

Decision Summary RA22006

This document summarizes my reasons for issuing Approval RA22006 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA22006. 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 January 28, 2022, Hutterian Brethren Church of Camrose (Camrose Colony) submitted a Part 1 application to the NRCB to expand an existing multispecies CFO.

The Part 2 application was submitted on January 28, 2022. On February 8, 2022, I deemed the application complete.

The proposed CFO expansion involves:

- Increasing dairy livestock numbers from 115 to 170 milking cows (plus associated dry cows and replacements)
- Reducing swine livestock from 600 (sows farrow to finish) to 3,500 feeder pigs
- Converting a sow barn into a dairy barn (122 m x 36.6 m)
- Constructing new pens for dry cows and heifers (110 m x 150 m)
- Decommissioning the existing dairy barn (60.9 m x 13.7 m and 24.4 m x 13.7 m)

a. Location

The existing CFO is located at Section 3-48-20 W4M and SE 10-48-20 W4M in Camrose County, roughly 6.4 km north of the City of Camrose. The terrain is relatively flat and surrounded by rolling terrain.

b. Existing permits

As the CFO existed on January 1, 2002, it is grandfathered with a deemed approval under section 18.1 of AOPA. That deemed permit includes Camrose County issued development permits 99-084 and 01-123, issued August 17, 1999 and September 27, 2001, respectively. This deemed approval allows for the construction and operation of a multispecies CFO. The determination of the CFO's deemed permit status under section 18.1 of AOPA is explained in Decision Summary RA09027.

To date, the NRCB has issued Approvals RA09027 and RA10002M (an amendment to Camrose County issued development permit 01-123; this county issued permit was subsequently cancelled) and Authorizations RA15056 and RA20028. Collectively, these NRCB permits and the deemed approval allow Camrose Colony to construct and operate a multispecies CFO with 600 sows (farrow to finish), 115 milking cows (with associated dry cows

and replacements allowed on site), 1,200 beef finishers, 10,000 layer poultry (chicken), 2,000 broiler chickens, 200 turkeys, 1,500 ducks and 400 geese. The CFO's existing permitted facilities are listed in the appendix to the Approval RA22006.

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 "affected party radius."

A copy of the application was sent to Camrose County, which is the municipality where the CFO is located. A copy of the application was not forwarded to other municipalities as there are none within 1.5 miles of the CFO and the CFO is not located within 100 m of the bank of the river, stream, or canal.

The NRCB gave notice of the application by public advertisement in the Camrose Booster on February 8, 2022. The full application was made available for public viewing on the NRCB website. As a courtesy, forty three letters were sent to people identified by Camrose County as owning or residing on land within the affected party radius.

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 Health Services (AHS), Alberta Environment and Parks (AEP), Alberta Agriculture, Forestry and Rural Economic Development (AFRED), and Alberta Transportation. I also sent a copy of the application to Telus and Enermark as they have a utility right of way on the land.

Mr. Gordon Watt, an executive officer/public health inspector with AHS, did not raise concerns in his response. His response included comments related to the protection of water wells used for human consumption, disposal of deceased animals, and general nuisances.

Ms. Laura Partridge, a senior water administration officer with AEP, stated in her response that no additional water licensing was required at this time. She did not raise concerns with the application.

The responses from AHS and AEP were forwarded to the applicant for his information.

No responses were received from AFRED, Alberta Transportation, Telus or Enermark.

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 CFO is located.

5. Municipal Development Plan (MDP) consistency

I have determined that the proposed CFO expansion is consistent with the land use provisions of Camrose County'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 CFO 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/protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 10 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." Camrose County is an affected party (and directly affected) because the CFO is located within its boundaries.

Ms. Kim Hunter, a development officer with Camrose County, provided a written response on behalf of the county. Ms. Hunter stated that the application is consistent with the land use provisions of the county's municipal development plan. The application's consistency with Camrose County's municipal development 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 responses from individuals or other parties.

8. Environmental risk of CFO facilities

As part of my review of this application, I assessed the risk to the environment posed by the CFO's existing manure storage facilities and manure collection areas. I used the NRCB's environmental risk screening tool (ERST) to assist in my assessment of risk to surface water and groundwater (see NRCB Operational Policy 2016-7: Approvals, part 8.13). The tool provides for a numeric scoring of risks, which can fall within 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.)

