

Decision Summary LA19040A

This document summarizes my reasons for issuing Approval LA19040A under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Documents LA19040 and LA19040A. 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.

1. Background

On March 9, 2020, River Road Hutterian Brethren (River Road) submitted an application for amendment to the NRCB to move the location of the poultry layer barn that was permitted in Approval LA19040. There will be a requirement to decommission a swine barn as a result of this change. There are no proposed change to the dimensions of the proposed barn or to livestock numbers at the CFO at this time. On March 16, 2020, I deemed the application complete.

Under AOPA, this type of application requires an amendment of Approval LA19040. (This is one of several types of “permits” issued under AOPA. For an explanation of the different types and when each one applies, see www.nrcb.ca.)

a. Location

The existing CFO is located at NE 32-1-14 W4M in the County of Warner #5 (County of Warner), approximately 20 km southeast of the Town of Milk River. The terrain is flat with a gentle slope towards the Milk River valley which is located approximately 2 km north of the CFO.

b. Existing permitted facilities

The CFO is currently permitted under NRCB Approval LA19040. This approval allows the construction and operation of a 30,000 chicken layer, 12,500 chicken pullet, 2,000 chicken broilers, 200 beef finishers, 1,000 ducks, 475 swine (farrow to finish), 125 dairy cows (plus associated dries and replacements and 300 turkeys CFO. The CFO's existing permitted facilities are listed in the appendix of Approval LA19040A.

Once River Road has followed through with decommissioning of swine facilities a reduction in the permitted capacity of the CFO will be required. Swine numbers will be reduced by the NRCB at that time to reflect the remaining physical capacity of the CFO.

2. Notices to affected parties

Under section 19 of AOPA, the NRCB is required to notify (or direct 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:

- the municipality where the CFO is 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 this application, the distance is 1.5 miles. (The NRCB refers to this distance as the “affected party radius.”)

Municipalities that are affected parties are defined by the act to be “directly affected” and are entitled to provide evidence and written submissions. The County of Warner is an affected party (and therefore also a directly affected party) because the proposed expansion is located within its boundaries.

All other parties who receive notice of the application may request to be considered “directly affected.” Under NRCB policy, all individuals who own or reside on land within the affected party radius are presumed to be “directly affected” if they submit a written response to the notice within the prescribed timeline. See NRCB Operational Policy 2016-7: *Approvals*, part 6.2.

Under section 20 of the act, all directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions regarding the application.

All directly affected parties are also entitled to request an NRCB Board review of the approval officer’s decision on the approval application.

The NRCB published notice of the application in the Lethbridge Herald on March 16, 2020 and posted the full application on the NRCB website for public viewing. The NRCB also emailed referral letters and a copy of the complete application to the County of Warner, Alberta Health Services (AHS), Alberta Environment and Parks (EP), and Alberta Transportation. Six courtesy letters were sent to people identified by Warner County as owning or residing on land within the affected party radius.

3. Responses from the municipality, referral agencies, and other parties

I received responses from Warner County, EP, and Alberta Transportation. No responses were received from AHS or from other parties.

Mr. Tyler Nelson, a development officer, provided a written response on behalf of the County of Warner. As noted in section 2, the County of Warner is a directly affected party.

As was the case with Approval LA19040, Mr. Nelson stated that the application is consistent with the county’s municipal development plan and that the application meets all applicable setbacks. The application’s consistency with the County of Warner’s municipal development plan, is addressed in Appendix A of Decision Summary LA19040.

Mr. Jeff Gutsell, a hydrogeologist, provided a written response on behalf of EP. Mr. Gutsell raised no concerns with the application.

Ms. Leah Olsen, a development/ planning technologist, provided a written response on behalf of Alberta Transportation. Ms. Olsen raised no concerns about the application and stated a permit was not required from her department.

4. Environmental risk screening of existing and proposed facilities

As part of my review of this application, I assessed the risk to surface water and groundwater posed by the CFO's existing and proposed manure storage facilities. I used the NRCB's environmental risk screening tool for this purpose (see NRCB Operational Policy 2016-7: *Approvals*, part 8.13). The tool 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.)

