



## Decision Summary LA21011XA

This document summarizes my reasons for issuing Approval LA21011XA, an amended version of Approval LA21011X under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA21011XA. 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 to an approval. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background and reasons for amendment

On May 4, 2021, Hutterian Brethren Church of Little Bow (Little Bow Colony) was issued a denial of application LA21011 based on its inconsistency with the land use provisions of Vulcan County's MDP. On July 20, 2021, following a virtual review hearing, and using its discretion under AOPA section 25(4)(g), the NRCB Board issued written decision 2021-05/LA21011. This decision directed an NRCB approval officer to issue an approval for the proposed project notwithstanding the inconsistency with the MDP's land use provisions.

On August 12, 2021, Approval LA21011X was issued to expand the existing CFO at the E ½ 32-14-25 W4M. The expansion involved:

- Increasing the chicken layer numbers from 2,500 to 10,000 birds
- Construction of a new layer barn (66 m x 33.5 m) with an attached solid manure storage (10.6 m x 10.6 m).

On November 1, 2023, Little Bow Colony submitted an application to the NRCB to amend Approval LA21011X. On November 15, 2023, I deemed the application complete. The application to amend Approval LA21011X included the following:

- Modify the previously permitted, not yet constructed, chicken layer barn dimensions to 36.3 m x 18.0 m
- Expand the existing poultry barn by 36.6 m x 9.8 m
- Decommission the existing poultry solid manure storage
- Construct a new solid manure storage attached to the poultry barn (6.1 m x 6.1 m)

The attached manure storage for the proposed modified layer barn will remain at its original permitted dimensions, as listed above. The previously approved location of the proposed layer barn will also not change.

It should be noted, the application for amendment LA21011XA initial intention was only to modify the above listed facilities. However, after technical guidance from NRCB Environmental Specialists, I determined that amendment LA21011XA should also modify condition #5 of Approval LA21011X and issue a Leak Detection Monitoring Statement to clarify the leak detection sampling requirements, rather than the current water well monitoring requirements as described. The changes to condition #5 are carried out under Section 23 of AOPA, allowing

approval officers to amend existing permit conditions to update, amend, or delete outdated conditions in NRCB-issued permits where permitting requirements change due to new or updated information (see NRCB Operational Policy 2016-2: *Approval Officer Amendments Under Section 23 of AOPA*). Little Bow Colony was notified of these modifications to condition #5 and understood the reasoning for the amendment. See Appendix C in this decision summary, and LA21011XA Leak Detection Monitoring Statement for further details.

Further information about permit history and CFO location can be found in Decision Summary LA21011X.

There are no other changes to the CFO proposed. There is no increase in animal numbers, nor manure production with this application for amendment.

## 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 mile. (The NRCB refers to this distance as the “notification distance”.)

None of the CFO facilities are located within 100 m of a bank of a river, stream or canal.

A copy of the application was sent to Vulcan County, which is the municipality where the CFO is located. A copy was also sent to the Municipal District (M.D) of Willow Creek, which has a boundary within the notification distance, and which is a party to an IDP where the CFO site falls within the IDP boundary (see Approvals Policy, part 8.7.3).

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in the Vulcan Advocate newspaper (online) in circulation in the community affected by the application on November 15, 2023, and
- sending 11 notification letters to people identified by Vulcan County and the Municipal District of Willow Creek as owning or residing on land within the notification distance.

The full application was also made available for viewing at the NRCB’s Lethbridge office during regular business hours.

### **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 Protected Areas (EPA), and Alberta Transportation & Economic Corridors (TEC).

I also sent a copy of the application to Little Bow Gas Co-op Ltd. and Fortis Alberta Inc. as these companies are listed as utility right-of-way (ROW) holders. I did not receive a response from any utility ROW holders.

I received responses from AHS, EPA, and TEC.

