Cindy Skjaveland, a property technologist with TEC, responded to the application and stated that the proposed structures would require a roadside permit due to their proximity to Highway 854. Ms. Skjaveland’s response has been forwarded to the applicant for their information and action.

I did not receive any other responses to the application.

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 proposed CFO is to be located.

5. Municipal Development Plan (MDP) consistency

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

Mr. Rich Fitzgerald, a development officer/GIS coordinator with the County of Stettler, provided a written response on behalf of the County of Stettler. Mr. Fitzgerald stated that the application is consistent with the County of Stettler's land use provisions of the municipal development plan (MDP). The application's consistency with the land use provisions of the County of Stettler's MDP plan is addressed in Appendix A, attached.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB did not receive a response from any individuals or other parties.

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. The information on this file supports the assumption that risks to groundwater and surface water are low.

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 Donaldda Colony's existing CFO facilities were assessed in 2015, 2016, 2017 and 2020 using the ERST. According to these assessments, the turkey pens and sheep corrals posed a high risk to groundwater due to the presence of a water well inside the pens/corrals. The applicant had previously addressed this risk by mounding and compacting soil around the wells and by installing a concrete vault over the water wells. Approval RA15023 included a condition requiring annual testing of the water wells within these facilities, which was carried forward to Approval RA15023A, and subsequently carried forward to Approval RA20018. The condition will be carried forward in this permit. Additionally, the dairy corrals were found to pose a moderate risk to surface water due to the proximity of the intermittent creek. All other existing 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 those assessments were done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required. As mentioned above, a water well monitoring condition will be carried forward from Approval RA20018 to address the risk to groundwater posed by the water wells located within the turkey pens and sheep corrals. A condition requiring the applicant to maintain the protective berm between the dairy corrals and the intermittent creek will also be carried forward from Approval RA20018.

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. Fitzgerald also listed the setbacks required by the County of Stettler'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 AOPAs 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 (<https://eab.gov.ab.ca/status.htm>), accessed March 6, 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 County of Stettler, 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 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.

10. Terms and conditions

Approval RA24043 specifies the cumulative permitted livestock capacity as:

3,000 beef finishers,
120 milking cows (plus associated dries and replacements)
35,000 chicken layers
40,000 chicken pullets
200 geese
400 turkeys
209 sheep

and permits the construction of the livestock pens (feedlot, shipping/receiving and sick pens), a processing barn and a catch basin.

Approval RA24043 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 RA24043 includes conditions that generally address construction deadlines, monitoring, 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 RA24043: Approval RA20018 (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 RA24043 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24043.

Donalda Colony's previously issued NRCB Approval RA20018 is therefore superseded, and its content consolidated into this Approval RA24043, unless Approval RA24043 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval RA20018 will remain in effect.

March 19, 2025

(Original signed)
Sarah Neff
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval RA24043

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.)

Donalda Colony’s CFO is located in the County of Stettler and is therefore subject to that county’s MDP. The County of Stettler adopted the latest revision to this plan on August 9, 2023, under Bylaw 1704-23. Section 4.15 relates to CFOs.

Subsection 4.15(a) states that “the County supports any application for CFO development and/or expansion if it complies with the AOPA regulations...”. While I believe this subsection is not a land use provision, it still provides an insight into the interpretation of the remaining portions of the MDP.

Subsection 4.15(b), (c) and (g) are all procedural in nature. As such, they are not “land use provisions,” and therefore are not applicable to my MDP consistency determination.

Subsection 4.15(d) states that the CFO site “must be located” in the Agricultural District under the County’s land use bylaw, otherwise the County will ask the NRCB to include a condition in the permit requiring the applicant to obtain rezoning from the County. The proposed CFO expansion is located within the Agricultural District and is therefore consistent with this policy.

Subsection 4.15(e) states that the “proposed location of any CFO structures must comply with the minimum front, side and rear yard setback requirements for farm buildings as described in the Land Use Bylaw.” The proposed feedlot facilities meet the setback requirements in the County’s land use bylaw.

Section 4.15(f) states, “If the County deems that the approval of the proposed or expanded CFO by the NRCB would result in increased traffic that may impact County roads or residences along those roads, or if the County deems that the access roads do not comply with the County’s minimum road specifications to safely carry the expected traffic (e.g. road width), the County will request that the NRCB impose a condition on the permit to require that the applicant enters into a road use agreement with the County and/or upgrades the affected roads at no cost to the County.”

The NRCB does not have direct responsibility for regulating road use. Section 18 of the *Municipal Government Act* gives counties “direction, control and management” of all roads

within their borders. In addition, municipalities have the knowledge, expertise and have the jurisdiction to implement and enforce road use restrictions and road use agreements.

Subsections 4.15(h) and (i) preclude new or expanding CFOs within any exclusion zones identified in an intermunicipal development plan or in any area structure, concept and outline plans listed in those subsections. The County stated that the proposed CFO expansion is not within any of these exclusion zones, area structure plans, or concept plans and is therefore consistent with this policy.

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

APPENDIX B: Explanation of conditions in Approval RA24043

Approval RA24043 includes several conditions, discussed below, and carries forward a number of conditions from Approval RA20018 (see section 2 of this appendix). Construction conditions from historical permits that have been met are identified in the appendix to Approval RA24043.

1. New conditions in Approval RA24043

a. Construction Deadline

Donalda Colony proposes to complete construction of the proposed new livestock pens, processing barn and catch basin by January 2027. It is my opinion that a longer timeframe would be more appropriate to account for construction or material delays. The deadline of November 30, 2028, is included as a condition in Approval RA24043.

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 RA24043 includes conditions requiring:

- a. Donalda Colony to provide an engineer's completion report certifying that the catch basin was constructed with the same liner material as that used for hydraulic conductivity testing and that the catch basin was constructed according to the proposed location, procedures and design specifications, including depth and side slopes.
- b. the concrete used to construct the liner of the manure collection and storage portions of the livestock pens (feedlot, shipping/receiving and sick pens) and processing barn to meet the specifications for category C (solid manure – wet) and category D (solid manure – dry), respectively, in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas".
- c. Donalda Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the livestock pens and processing 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 RA24043 includes conditions stating that Donalda Colony shall not place livestock or manure in the manure storage or collection portions of the new livestock pens (feedlot, shipping/receiving and sick pens) or processing barn, or allow manure contaminated runoff to enter the catch basin until NRCB personnel have inspected all facilities and confirmed in writing that they meet the approval requirements.

c. Populating feedlot pens

Donalda Colony shall not populate the livestock pens (feedlot, shipping/receiving and sick pens) until the catch basin has been constructed, and the facility has been inspected by NRCB personnel and confirmed by them, in writing, that it meets the approval requirements.

2. Conditions carried forward and modified from Approval RA20018

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that conditions 4 and 6 from Approval RA20018 should be carried forward and modified to reflect ongoing surface water protection and updated water well monitoring requirements.

4. Protection of the intermittent creek

The permit holder shall maintain the protective berm between corrals one, two, and three and the intermittent creek unless otherwise stated by the NRCB. The berm must be high enough to prevent manure impacted surface water from leaving the corrals.

6. Water quality testing

A condition will be included in Approval RA24043 requiring Donalda Colony to sample and test raw groundwater from water well ID's #105422, #298251, and #2029737, according to the water well monitoring requirements prescribed by the NRCB in writing ("Sampling for Water Well Monitoring" Fact Sheet). The NRCB may, based on the monitoring results and at its discretion, revise those requirements from time to time, in writing.