The assessment found that the liquid manure storage tank, feedlot catch basin, and earthen liquid manure storage all pose a low potential risk to groundwater and surface water. Because these are the CFO's highest risk facilities, I presume that the CFO's other existing facilities also pose a low potential risk to both groundwater and surface water. From a review of other information gathered in the course of this application, I am satisfied that the screening provided by the ERST is adequate and that the presumption is not rebutted. A further assessment of the risks posed by these other facilities, using the ERST, is not necessary.

I also assessed the risk posed by the sow barn that is being converted into a dairy barn and the dry cow and heifer pens. Both of these facilities pose a low potential risk to groundwater and surface water.

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.

Ms. Hunter listed the setbacks required by Camrose County's land use bylaw (LUB). I have reviewed the application and have determined that the barn to be renovated and the proposed pens meet the applicable LUB setbacks.

I have considered the effects the CFO expansion may have on natural resources administered by provincial departments. To this end I referred the application to AEP and received feedback that is discussed in part three above. No concerns were expressed in response to this application. Accordingly, there were no concerns beyond AOPA's mandate to forward to applicable agencies (AHS or AEP) for their information and action.

The AEP representative who I have corresponded with for this application did not make me aware of any statements of concerns for this CFO that were submitted under section 109 of the *Water Act* in respect of the subject of this application. I am not aware of any written decisions before the Environmental Appeals Board (<http://www.eab.gov.ab.ca/status.htm>, accessed, March 10, 2022).

Finally, I considered the effects of the proposed CFO expansion on the environment, the economy, and the community, and the appropriate use of land.

Consistent with NRCB policy (Approvals Policy 8.7.3), I presumed that the effects on 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 policy (Approvals Policy 8.7.3), 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 CFO 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 8.7.3.). In my view, this presumption is not rebutted.

10. Terms and conditions

Approval RA22006 permits the construction of the pens for dry cows and heifers and the renovation of the sow barn into a dairy barn. Approval RA22006 also specifies a cumulative permitted livestock capacity of:

- 170 milking cows (plus associated dry cows and replacements)
- 3,500 feeder pigs
- 1,200 beef finishers
- 10,000 chicken layers
- 2,000 broiler chickens
- 200 turkeys
- 1,500 ducks
- 400 geese

Approval RA22006 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 RA22006 includes conditions that generally address a construction deadline, 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 deemed permit, including Camrose County issued development permit 99-084, and NRCB issued Approvals RA09027 and RA10002M and Authorizations RA15054 and RA20028 into Approval RA22006 (see NRCB Operational Policy 2016-7: Approvals, part 10.5). 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 RA22006 is issued for the reasons provided above, in the attached appendices, and in

Technical Document RA22006.

Camrose Colony's deemed approval, including Camrose County issued development permit 99-084, and the NRCB-issued Approvals RA09027 and RA10002M and Authorizations RA15054 and RA20028 are therefore superseded, and their content consolidated into this Approval RA22006, unless Approval RA22006 is held invalid following a review and decision by the NRCB's board members or by a court, in which case the existing permits will remain in effect.

March 23, 2022

(Original signed)

Jeff Froese
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval RA22006

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.

Conversely, “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 8.2.5.)

This CFO is located in Camrose County and is therefore subject to that county’s MDP. Camrose County adopted the latest revision to this plan on April 12, 2016, under Bylaw 1372. The portions of the MDP relevant to this application are discussed below:

Policy 4.3.7 of the MDP states that applications for new or expanding CFOs shall meet the *Agricultural Operation Practices Act*.

This is not a land use provision. I note that, as discussed elsewhere in this decision summary and in Technical Document RA22006, with typical permit conditions this application meets all relevant AOPA requirements.

Policy 4.3.8 states that at the discretion of County Council, large CFOs shall be prohibited in the County.

This policy likely is not a “land use provision” because it calls for discretionary judgements (by Council) about the size of the CFO. The MDP does not define what qualifies as a large CFO. Further, section 8.2.5 of the NRCB’s Approvals Policy (Policy 2016-7) prohibits me from considering this policy as part of this MDP consistency determination.

Policy 4.3.9 states that development of new or expanding CFOs shall not be supported within 3,219 m (2 miles) of the City of Camrose, 3,219 m (2 miles) from any recreational lake (defined in the MDP as Miquelon Lake, Little Beaver Lake, Bittern Lake, Red Deer Lake, Buffalo Lake, and Dried Meat Lake) or 1,610 m (1 mile) from any other urban municipality or hamlet as outlined in an [intermunicipal development plan] IDP.

