

## Decision Summary LA08024A

This document summarizes my reasons for issuing Approval LA08024A, an amended version of Approval LA08024. This amended approval is issued on my own motion, under section 23 of the *Agricultural Operation Practices Act* (AOPA). My decision is based on the act and its regulations, the policies of the NRCB, and all other materials in the permit file.

### 1. Background

Van Diemen Poultry Ltd. owns and operates an existing chicken broiler and beef finisher confined feeding operation (CFO) on SW 4-11-20 W4. The existing CFO is approximately 5.6 km east of Picture Butte, Alberta. The topography at this site is flat.

On November 18, 2008, the NRCB issued Approval LA08024 which determined in part that the CFO is grandfathered (i.e. holds a 'deemed' approval) under section 18.1(1)(a) of AOPA, with a deemed capacity of 7,100 beef finishers.

Approval LA08024 allowed a change of animal type by reducing the existing beef finisher numbers by 4,100 beef finishers and replacing them with 350,000 chicken broilers to a total of 3,000 beef finishers and 350,000 chicken broilers. The approval also permitted the construction of six poultry barns and included a construction completion deadline of December 31, 2016 to construct the six barns. The approval used a "flexible" condition to extend the construction deadline until December 31, 2016. A "flexible" extension provision of the construction completion deadline allows the NRCB to grant further extensions without having to amend the permit condition.

On July 7, 2016, Mr. Van Diemen contacted me to request an extension of the construction completion deadline to construct the remaining two barns that had not been constructed. In the phone conversation, I informed Mr. Van Diemen, that I would grant a two year extension based on the reason provided but that this would be the final extension under that flexible condition. I received a letter of request on October 12, 2016. On October 14, 2016, I issued the response letter, granting a two year extension of the construction completion deadline to December 31, 2018.

On October 31, 2018, I sent a reminder to inform Mr. Van Diemen of the approaching construction completion deadline for the remaining two barns permitted in Approval LA08024. I have not received a response or an application for amendment to extend the construction completion deadline. To date, Van Diemen Poultry Ltd. has not started construction of the remaining two poultry barns.

As per NRCB policy (Operational Policy 2015-1 Construction Deadlines, Part 4), if only some of the permitted facilities under that permit have been constructed and a request to amend the permit to extend the construction deadline has not been made, the approval officer is to use section 23 of AOPA to amend this permit on the approval officers own motion to cover the constructed facilities and to reduce the livestock capacity accordingly.

As required under section 9 of the Administrative Procedures Regulation under AOPA, I advised the operator on October 15, 2020 of my intention to amend the permit to what had been built to date and to adjust the animal numbers. He was given an opportunity to comment. In a

conversation with Mr. Robert Van Diemen (the permit holder), he did not object to this amendment.

I am therefore amending Approval LA08024 on my own motion under section 23 of AOPA, to exclude the two poultry barns that were not constructed from the permitted CFO facilities. Because these barns were not constructed, the capacity of the CFO's facilities will also be amended to reflect the housing capacity of the constructed facilities.

## **2. Terms and conditions**

Approval LA08024A specifies the new permitted livestock capacity 3,000 beef finishers and 233,333 chicken broilers (4/6 of the original permitted chicken broiler numbers) and reduces the permitted number of barns at this site to a total of four chicken broiler barns.

For clarity and efficiency, and in accordance with NRCB policy, I have consolidated the previously issued approval, Approval LA08024 into a new approval: LA08024A (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, Approval LA08024A contains all of the relevant terms from Approval LA08024, except the construction conditions related to the 2 barns that were not constructed and the permitted animal number at this CFO, and carries forward all construction conditions that have been met in the appendix of Approval LA08024A. All other exiting facilities are listed in the appendix of Approval LA08024A.

## **3. Conclusion**

Approval LA08024A is issued for the reasons provided above.

Van Diemen Poultry Ltd.'s NRCB-issued Approval LA08024 is therefore cancelled, unless Approval LA08024A is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA08024 will remain in effect.

October 27, 2020

(Original signed)  
Carina Weisbach  
Approval Officer