Courtney Hlady, a land use specialist / public health inspector provided a response on behalf of AHS. In their response, AHS provided comments on implementation strategies, complaints, and notification to AHS. These comments are further discussed in Appendix B.

Jeff Gutsell, a hydrogeologist with EPA, provided a response, stating that there were no further questions or concerns regarding the application.

Leah Olsen, a development and planning technologist provided a response on behalf of TEC. It was stated that TEC did not require a permit for the proposed development.

### **4. Municipal Development Plan (MDP) and Intermunicipal Development Plan (IDP) consistency**

I have determined that the proposed change in dimensions of the chicken layer barn, and expansion of the existing poultry barn is consistent with the land use provisions of Vulcan County's municipal development plan, and the Intermunicipal Development Plan between Vulcan County and the M.D of Willow Creek. (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 modifications:

- 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 of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 9 and in Appendix C, the application meets all relevant AOPA requirements.

Since issuing Approval LA21011X, the minimum distance separation (MDS) has not changed. Since August 2021, there has also been no change of the Vulcan County's Municipal Development Plan (MDP), or of the Intermunicipal Development Plan (IDP) between Vulcan County and MD of Willow Creek, that concerns this area.

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

Alena Matlock, a development officer with Vulcan County, provided a written response on behalf of Vulcan County. Vulcan County's response stated that the application is not consistent with the land use provisions in Vulcan County's municipal development plan because the CFO falls within the CFO exclusion zone. These concerns were addressed through Board Decision 2021-05 / LA21011.

Under part 8.4 of the Approvals Policy, referencing Part 2 Matters Regulation sections 2 and 3, there is no increase in livestock numbers or manure production, only modifications to previously permitted, not yet constructed facilities. From a practical purpose for amendment applications, only those land use provisions that are directly applicable to the application are considered (*Approvals Policy*, part 9.2.10). The application's consistency with the land use provisions of Vulcan County's municipal development plan is addressed in Appendix A.

Vulcan County also requested that a public hearing relating to the project be held. Section 20(1)(b)(iv) of AOPA allows approval officers to hold "meetings and other proceedings" with respect to an approval application. Approval officers do not routinely convene public meetings even on applications that may be likely to generate public interest. However, approval officers regularly meet, provide information, and have conversations with parties, including municipalities, CFO operators, and neighbors to CFOs to provide information on the AOPA permit application process. The NRCB also provides information about the application process on its website, which explains how the public can participate in the application process. A fact sheet on this topic is provided to all parties who are sent notification letters as well as being available on the NRCB website. Therefore, I determined that the county's request to consider holding a public meeting regarding the application would not be beneficial.

Cindy Chisholm, director of planning and development, with the M.D of Willow Creek, provided a response on behalf of the M.D of Willow Creek. The response stated that the lands within one mile of the CFO are predominantly zoned as Rural General. It was also stated that the MD's Council recognizes the proposed improvement is within the Plan Area, and the CFO Exclusion Zone of the IDP, however the MD Council has no concerns as the proposal appears to be an improvement to an existing CFO. Further discussion regarding the Intermunicipal Development Plan consistency can be found in Appendix A.

There were no other responses received from any member of the public.

## 7. Environmental risk of CFO facilities

The existing manure storage facilities and manure collection facilities were assessed in application LA21011 in 2021 and were found to pose a low potential risk to surface and groundwater. There have been no changes related to groundwater or surface water protection, water wells, or CFO facilities since that assessment was done. I have determined a new assessment of the risks posed by the CFO's existing facilities is not required. The results of the risk assessment as discussed in Decision Summary LA21011 are still valid. Further information regarding this assessment can be found in Decision Summary LA21011 and Technical Document LA21011.

## 8. Other factors

Because the application for an amendment 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 their regulatory authority is limited. [e.g. matters raised by municipality in a response letter; things addressed in LUBs other than land use].