This CFO is not located within any of the above stated setbacks and is beyond the extents of Camrose County’s IDPs.

For the above reasons, I have determined that this application is consistent with the land use provisions of Camrose County’s MDP.

APPENDIX B: Explanation of conditions in Approval RA22006

Approval RA22006 includes several conditions, discussed below, and carries forward a number of conditions from existing permits (see sections 2 and 3 of this appendix). Construction conditions from existing permits that have been met are identified in the appendix to Approval RA22006.

1. New conditions in Approval RA22006

a. Manure impacted runoff control

As noted in Application RA22006 the applicant has proposed to direct runoff from the dry cow and heifer pens into the existing lagoon (an earthen liquid manure storage or EMS). Technical Document RA22006 indicates that conditions are required to ensure that the runoff from these pens is directed to the EMS and not to other surrounding land. Accordingly, Approval RA22006 includes a condition requiring the permit holder to construct a structure so that manure impacted runoff from the pens is directed into the EMS and not on to other surrounding land.

The NRCB routinely inspects newly constructed surface water control structures to assess whether they were constructed according to their required design specifications. To be effective, these inspections must occur before livestock or manure are placed in the facility requiring those surface water controls. Approval RA22006 includes a condition stating that the permit holder shall not place manure on or allow livestock in the new pens until NRCB personnel have inspected the new pens and confirmed in writing that they meet the approval requirements.

b. Construction Deadline

Camrose Colony proposes to complete construction of the proposed dry cow and heifer pens and the conversion of the sow barn into a dairy barn by November 2025. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of October 31, 2025 is included as a condition in Approval RA22006.

c. 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 RA22006 includes conditions requiring:

- a. Camrose Colony to provide evidence or written confirmation from a qualified third party that the concrete used for the new manure collection and storage areas of the sow barn being converted into a dairy barn meets the required specifications.
- b. Camrose Colony to provide documentation to confirm the specifications of the new concrete used to construct the manure storage and collection portions of the new dairy barn.

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed according to their required design specifications. To be effective, and to reduce risk to the operator, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Approval RA22006 includes a condition stating that Camrose Colony shall not place livestock or manure in the newly renovated manure storage or collection portions of the new dairy barn until NRCB personnel have inspected the barn and confirmed in writing that it meets the approval requirements.

d. Decommissioning of old dairy barn

The applicant indicated that the old dairy barn will be “shut down” and “taken down”. I interpret this to be intent to decommission the barn in accordance with Technical Guideline Agdex 096-90, “Closure of Manure Storage Facilities and Manure Collection Areas”, for facility type 4, concrete and steel manure storage facilities. The application does not specify a timeline for this to occur.

To ensure that the old dairy barn is decommissioned in a meaningful timeline, a condition will be placed in the permit requiring the old dairy barn to be decommissioned within two years of the new dairy barn being approved for use by the NRCB. The old dairy barn must be decommissioned in accordance with the requirements of Technical Guideline Agdex 096-90, “Closure of Manure Storage Facilities and Manure Collection Areas”, for facility type 4, concrete and steel manure storage facilities.

2. Condition carried forward from Approval RA10002M

Condition two of Approval RA10002M states: all liquid manure associated to the hog operation shall be only applied to cultivated land and by direct injection method.

This condition will be carried forward into the new approval without modifications.

3. Condition not carried forward from Approval RA10002M

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that condition one from Approval RA10002M should be deleted and therefore is not carried forward to Approval RA22006.

Condition one states: the owner/operator shall conduct leak detection monitoring for the manure storage facility associated to the hog facility, according to a groundwater monitoring system prescribed and authorized in writing, and as amended from time to time where appropriate, by the NRCB.

The permit holder has not applied to have this condition removed. Despite this, I am of the opinion that there is little merit in carrying this condition forward for a few reasons. First, this condition was suspended by the NRCB since January 25, 2010 based on an environmental risk screening completed for the hog facility. In addition to this, the hog facilities (sow barn which is to be renovated, finishing barn, and the associated liquid manure storage tank) all have concrete liners. In addition to this, proof has been submitted as part of Application RA20028 and RA22005 which strongly suggests that the native soils below the hog facilities meets the groundwater protection requirements of AOPA. For these reasons, I will not be carrying this condition forward.