



Decision Summary LA19043A

This document summarizes my reasons for issuing Approval LA19043A, an amended version of Approval LA19043, under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA19043A. 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 amendment to an approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background and reason for the amendment

On February 25, 2020, the Hutterian Brethren of Standoff (Standoff Colony) received Approval LA19043, permitting the construction of new feedlot pens and a catch basin, and an increase to a total of 4,800 beef finishers. The construction completion deadline was set to be December 21, 2022.

On August 23, 2022, Standoff Colony requested an extension to the construction completion deadline. The request was granted, and the new deadline was set to be December 31, 2023.

On December 1, 2023, Standoff Colony submitted an application for amendment for a second extension of the construction deadline (of December 31, 2023) before the passing of the deadline. The reason for the extension was the need to prioritize the construction of new residences at the colony (personal communication) and financial setbacks due to drought years.

Because this is the second extension of the construction completion deadline and construction of the new feedlot pens and runoff control catch basins has not yet commenced, NRCB Operational Policy 2015-1: Construction Deadlines part 3.2 (construction not yet commenced) comes into effect which requires an application for amendment to the permit.

On February 28, 2024, I deemed the application complete.

a. Location

The existing CFO is located at NE 17-6-25 W4M / NE 18-6-25 W4M in Cardston County, roughly 2.6 km northwest of the Town of Standoff, Alberta. The terrain is relatively flat in the immediate area of the proposed construction and slopes north-, east- and southwards to the flood plains of the Waterton and the Belly Rivers. The Waterton River is approximately 1,700 m north, and the Belly River is approximately 950 m south-southeast, of the proposed CFO expansion.

b. Existing permits

The CFO is currently permitted under NRCB Approval LA19043. This approval allows the construction and operation of 4,800 beef finishers and 600 ewes with lambs CFO. The CFO's existing permitted facilities are listed in the appendix of Approval LA19043A.

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 amendment 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 Cardston County, which is the municipality where the CFO is located. The Municipal District (MD) of Willow Creek, and the Blood Tribe (Kainai Nation) were also notified, as both, MD) of Willow Creek and the Blood 148 First Nation Reserve have a boundary within the notification distance.

The NRCB gave notice of the application by:

- public advertisement in Macleod Gazette newspaper in circulation in the community affected by the application on February 28, 2024, and
- sending 11 notification letters to people identified by Cardston County and MD of Willow Creek as owning or residing on land within the notification distance. The Blood Tribe did not provide names and addresses.

The full application was made available for viewing during regular business hours and was posted on the NRCB website for public viewing.

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), Alberta Transportation & Economic Corridors (TEC), and the United Irrigation District.

I also sent a copy of the application to Atco Gas & Pipelines and Fortis Alberta Inc.

I received responses from Mr. Jeff Gutsell, a hydrogeologist with EPA, Ms. Leah Olsen, a development/planning technologist with TEC, and Ms. Diana Pounall, a land coordinator with Fortis Alberta.

- Mr. Gutsell had no concerns with this application.
- Ms. Olsen stated that a permit from her department is not required for the proposed development.
- Ms. Pounall stated that Fortis Alberta has no concerns with this application.

No other responses were received from other organizations that were notified.

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.

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 extension of the construction completion deadline is consistent with the land use provisions of Cardston County's municipal development plan. Therefore, the discussion in Decision Summary LA19043 is still valid, and a new discussion is not required. (See Appendix A of Approval LA19043 for a more detailed discussion of the County's planning requirements.)

6. AOPA requirements

The amendment application is to extend only the construction deadline. Concerning the technical requirements set out in the regulations, the proposed construction continues to meet all AOPA requirements, including the minimum distance separation, all liner requirements, and all other setbacks (see Decision Summary and Technical Document LA19043).

7. Responses from municipalities 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." Cardston County is an affected party (and directly affected) because the CFO is located within its boundaries.

Mr. Joe Thomas, a development officer with Cardston County, provided a written response on behalf of Cardston County. Mr. Thomas stated that the County's planning documents and bylaws allow the application's proposed developments to occur in the proposed location, as it is zoned agriculture, and all lands within 1,600 m are zoned agriculture. The application's consistency with the land use provisions of Cardston County's current municipal development plan has not changed since that Approval LA19043 was issued and is addressed in Appendix A of Decision Summary LA19043.

Mr. Thomas also stated: *“While we do not see any adjustments to the MDP that would hinder this proposed application, fully understanding what the standards are for CFOs in 2028 is difficult to see at this stage of the redevelopment. Therefore, we are requesting some more information on when they are starting the upgrade, and are they proposed to be complete by 2028?”*

Although I recognize the county’s interest in current and future development within its borders, the proposed facilities meet all AOPA requirements as outlined above which are not expected to change in the foreseeable future. Apart of that and as discussed below (Appendix B), the normal timeframe to construct a project of that scope is three construction seasons. Because this is in extension to the already given three years, I therefore granted an extension of an additional three years rather than the requested five years.