Alena Matlock stated the application appears to meet the setbacks required by Vulcan County's land use bylaw (LUB) however, they could not confirm as the distances were not illustrated. The facilities' proposed locations are illustrated on the site plan of page 3 and page 6 of Technical Document LA21011XA. According to the site plan the applicant submitted, the proposed facilities are more than 38.1 m from the centre line of Range Road 254 and Township Road 150. Property lines were not identified by the County or the applicant. Upon review of the *Vulcan County Ownership Map* (Alberta, Canada, 2023), the proposed facilities are more than 7.6 m from the property lines.

I have considered the effects the proposed CFO modifications may have on natural resources administered by provincial departments. The responses from AHS and EPA did not indicate any impact on natural resources. Furthermore, the application meets AOPA's technical requirements.

EPA has not made me aware of statements of concern submitted under section 73 of the Environmental Protection and Enhancement Act or section 109 of the Water Act in respect of the subject of this application.

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

Consistent with NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9, 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 Operational Policy 2016-7: *Approvals*, part 9.10.9, if the application is consistent with the land use provisions of 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 modification 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 9.10.9). Although Little Bow Colony's existing CFO is within the CFO exclusion zone as Vulcan County stated in their response, the CFO is not proposed to expand, as the animal numbers are not increasing from Approval LA21011X (section 4.1, Vulcan County Municipal Development Plan). Therefore, in my view, this presumption is not rebutted. The MDP consistency is discussed further in Appendix A.

## 9. Terms and conditions

Approval LA21011XA specifies the cumulative permitted livestock capacity (unchanged) as:

- 90 Milking cows (plus associated dries and replacements)
- 300 swine farrow to finish
- 10,000 chicken layers
- 400 ducks
- 400 geese
- 3,000 chicken broilers
- 500 turkeys

Approval LA21011XA also permits the modification of the chicken layer barn with attached solid manure storage, the poultry barn extension with attached solid manure storage, and the decommissioning of the existing poultry solid manure storage.

Approval LA21011XA 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.

Approval LA21011XA also amends the monitoring condition under condition #5 of Approval LA21011X. Rather than directing Little Bow Colony to sample monitoring wells, Approval LA21011XA will have a modified condition regarding sampling the leak detection slurry tank sump. Additionally, as a result, I am issuing a Leak Detection Monitoring Statement to replace the existing Monitoring Well Statement. An explanation of the changes to this condition can be found in Appendix C of this Decision Summary.

Rather than issuing a separate amendment to be read in conjunction with Approval LA21011X, I am consolidating it into this amended permit, Approval LA21011XA (see NRCB Operational Policy 2016-7: *Approvals*, part 11.5). 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. Approval LA21011XA carries forward all existing terms and conditions from Approval LA21011X, with the exception of the amendments noted above.

## 10. Conclusion

Approval LA21011XA is issued for the reasons provided above, in the attached appendices and in Technical Document LA21011XA.

Little Bow Colony's NRCB-issued Approval LA21011X is therefore superseded, and its content consolidated into this Approval LA21011XA unless Approval LA21011XA is held invalid following a review and decision by the NRCB's Board members or by a court, in which case LA21011X will remain in effect.

February 6, 2024

(Original signed)  
Cailyn Wilson  
Approval Officer

### Appendices:

- A. Consistency with municipal land use planning
- B. Alberta Health Services (AHS) comments
- C. Explanation of conditions in Approval LA21011XA

## **APPENDIX A: Consistency with municipal land use planning**

Under section 20 of AOPA, an approval officer may grant an application for an amendment of an approval only if the approval officer finds 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.

The NRCB interprets the term “land use provisions” as covering MDP policies that provide generic directions about the acceptability of various land uses in specific areas and that do not call for discretionary judgements relating to the acceptability of a given confined feeding operation (CFO) development (See NRCB Operational Policy 2016-7: Approvals, part 6.4.). Under this interpretation, the term “land use provisions” also excludes MDP policies that impose procedural requirements. In addition, 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.”).