All of the CFO's existing and proposed facilities pose a low potential risk to groundwater and surface water: (The CFO's existing facilities are listed in the appendix to LA19040A.)

5. Other factors considered

The amendment application meets all relevant AOPA requirements, with the terms and conditions summarized in part 6.¹

In addition, the proposed amendment is consistent with the land use provisions of the County of Warner's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

With respect to the act's technical requirements, the proposed amendment:

- 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 springs, and common bodies of water
- Meets the required AOPA setbacks from water wells, except for one. A variance to this well has been previously granted and further discussion is contained in Decision Summary LA19040.
- 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 concrete liners in manure storage facilities

6. Terms and conditions

Approval LA19040A will include all of the terms and conditions specified in Approval LA19040 except for the revised location of the permitted layer barn and decommissioning of the swine barn.

The permitted livestock capacity of the CFO will remain as 30,000 chicken layers, 12,500 chicken pullets, 2,000 chicken broilers, 1,000 ducks, 300 turkeys, 475 swine, 125 dairy cows (plus associated dries and replacements), 200 beef finishers and permits the construction of the new chicken layer barn (97.5 m x 29.3 m).

Approval LA19040A also contains terms that the NRCB generally includes in all AOPA approval, including terms stating that the applicant must follow AOPA requirements and must adhere to the project descriptions in their application and accompanying materials.

1. For a summary of these requirements, please see the [2008 AOPA Reference Guide](http://www.nrcb.ca/about/documents), available on the NRCB website at www.nrcb.ca/about/documents.

Therefore, Approval LA19040A includes conditions that:

- Set a deadline of November 30, 2022 for the approved construction to be completed
- Require decommissioning of the existing swine barns on the proposed footprint of the new layer barn.
- Require the concrete used to construct the liner of the manure collection and storage portion of the 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”
- Require documentation that the concrete used for the manure collection and storage areas meets the required specifications.
- Prohibit River Road from placing manure or livestock in the layer barn until the barn has been inspected by the NRCB following its construction

For an explanation of the reasons for these conditions, see Appendix A.

a. Conditions carried forward from previously issued permits

For clarity, and pursuant to NRCB policy, I consolidated Approval LA19040 with Approval LA19040A (see NRCB Operational Policy 2016-7: *Approvals*, part 10.5). 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, and then cancelling all existing permits once the new permit is issued. This consolidation is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion.

Therefore, in addition to containing the new terms and conditions summarized above, Approval LA19040A includes all existing terms and conditions in Approval LA19040. Construction conditions that are being carried forward and that have been met are identified and included in an appendix to the new approval.

7. Conclusion

Approval LA19040A is issued for the reasons provided above, in the attached appendices, and in Technical Document LA19040 and LA19040A.

River Road’s NRCB-issued Approval LA19040 is therefore cancelled, unless Approval LA19040A is held invalid following a review and decision by the NRCB’s board members or by a court, in which case Approval LA19040 will remain in effect.

April 24, 2020

(original signed)
Joe Sonnenberg
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval LA19040A

APPENDIX A: Explanation of conditions in Approval LA19040A

Approval LA19040A includes several conditions, discussed below which have all been carried forward from Approval LA19040. A new condition relating to decommissioning of an existing swine barn has also been included in the amendment.

New conditions in Approval LA19040A

a. Construction deadline

River Road proposes to complete construction of the proposed new chicken layer barn by November 30, 2022. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2022 is included as a condition in Approval LA19040A.

b. Post-construction inspection

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 LA19040A includes conditions requiring:

- The concrete used to construct the liner of the manure collection and storage portion of the 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.”
- River Road to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the layer barn.

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed according to their required design specifications. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Approval LA19040A includes a condition stating that River Road shall not place livestock or manure in the manure storage portions of the new layer barn until NRCB personnel have inspected the barn and confirmed in writing that it meets the approval requirements.

c. Decommissioning of existing swine barn

River Road proposes constructing a new chicken layer barn which overlaps the grandfathered footprint of an existing swine barn. A condition has been included in the approval requiring the swine barn to be decommissioned in accordance with Agdex 096-90: Closure of Manure Storage Facilities and Manure Collection Areas before construction of the new chicken layer barn begins.