The MD of Willow Creek is also a directly affected party because its border is within the notification radius. Ms. Cindy Chisholm, director of planning and development stated that, although the subject land is located within Cardston County, it is within the IDP area the MD of Willow Creek shares with Cardston County. She also stated that the MD has no comments in respect to the extension of the construction completion deadline and that all lands within the 1.5 miles are zoned “Rural General” (RG).

The NRCB wrote to the Blood Tribe, notifying them of the application, providing guidance on how to apply for directly affected party status, and seeking information on adverse effects on Aboriginal or treaty rights. I followed up with some phone calls and did not receive a response.

Apart from municipalities, any member of the public may request to be considered “directly affected.” The NRCB received a response from one individual.

The NRCB received this submission after the submission deadline in the notice. I considered whether there were exceptional circumstances that warranted considering the submission nonetheless (see NRCB Operational Policy 2016-7: *Approvals*, at 8.13.2).

In this case, I found that the change of address might have occurred between the receipt of addresses from Cardston County (December 6, 2023) and the date this application was deemed complete (February 28, 2024) as stated by the respondent. This was the reason why the notification letter was received later than the deadline to submit responses. In my view, this is an exceptional circumstance that warrants me considering the submission though it is late.

Because the person who submitted the response owns or resides on land within the 1.5 mile notification, and because she submitted a response, she qualifies for directly affected party status. (See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1)

The directly affected party raised concerns regarding nuisance impacts and the possibility of spreading and storing manure in proximity of the campground. These concerns are addressed in Appendix A.

8. Environmental risk of CFO facilities

Since there are no changes to the proposed facilities, or their locations, and this application for amendment of LA19043 is specific to the post-construction deadline, an additional ERST is not required.

9. Other factors

The approval application remains consistent with Cardston County's MDP land use provisions as discussed in section 5 above and with the IDP between Cardston County and the MD of Willow Creek (IDP Bylaw #1731 & #675.2015, sections 4.3.1 and 4.3.2), and continues to meet all requirements of AOPA and its regulations, including all other factors and matters that would normally be considered if a development permit were being issued. It

10. Terms and conditions

Rather than issuing a separate "amendment" to Approval LA19043, I am issuing a new approval (LA19043A) with the granted amendment. Approval LA19043A therefore contains all of the terms and conditions in LA19043, except the new construction completion deadline for the permitted construction which has been extended to December 31, 2026 (see Appendix B).

Construction conditions from Approval LA19043 that have been met are identified in the appendix to Approval LA19043A. No new conditions are included in the approval.

Therefore, Approval LA19043A specifies the cumulative permitted livestock capacity as 4,800 beef finishers, and 600 sheep (ewes with lambs), and permits the construction of the feedlot pens and catch basin.

This consolidation is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion and in accordance with NRCB Operational Policy 2016-7: Approvals, part 11.5.

11. Conclusion

Approval LA19043A is issued for the reasons provided above, in the attached appendices, and in Technical Document LA19043A.

Standoff Colony's Approval LA19043 is therefore superseded, and its content consolidated into this Approval LA19043A, unless Approval LA19043A is held invalid following a review and decision by the NRCB's Board members or by a court, in which case Approval LA19043 will remain in effect.

April 24, 2024

(original signed)

Carina Weisbach
Approval Officer

Appendices:

- A. Concerns raised by the directly affected party
- B. Explanation of conditions in Approval LA19043A

APPENDIX A: Concerns raised by directly affected party

The following individual qualifies for directly affected party status because she submitted a response to the application and owns or resides on land within the “notification radius,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation:

Jennifer Nish
E½ 29-6-25 W4M

See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1.

The directly affected party raised the following concerns:

- Negative impact on the campground which is her business undertaking (livelihood)
- Manure spreading and stock piling (on Standoff's land) close to the campground

AO comment:

Approval LA19043 was issued on February 25, 2020, with public notice given on November 12, 2019. Notification letters (courtesy letters) were sent out to all addresses provided by Carston County at that time, including to the mailing address associated with the land location mentioned above. No responses were received about the proposed development.

This application for amendment is only to extend the construction completion deadline for the permitted expansion of the above noted CFO. Permission for the expansion, itself, occurred in 2020 and is not being revisited.

Although it is understandable that an expansion of an existing CFO can cause concerns about potential impacts, the expansion continues to meet all AOPA requirements, including consistency with the MDP and land zoning, distance to adjacent neighbours, and the required land base for manure spreading. Having said that, incidences of inappropriate disturbances such as fly infestations, odor and other incidences of non-compliance can be reported to the NRCB's 24 hour a day reporting line (1-866-383-6722 or 310-0000 toll free line).

APPENDIX B: Explanation of conditions in Approval LA19043A

Approval LA19043A carries forward all conditions from Approval LA19043 with one modification which is the extension of the construction completion deadline.

1. Altered condition in Approval LA19043A

a. Construction Deadline

Standoff Colony proposes to complete the construction of the outstanding feedlot pens and catch basin by the December 31, 2028. This time frame is substantially longer than the typical three construction seasons allotted for this scope of work. I therefore set the new construction completion deadline as December 31, 2026. The deadline of December 31, 2026, is included as a condition in Approval LA19043A.