

## Decision Summary LA23014

This document summarizes my reasons for issuing Authorization LA23014 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA23014. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://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 authorization. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On February 28, 2023, the Hutterian Brethren Church of Shadow Ranch (Shadow Ranch) submitted a Part 1 application to the NRCB to construct a mixed poultry barn (30.5 m x 15.2 m) at an existing multi species CFO.

The Part 2 application was submitted on February 28, 2023, the application was deemed complete the same day.

The purpose of the proposed barn is to better accommodate geese, ducks and turkey that the colony raises for their own use.

#### a. Location

The proposed barn is located at the W $\frac{1}{2}$  24-14-22 W4M in Vulcan County, roughly 14.5 km northeast of Carmangay. The topography is gently undulating sloping to the southeast.

#### b. Existing permits

The CFO is permitted under NRCB issued Approval LA07034.

### 2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies all parties that are “affected” by an authorization application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- the municipality where the CFO is located or is to be located
- 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 municipality entitled to divert water from that body within 10 miles downstream
- any other municipality whose boundary is within a notification distance. In this case, the notification distance is  $\frac{1}{2}$  mile (805 m) from the CFO

A copy of the application was sent to Vulcan County, which is the municipality where the CFO is located. The CFO is not located within 100 m of the bank of the river, stream or canal.

### **3. Notice to other persons or organizations**

Under NRCB policy, 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 Protected Areas (EPA), and Alberta Transportation and Economic Corridors (TRAN).

I received response letters from AEP, AHS and TRAN.

Mr. Evan Neilsen responded to the referral letter on behalf of TRAN, indicating that they have no concerns with the application, and no permit is required from TRAN.

Ms. Carol Brittain, an AHS public health inspector, indicated that AHS has no concerns with this application.

Mr. Jeff Gutsell, a hydrogeologist with AEP, responded to the referral letter indicating that as there are no additional animal numbers with the application, no additional water licence is required under the Water Act.

### **4. Municipal Development Plan (MDP) consistency**

I have determined that the proposed construction is consistent with the land use provisions of Vulcan County's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

### **5. AOPA requirements**

With respect to the technical requirements set out in the regulations, the proposed construction:

- 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 groundwater protection requirements for the design of floors and liners of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 8, the application meets all relevant AOPA requirements.

### **6. Responses from municipality**

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." Vulcan County is an affected party (and directly affected) because the proposed facility is located within its boundaries.

Ms. Anne Erickson, the manager of development services with Vulcan County, provided a written response on behalf of the county. Ms. Erickson stated that the application is consistent with Vulcan County's land use provisions of the municipal development plan. The application's consistency with Vulcan County's municipal development plan is addressed in Appendix A, attached.

Ms. Erickson also indicated that the application appears to meet the setbacks required by Vulcan County's land use bylaw (LUB).

## **7. Environmental risk of facilities**

New CFO facilities which clearly meet or exceed AOPA requirements are automatically assumed to pose a low risk to surface and groundwater. However, there may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, an approval officer may require monitoring for the facility. In this case a determination was made, and monitoring is not required.

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](http://www.nrcb.ca).)

For the sake of efficiency, I first assessed the CFO's existing earthen liquid manure storage (EMS) and the beef feedlot using the ERST. These appear to be the CFO's highest risk facilities. The assessment found that these facilities 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.

## **8. Terms and conditions**

Authorization LA23014 permits the construction of the mixed poultry barn.

Authorization LA23014 contains terms that the NRCB generally includes in all AOPA authorizations, 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, Authorization LA23014 includes conditions that generally address a construction deadline, document submission and a construction inspection.

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

## **9. Conclusion**

Authorization LA23014 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA23014.

Authorization LA23014 must be read in conjunction with NRCB previously issued Approval LA07034 which remains in effect.

April 28, 2023

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

### **Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization LA23014

## **APPENDIX A: Consistency with the municipal development plan**

Under section 22 of AOPA, an approval officer may only approve an application for an authorization 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 22(2.1) 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.)

