



## Decision Summary LA18047A

This document summarizes my reasons for issuing Approval LA18047A under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA18047A. 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 amendment of an approval. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background and reasons for amendment

The Hutterian Brethren of Murray Lake (Murray Lake) received Approval LA18047 to construct a variety of facilities utilized for a multi-species CFO (listed in the appendix of Approval LA18047A). The original construction completion deadline for these facilities was November 30, 2023.

On June 19, 2023, Murray Lake applied to amend Approval LA18047, and on June 27, 2023, I deemed the application complete. The original construction completion deadlines for the construction of these facilities were March 31, 2020, November 30, 2021, and November 30, 2023. At present, Murray Lake has constructed feedlot pens (609.6 m x 187.5 m), a catch basin (64.0 m x 42.7 m x 5.0 m deep), feedlot (533 m x 392 m), two runoff catch basins (each 55 m x 42 m x 1.8 m deep), secondary runoff catch basin (220 m x 42 m x 2.8 m deep), animal shelter (24.4 m x 15.2 m), exercise pen (12.2 m x 12.2 m), and a wash water transfer pit (6.1 m x 3.1 m x 3.1 m).

The application includes a request to extend the construction completion deadline for 5 years (until November 30, 2028) for the facilities not yet constructed:

- Swine barn – 110 m x 60 m
- Dairy barn – 76 m x 30 m
- Poultry barn (ducks, geese, layers) – 13 m x 49 m
- Poultry broiler barn – 90 m x 20 m
- Dry cow/calf barn – 30 m x 15 m
- Dry cow/calf exercise pen – 108 m x 48 m
- Earthen manure storage
  - o cell 1 – 50 m x 60 m
  - o cell 2 – 90 m x 60 m

This application does not include an increase in the livestock numbers as indicated on Approval LA18047, nor an increase in manure production. Because this application is to extend the construction completion deadline of already permitted CFO facilities, only matters relating to the construction completion deadline will be taken into consideration.

#### a. Location

The existing CFO is located at S½ 31-10-6 W4M, NW 29-10-6 W4M and SW 32-10-6 W4M in

Cypress County, roughly 7.5 km southeast of Seven Persons, Alberta. The terrain adjacent to the CFO slopes slightly to the north. The closest body of water is Seven Persons Creek, approximately 4.7 km west.

### **b. Existing permits**

The CFO currently holds Approval LA18047 and Authorization LA21021. Collectively, these permits allow Murray Lake to operate a mixed species CFO with a capacity of the following:

- 12,000 beef finishers,
- 600 farrow to finish swine,
- 150 milking cows (plus associated dries and replacements),
- 300 chicken layers,
- 25,000 chicken broilers,
- 800 ducks, and
- 300 geese

The CFO's existing and permitted facilities are listed in the appendix to the Approval LA18047A.

## **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 amendment 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 3 miles. (The NRCB refers to this distance as the "affected party radius.")

A copy of the application was sent to Cypress County, which is the municipality where the CFO is located. There are no rivers, streams, or canals within 100 m of the CFO.

The NRCB gave notice of the application in the 40 Mile Commentator on June 27, 2023. The full application was made available for viewing during regular business hours and was posted on the NRCB website for public viewing. Additionally, 52 notification letters were sent to people identified by Cypress 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 e-mailed to Alberta Health Services

(AHS), Alberta Environment and Protected Areas (EPA), Alberta Transportation & Economic Corridors (TEC), and St. Mary River Irrigation District (SMRID).

I also sent a copy of the application to Agriculture and Irrigation (AGI), Forty Mile Gas Co-op, PrairieSky Royalty Ltd., Westside Water Co-op Ltd., and Express Pipeline (Enbridge).

A staff member responded on behalf of AGI, advising of the inspector assigned to the application.

Mr. Jeff Gutsell, a hydrogeologist with EPA submitted a response and stated that there were no concerns regarding water allocation as the applicant did not propose an increase in animal numbers or manure production.

Ms. Leah Olsen, development / planning technologist with TEC stated there were no concerns.

Ms. Linda Park, Land Administrator with SMRID stated there were no objections to the application. Ms. Park also included in her response that the applicant may need additional water allocation through SMRID, and to secure this additional water allocation soon to ensure it will be available. This information was passed onto the applicant for their information and action.

Ms. Nancy Boutilier with Westside Water Co-op Ltd. provided a verbal response to the application stating that they had no concerns.

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

I have determined that the change to the proposed construction completion deadline for the CFO is consistent with the land use provisions of Cypress County's municipal development plan (see Appendix A in Approval LA18047 for a more detailed discussion of the county's planning requirements.)

#### **5. AOPA requirements**

The CFO facilities were determined as part of Approval LA18047 to meet all of the AOPA requirements. The proposed request for an extension to the construction completion deadline has no impact on that determination, which still stands. Additionally, the terms and conditions in Approval LA18047 will be carried forward into this amendment, except for the previously issued construction completion deadline. That condition shall be changed to reflect the proposed extension of the construction completion deadline.

#### **6. Responses from the 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." Cypress County is an affected party (and directly affected) because the CFO is located within its boundaries.

Ms. Kaylene Simpson, a planning supervisor with Cypress County, provided a written response on behalf of Cypress County. Ms. Simpson said the application is outside of Cypress County's

CFO exclusion area. The application's consistency with Cypress County's municipal development plan was addressed in Appendix A of Approval LA18047.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received responses from 2 parties (Rockford & Merlynn Aman, and Jeremy & Tara Good), 1 individual (Rockford Aman), and 1 company (Aman Livestock Ltd.).

