



Decision Summary LA23032

This document summarizes my reasons for issuing Authorization LA23032 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA23032. 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 authorization. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On June 7, 2023, Hutterian Brethren Church of Springvale (Springvale Colony) submitted a Part 1 application to the NRCB to construct a poultry broiler barn (59.1 m x 20.1 m) to replace an existing broiler barn at an existing multi species CFO.

The Part 2 application was submitted on June 21, 2023. On June 22, 2023, I deemed the application complete.

The proposed broiler barn will replace an existing barn that does not allow for adequate square footage for the birds. The total number of birds will not increase. The existing barn will be decommissioned. A condition will be included that requires Springvale Colony to provide the NRCB with records upon request (see Appendix B).

a. Location

The proposed MSF is located at SE 22 & N½ 22-27-23 W4M in Wheatland County, roughly 10 km north of Rockyford, Alberta. The CFO is located on both sides of the Rosebud River, which flows through the colony. No existing CFO facilities are located within the known flood plain of the Rosebud River. The closest facility to the Rosebud River is the chicken layer barn which is 37 m away from the river.

b. Existing permits

The CFO is permitted under Approval LA18068. A list of existing facilities can be found in the appendix of Approval LA18068.

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 689 m from the CFO

A copy of the application was sent to Wheatland County, which is the municipality where the CFO is located.

The proposed broiler barn is not located within 100 m of a bank of a river, stream or canal and no other municipality is within the notification distance.

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 also sent a copy of the application to Rosebud Gas Co-op Ltd., Ember Resources, and Ovintiv.

I received a response from TRAN stating that a permit from them is not required. I also received a response from Ms. Carol Brittain, a public health inspector with AHS. In her response she stated that there are no public health concerns with this application.

No other responses were received.

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed construction is consistent with the land use provisions of Wheatland 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/protective layers of manure storage facilities and manure collection areas

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

Ms. Suzanne Hayes, a development officer with Wheatland County, provided a written response on behalf of Wheatland County. Ms. Hayes stated that the application is consistent with Wheatland County's land use provisions of the municipal development plan. The application's consistency with Wheatland County's municipal development plan is addressed in Appendix A, attached.

Ms. Hayes also listed the setbacks required by Wheatland County's land use bylaw (LUB) and noted that the application meets these setbacks.

7. Environmental risk of facilities

New manure storage facilities which clearly meet or exceed AOPA requirements are automatically assumed to pose a low risk to surface and groundwater.

When reviewing a new authorization application for an existing CFO, NRCB approval officers assess the CFO's existing buildings, structures, and other facilities. In doing so, the approval officer considers information related to the site and the facilities, as well as results from the NRCB's environmental risk screening tool (ERST). The assessment of environmental risk focuses on surface water and groundwater. The ERST 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.) 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 supported with a previous version of the risk screening tool and requires updating. See NRCB Operational Policy 2016-7: Approvals, part 8.13.

In this case, the risks posed by Springvale Colony's existing CFO facilities were assessed in 2018 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

The circumstances have not changed since that assessment was done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

8. Terms and conditions

Authorization LA23032 permits the construction of the poultry broiler barn.

Authorization LA23032 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 LA23032 includes conditions that generally address a construction deadline, document submission, construction inspection, and decommissioning. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization LA23032 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA23032.

Authorization LA23032 must be read in conjunction with Springvale Colony's Approval LA18068 which remains in effect.

Carina Weisbach

(Original signed)
Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization LA23032

APPENDIX A: Consistency with the municipal development plan

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

Springvale Colony’s CFO is located in Wheatland County and is therefore subject to that county’s MDP. Wheatland County adopted the latest revision to this plan on October 15, 2013, and subsequently amended by Bylaw 2014-20, 2014-11, 2018-01, 2019-40, and 2022-11.

The relevant section in the MDP that is specific for CFOs is section 3.1.3.

Section 1 states that the county shall act as a referral agency for the NRCB. This section is a procedural policy rather than a land use provision. I will therefore not include that section in my consistency determination. Having said that, the application was sent to the county (see Technical Document LA23032) for their review and comments.

Section 2 states that applications proposing the creation of parcels within 400 m (0.25 miles) of an existing CFO should not be supported.

It is not entirely clear if a parcel would mean a subdivision for a residence or another CFO. At any rate, independent if this section should be considered a land use provision or not, Springvale Colony is not located in proximity of other CFOs, does not propose a new parcel as a new CFO. Therefore, this section is not relevant to my consistency determination.

For these reasons, I conclude that the application is consistent with the land use provisions of Wheatland County’s MDP.

APPENDIX B: Explanation of conditions in Authorization LA23032

Construction Deadline

Springvale Colony proposes to complete construction of the proposed new poultry broiler barn by October 31, 2024. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of October 31, 2024, is included as a condition in Authorization LA23032.

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 LA23032 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the poultry broiler 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. Springvale Colony to provide evidence or written confirmation from a qualified third party that the concrete used for the manure collection and storage area meets the required specifications.

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.

Authorization LA23032 includes a condition stating that Springvale Colony shall not place livestock or manure in the manure storage or collection portions of the new poultry broiler barn until NRCB personnel have inspected the poultry broiler barn and confirmed in writing that it meets the authorization requirements.

No change in livestock numbers

As noted in part 1 above, Springvale Colony proposed to replace an existing barn with a new broiler barn. This could enable Springvale Colony to increase their current livestock numbers above their permitted capacity of 10,000 broiler chicken. However, Springvale Colony has not requested to increase that permitted capacity. To ensure that Springvale Colony does not exceed the current permitted capacity, a condition is included in Authorization LA23032 stating that Springvale Colony must keep a monthly record of the number and type of livestock on site and provide that record to the NRCB upon request. These records must be kept for a period of two years.

Decommissioning of existing broiler barn

Springvale Colony proposed to replace an existing barn with a new barn and to decommission the existing barn. A condition will be included requiring Springvale Colony to decommission the existing broiler barn according to Agdex 096-90 - Closure of manure storage facilities and manure collection areas, for facilities with a low risk to groundwater and surface water.