Shadow Ranch’s CFO is located in Vulcan County and is therefore subject to that county’s MDP. Vulcan County adopted the latest revision to this plan on April 4, 2012, under Bylaw #2012-003.

Part 4 of Vulcan County’s MDP deals specifically with CFOs. That part starts by stating (p. 14) that CFO development within the county [c]ontinues to influence the local economy and landscape. The preservation of the agricultural lifestyle is promoted and maintained through these operations. The potential issues caused by CFOs may be mitigated through long-range planning so those nearby settlements can still enjoy the rural lifestyle of the County.

Sections 4.1 to 4.3 of the MDP provide specific policies for CFOs.

Section 4.1 precludes new CFOs in the exclusion zones shown in Appendix B of the MDP. Shadow Ranch’s existing CFO is not within any of the exclusion zones shown in this MDP appendix.

Sub-sections 4.2(a), (c) and (d) of the MDP provide several setbacks to roads. Based on the site plan, the proposed CFO facility meets these setbacks.

Sub-section 4.2(b) states that applications for CFOs “adjacent” to a highway “should be referred to Alberta Transportation for a roadside development permit.” This is likely not a land use provision (and, therefore, is not relevant to my MDP consistency determination), because of its procedural focus. Regardless, the CFO is not located adjacent to a highway.

Sub-sections 4.3(a) and (b) of the MDP list two factors that the NRCB “should consider” in its review of applications. These factors are:

- (a) the cumulative effects of a new approval on any area near other existing confined feeding operations
- (b) impacts on environmentally sensitive areas shown in the report “Vulcan County: Environmentally Sensitive Areas in the Oldman River Region”

Sub-section (a) is likely not a “land use provision,” because it calls for project-specific, discretionary judgements about the types of cumulative effects that should be considered and the acceptable maximum levels of each of those effects. Additionally, the application is not for a new approval.

Sub-section (b) is also likely not a “land use provision,” as it calls for project-specific, discretionary judgements about the acceptable levels of impacts on environmentally sensitive areas. Nevertheless, Shadow Ranch’s application is consistent with this sub-section because the CFO site is not within any environmentally sensitive area shown in the report referenced in the MDP.

Sub-section 4.3(c) identifies to “giving notice to adjacent landowners” of AOPA permit applications. This policy is likely not a “land use provision” because of its procedural focus and is therefore not part of my consistency determination. The NRCB did notify Vulcan County and several referral agencies, in accordance with AOPA requirements and NRCB policy.

Lastly, sub-section 4.3(d) of the county’s MDP calls for the NRCB to consider “proof of the availability of water, specifically, confirmation of access and appropriate provision of the sufficient quantity and suitable quality of the required water supply.” This sub-section is likely not a “land use provision,” or, the sub-section is a “term or condition” under section 22(2.1) of AOPA. Therefore, this sub-section is likely not relevant to my MDP consistency determination (Beyond the MDP consistency context, under NRCB policy, approval officers will consider water supply issues only to the extent of requiring applicants to sign one of the water licensing declarations on page 13 of Technical Document LA23014. See Operational Policy 2016-7: Approvals, part 8.10).

For these reasons, I conclude that the application is consistent with the land use provisions of Vulcan County’s MDP. The county’s response confirms my conclusion.

## **APPENDIX B: Explanation of conditions in Authorization LA23014**

Authorization LA23014 includes several conditions, discussed below:

### **a. Construction Deadline**

Shadow Ranch proposes to complete construction of the proposed new mixed poultry barn by November 30, 2026. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2026 is included as a condition in Authorization LA23014.

### **b. 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, Authorization LA23014 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the mixed poultry 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.”
- b. Shadow Ranch to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the mixed poultry 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. Authorization LA23014 includes a condition stating that Shadow Ranch shall not place livestock or manure in the manure storage or collection portions of the new mixed poultry barn until NRCB personnel have inspected the mixed poultry barn and confirmed in writing that it meets the authorization requirements.