Mr. & Mrs. Aman, Aman Livestock Ltd., Mr. Aman, and Mr. & Mrs. Good all submitted responses and own or reside on land within the 3-mile notification radius for affected persons. Because of their location within this radius, and because they submitted a response, they qualify for directly affected party status. (See NRCB Operational Policy 2016-7: Approvals, part 6.2)

The submissions from Cypress County, and the above listed members of the public considered to be directly affected parties, consisted of concerns specifically related to the construction and operation of the originally permitted facilities and animal numbers (permitted under Approval LA18047). None of the concerns brought forward from these parties were related to the extension of the construction completion deadline.

It is important to highlight that this amendment application deals only with the request for an extension of the construction completion deadline for the CFO facilities permitted in previously issued Approval LA18047. In a recent decision, (see Hutterian Brethren of Murray Lake RFR 2020-09/LA20035 at p3), the NRCB Board stated that "When making a permit decision on a new application, approval officers do not have the jurisdiction to re-visit previously issued permits". Approval LA18047 dealt with the technical requirements under AOPA and met all relevant AOPA requirements, with the terms and conditions included in the permit.

Only the concerns that relate to the proposed extension to the construction completion deadline will be considered. Any concerns specifically related to the extension request for the construction completion deadline are addressed in Appendix A.

## **7. Terms and conditions**

For clarity and efficiency, and in accordance with NRCB policy, I am amending Approval LA18047, and consolidating Approval LA18047 and Authorization LA21021 into Approval LA18047A. Rather than issuing a separate amendment document, I am issuing a new, amended Approval (LA18047A) and cancelling Approval LA18047 and Authorization LA21021.

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 has been issued. This consolidation is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion.

Therefore, the amended approval will have the same terms and conditions as Approval LA18047 and Authorization LA21021, except the construction completion deadline for the permitted construction which has been extended to November 30, 2028. All construction conditions that have been met are listed in the appendix of Approval LA18047A.

## **8. Conclusion**

Approval LA18047A is issued for the reasons provided above, in the attached appendices, in decision summaries LA18047 and LA18047A, and in Technical Documents LA18047 and

LA18047A.

Approval LA18047 and Authorization LA21021 is therefore superseded, and its content is consolidated into this amended Approval LA18047A, unless LA18047A is held invalid following a review and decision by the NRCB's board member or by a court, in which case LA18047 will remain in effect.

August 9, 2023

(Original signed)

Cailyn Wilson, PAg  
Approval Officer

**Appendices:**

- A. Determining directly affected party status and concerns
- B. Explanation of conditions in Approval LA18047A

## APPENDIX A: Determining directly affected party status and concerns

The following individuals qualify for directly affected party status because they submitted a response to the application and they own or reside on land within the “affected party radius,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation:

- Rockford Aman - SE 21-10-6 W4M, SE 20-10-6 W4M
- Rockford and Merlynn Aman - SW 21-10-6 W4M
- Aman Livestock Ltd.- NW 17-10-6 W4M, SW 17-10-6 W4M, SW 20-10-6 W4M
- Jeremy and Tara Good - NW 20-11-5 W4M

See NRCB Operational Policy 2016:7 – Approvals, part 6.2.

### Concerns

As discussed above in section 6 of the decision summary, many of the directly affected parties’ submissions addressed concerns related specifically to the construction and operation of the previously permitted facilities in LA18047. The relevant concern addressed by the directly affected parties is the following:

- a.) **Extension timeline for construction completion deadline** – Jeremy and Tara Good indicated in their response that if someone is going to build infrastructure, the applicant should not need five years to figure out what they are doing.

#### **Murray Lake’s Response:**

In a verbal discussion, Murray Lake stated that it is their intention to construct the listed facilities in the appendix of Approval LA18047A within the proposed 5-year timeline. Murray Lake was unable to construct during the original construction completion deadline as there were unforeseeable circumstances that arose, delaying construction.

#### **Approval officer’s response:**

In the response above, Jeremy and Tara Good indicated that the five-year time frame for an extension was too long to plan and construct infrastructure for a CFO. No rationale was provided to support the claim that the requested time extension to complete construction of the permitted facilities was too long.

According to the NRCB Construction Deadline Policy, approval officers have a wide discretion in deciding whether to grant extensions. Murray Lake is requesting an extension of 5 years, as their intent is to construct the facilities listed in the appendix of Approval LA18047A throughout this proposed timeline.

This policy provides a list of unanticipated factors that can delay construction; however, these common examples cannot realistically foresee and cover all possible construction deadline scenarios and circumstances. In either case, a request for an extension should be discussed with the operator to determine a practical and achievable extension of the construction deadline. Additionally, a condition from LA18047 addresses if there are any changes to AOPA and Regulations, all facilities not yet constructed must meet the revised legislation.

As per NRCB practice, copies of the directly affected parties’ responses were provided to the applicant for their information and consideration should they wish to respond to any or all of the concerns.

## **APPENDIX B: Explanation of conditions in Approval LA18047A**

### **1. New conditions in Approval LA18047A**

#### **Construction Deadline**

Murray Lake proposes to complete construction of the proposed facilities (listed in the appendix of the Approval) by November 30, 2028. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2028 is included as a condition in Approval LA18047A.

### **2. Conditions carried forward from Approval LA18047 and Authorization LA21021**

Conditions #1-11 from Approval LA18047 are carried forward and re-numbered as they relate to the facilities not yet constructed, with condition #9 being modified to reflect the new construction completion deadline date and the re-numbered conditions and condition #11 conditions re-numbered. All construction conditions from LA21021 have been met.