

Decision Summary RA23030

This document summarizes my reasons for issuing Authorization RA23030 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA23030. 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 November 13, 2023, the applicant notified the NRCB that an existing poultry barn (barn 1) at their CFO had been destroyed by fire. This application seeks to replace that barn on the same CFO site but at a different barn location.

On November 16, 2023, Rob Lundstrom on behalf of 1459226 Alberta Ltd. (1459226 Alberta Ltd.) submitted both the Part 1 and Part 2 application to the NRCB to construct a new poultry barn to replace the one that burnt down at their existing poultry confined feeding operation (CFO).

On November 16, 2023, I deemed the application complete.

The proposed construction is to replace poultry barn 1 - 19.5 m x 91.4 m (64 ft. x 300 ft.)

a. Location

The proposed poultry barn is located at SW 16-44-20 W4M in Camrose County, roughly four km west of Edberg, Alberta. The topography on site is flat and an unnamed lake is located approximately 76 m northeast of the existing facilities. The applicant is proposing to rebuild the barn (which was the closest to the lake) approximately 150 m west of the where the previous barn was located.

b. Existing permits

The CFO is already permitted under Approval RA16017.

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 0.5 mile (804 m) from the CFO

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

The site is not located within 100 m of a bank of a river, stream, or canal; therefore, additional notification is not required.

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 (TEC).

I also sent a copy of the application to Battle River Natural Gas Co-op Ltd., Battle River Rural Electrification Association Ltd., and Shackleton Exploration Ltd. as right of way holders.

Mr. Wayne Button, a public health inspector, responded on behalf of AHS. Mr. Button indicated that he had no concerns and provided some general guidelines on the Nuisance and General Sanitation Regulations.

Ms. Laura Partridge, a senior water administration officer, responded on behalf of EPA. Ms. Partridge indicated that no additional water licensing is required.

Ms. Cindy Skjaveland, a development & planning technologist, responded on behalf of TEC. Ms. Skjaveland stated that the applicant is required to obtain a roadside development permit. I forwarded this response to the applicant, and remind them that they are responsible to obtain the permit.

Representatives from Battle River Natural Gas Co-op, Shackleton Resources, and Battle River Power Coop (formerly Battle River REA) responded verbally and stated that they had no concerns.

4. Municipal Development Plan (MDP) consistency

I have determined that the proposed poultry barn 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.)

5. AOPA requirements

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

- 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. Response 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.” Camrose County is an affected party (and directly affected) because the proposed facility is located within its boundaries.

Ms. Kim Hunter, a development officer with Camrose County planning and development department, provided a written response on behalf of Camrose County. Ms. Hunter stated that the application is consistent with the land use provisions in Camrose County’s municipal development plan. The application’s consistency with Camrose County’s municipal development plan is addressed in Appendix A, attached.

Ms. Hunter also listed the setbacks required by Camrose County’s land use bylaw (LUB) and noted that the application appears to meet these setbacks.

7. Environmental risk of facilities

New MSF 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 groundwater monitoring for the facility. In this case a determination was made, and groundwater monitoring is not required.

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 9.17 (updated November 14, 2023).

In this case, the risks posed by 1459226 Alberta Ltd.'s existing CFO facilities were assessed in 2016 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater, with the exception of the solid manure storage pads, which posed a moderate risk to surface water. Approval RA16017 addressed this surface water risk by requiring that berms be constructed to prevent runoff from entering the lake.

The circumstances on the site have changed since that assessment was done. The fire occurred in barn 1, which was the barn closest to the lake and closest to a water well. Given the loss of barn 1, and the resulting relocation of the replacement barn further away from the lake and further away from a water well, the site's overall risk will be less than or equivalent to the assessment in 2016.

As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

8. Terms and conditions

Authorization RA23030 permits the construction of a new poultry barn.

Authorization RA23030 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 RA23030 includes conditions that generally address construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization RA23030 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA23030.

Authorization RA23030 must be read in conjunction with 1459226 Alberta Ltd.'s previously issued Approval RA16017 which remains in effect.

November 28, 2023

(Original signed)
Lynn Stone
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization RA23030

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 9.2.7, updated November 14, 2023.)

1459226 Alberta Ltd.’s 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.

Below are the MDP policies that apply to CFOs.

Policy 4.3.7 requires that applications for a new or expanding CFO “meet the Agricultural Operations Practices Act (AOPA)”. This is likely not a land use provision. At any rate, as discussed in section 5 above, the application meets all relevant AOPA requirements.

Policy 4.3.8 states that “at the discretion of County Council, large CFO’s shall be prohibited in the County”. However, the MDP does not define “large CFO”. This policy is likely not a “land use provision” because it calls for discretionary judgements about the acceptable maximum size of a CFO.

Policy section 4.3.9 states that the county does not support new or expanding CFOs that are “within 3,219 m (2 miles) of the City of Camrose, 3,219 m (2 miles) from any recreational lake, or 1,610 m (1 mile) from any other urban municipality or hamlet”.

1459226 Alberta Ltd.’s CFO is not located within the setbacks from the City of Camrose, an urban municipality or hamlet.

The proposed barn is located approximately 300 meters from a lake identified in Camrose County’s MDP. However, this lake is not a “recreational lake”. As identified in Camrose County’s MDP, a “recreational lake” is defined as “recreational lakes including Miquelon Lake, Little Beaver Lake, Bittern Lake, Red Deer Lake, Buffalo Lake, and Driedmeat Lake” or those lakes that will support recreational activities in the future. The lake near the proposed barn is not included in the listed lakes as defined in the MDP. As the lake is not included in the list, the lake is not considered a recreational lake under that requirement. In a previous application, the Approval Officer emailed the manager of planning and development in order to clarify what

Camrose County considers lakes that support “future” recreational activities, as this is not defined in their MDP. In an email dated June 8, 2016, the manager of planning and development indicated the lake adjacent to 1459226 Alberta Ltd.’s CFO is not considered a recreational lake. She also indicated that this lake will not support recreational activities in the future. Therefore, based on the county’s clarification, I conclude that the above lake is not a recreational lake and therefore the proposed development is consistent with this policy section.

Policy sections 9.0 “Environmental”, are not applicable because the proposed barn is not located within an environmentally sensitive land as shown on Figure 5 of Camrose County’s MDP.

For these reasons, I conclude that the application is consistent with the land use provisions of Camrose County’s MDP. The county’s written response supports this conclusion.

APPENDIX B: Explanation of conditions in Authorization RA23030

a. Construction Deadline

1459226 Alberta Ltd. proposes to complete construction of the proposed new chicken broiler barn by the end of the 2023/2024 winter. However, unforeseen circumstances may cause delays where additional time is needed. Therefore, a deadline of December 31, 2025 is included as a condition in Authorization RA23030.

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 RA23030 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the 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. 1459226 Alberta Ltd. to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the 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 RA23030 includes a condition stating that 1459226 Alberta Ltd. shall not place livestock or manure in the manure storage or collection portions of the new poultry barn until NRCB personnel have inspected the poultry barn and confirmed in writing that it meets the authorization requirements.