

Decision Summary RA19059A

This document summarizes my reasons for issuing Approval RA19059A (an amended version of Approval RA19059) under the *Agricultural Operation Practices Act* (AOPA). Additional reasons, as well as the full application, are in Technical Document RA19059A. 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, the NRCB issued Approval RA19059 to the Hutterian Brethren Church of Wavy Lake (Wavy Lake Colony), which allowed an expansion from 25,000 to 60,000 chicken broilers and the construction of a new broiler barn (broiler barn #2) at an existing multi species confined feeding operation (CFO). Wavy Lake Colony has already constructed broiler barn #2; however, they constructed it north of existing broiler barn #1 instead of the permitted location, which was south of the existing broiler barn #1. Wavy Lake Colony has indicated that the error was due to a typo at the time of the original application.

This modification is considered to be unauthorized construction, and therefore, the NRCB's compliance division is aware and involved in this as well.

On December 15, 2020, Wavy Lake Colony applied to amend Approval RA19059, in order to modify the permitted location of broiler barn #2 from south of the existing broiler barn #1 to where it has been constructed on the north side of broiler barn #1. The application was deemed complete on January 6, 2021.

The barn was constructed using the same proposed concrete liner that was previously permitted for the original barn. No increase in livestock numbers or manure production is proposed.

Under AOPA, this type of application requires an amendment to an approval.

a. Location

The existing CFO is located at SW 20-44-15 W4M in Flagstaff County, roughly five kilometers southwest of the Village of Strome. The terrain is slightly undulating sloping northeast and southeast. Wavy Lake is located five kilometers to the northeast.

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 of the CFO, depending on the size of the CFO
- all individuals who own or reside on land within a specified distance of the CFO,

depending on the size of the CFO

For this application, the distance is 1.0 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. Flagstaff County is an affected party (and therefore also a directly affected party) because the proposed amendment 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 Community Press on January 6, 2021 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 Flagstaff County, Alberta Health Services (AHS), Alberta Environment and Parks (AEP), Pine Cliff Energy, and Ankerton Gas Co-op. Eleven courtesy letters were sent to people identified by Flagstaff County as owning or residing on land within the affected party radius.

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

I received responses from the county and AHS. No response was received from AEP, Pine Cliff Energy, Ankerton Gas Co-op, individuals or other non-government parties.

Ms. Rosemary Hoyland, a development officer with Flagstaff County, provided a written response on behalf of the county. As noted in section 2, Flagstaff County is a directly affected party.

Ms. Hoyland stated that the application complies with the county’s municipal development plan (MDP). Additionally, she indicated that the CFO site, and all lands within 1,600 m of the CFO, are zoned as Agricultural in the county’s land use bylaw (LUB). She also listed the setbacks required by the county’s LUB.

The county adopted its current MDP on August 2018 under Bylaw 10/18. This is the same MDP that I considered when I issued Approval RA19059 in March 9, 2020. Wavy Lake Colony’s present application is consistent with that MDP for the same reasons as those provided in Appendix A of Decision Summary RA19059.

The NRCB also received a response from Gregory Ward, an environmental health officer/executive officer with AHS indicating that AHS has no concerns with this application for amendment.

4. Environmental risk screening of existing facilities (including the constructed broiler barn #2)

When reviewing new permit applications for an existing CFO, NRCB approval officers normally assess the CFO's existing buildings, structures and other facilities, using the NRCB's environmental risk screening tool, to determine the level of risk they pose to surface water and groundwater. This 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/Guides 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 done with a previous version of the risk screening tool and requires updating.

The risks posed by Wavy Lake Colony's existing CFO facilities were assessed in 2019. According to this assessment, the facilities, including broiler barn #2, posed a low risk to surface water and groundwater.

Except for the location of broiler barn #2, the circumstances have not changed since that assessment was done. As the constructed concrete liner is the same as was originally proposed under Application RA19059, the new location of broiler barn #2 does not change the previous risk assessment result.

For these reasons, a new assessment of the risks posed by the CFO's existing facilities, including the constructed broiler barn #2, is not required.

5. Factors Considered

The previous application RA19059 met all relevant AOPA requirements. The proposed change to the location of broiler barn #2 has no impact on that determination; which still stands. Additionally, the terms and conditions summarized in section 6, include the terms and conditions from Approval RA19059.

6. Terms and Conditions

Rather than issuing a separate "amendment" to Approval RA19059, I am issuing a new Approval (RA19059A) with the required barn location amendment. Approval RA19059A therefore contains all of the terms and conditions in RA19059, except for the modification in regards to the location of the constructed broiler barn #2.

7. Conclusion

Approval RA19059A is issued, for the reasons provided above, in decision summaries RA19059 and RA19059A, and in Technical Documents RA19059 and RA19059A. In the case of a conflict between these documents, the latest ones will take precedence.

Approval RA19059 is therefore cancelled, unless Approval RA19059A is held invalid following a review and decision by the NRCB's board members or by a court, in which case the previous permit will remain in effect.

March 4, 2021

(Original Signed)
Francisco Echegaray, P.Ag.
Approval Officer