In Board Decision 2022-02 Double H Feeders Ltd., the NRCB Board directed approval officers away from a narrow reading of section 20 of AOPA. An approval officer should determine an application’s consistency with not just the MDP, but also the IDP (if one applies). Given changes to the hierarchy of statutory plans under the Municipal Government Act, the Board suggested that ignoring an applicable IDP could lead to absurd outcomes in the event of a conflict between an MDP and an IDP.

Little Bow Colony’s CFO is 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. The CFO is within the plan boundary of the IDP between the M.D of Willow Creek and Vulcan County, so I also considered land use provisions of that IDP.

### **Vulcan County Municipal Development Plan (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 reads:

*“New confined feeding operations (CFOs) are not permitted to be established and existing confined feeding operations are not permitted to expand within the exclusion areas as shown on the map in Appendix B (re: Confined Feeding Operation Exclusion Area). However, although new CFOs and expansions to existing CFOs are prohibited in the exclusion areas (as per the map in Appendix B), improvements with respect to the maintenance and/or environmental protection of an existing CFO are permitted.”*



Section 4.1 precludes new and expanding CFOs in the exclusion zones shown in Appendix B of the MDP. Little Bow Colony's existing CFO is located within the exclusion zone shown in this MDP appendix. In Board Decision 2021-05 / LA21011, Vulcan County speculated the purpose of the exclusion area was to protect waterbodies, specifically the Little Bow River in application LA21011. In their decision, the Board determined there was no evidence Little Bow Colony's site would require environmental protection beyond AOPA's technical requirements.

Unlike application LA21011, the application to amend Approval LA21011X does not propose an increase in livestock numbers, nor manure production, and is specific to the modification of previously permitted, not yet constructed facilities, and leak detection statement. From a practical purpose for amendment applications, only those land use provisions that are directly applicable to the application are considered (Approvals Policy, part 9.2.10). Therefore, since application LA21011XA meets AOPA's technical requirements, and the CFO is not proposed to expand (i.e. increased livestock numbers or manure production) nor increase environmental risk, the CFO meets this provision.

Sub-sections 4.2(a), (c) and (d) of the MDP also provide several setbacks to roads. Based on the site plan, the proposed CFO facility would meet 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. At any rate, as noted in part 3 of the decision summary above, the NRCB notified Alberta Transportation of Little Bow's application and they confirmed that a roadside development permit is not required.

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

*(a) the cumulative effects of a new approval on any area near other existing confined feeding operations; [and]*

*(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.

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. Additionally, the existing CFO is not within an environmentally sensitive area (County of Vulcan *Environmentally Significant Areas in the Oldman River Region*, 1988).

Sub-section 4.3(c) calls for "giving notice to adjacent landowners" of AOPA permit applications. This policy is likely not a "land use provision" because of its procedural focus. At any rate, as explained above, the NRCB sent eleven notification letters, advising of the application, to the persons whose land is within one mile (1.6 km) of the CFO site, and published a general public notice in the local, online, newspaper, in addition to notifying Vulcan County, the Municipal District of Willow Creek, and several referral agencies. The NRCB also published the application on its own website. Therefore, the NRCB's notice process for approvals is consistent with this MDP policy, in addition to satisfying AOPA's notice requirements.

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 not a "land use provision," or, the sub-section is a "term or condition" under section 20(1.1) of AOPA. Therefore, this sub-section is 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 6 of Technical Document LA21011. As this amendment is not proposing an increase in animal numbers, there will be no need for additional water requirements. See Operational Policy 2016-7: *Approvals*, part 8.10).

With consideration of the discussion above, I have concluded that the application is consistent with the land use provisions of Vulcan County's MDP.

### **Intermunicipal Development Plan (Bylaw No. 2015-006 and Bylaw No. 1717)**

As discussed above, I must also consider the land use provisions of the Vulcan County and Municipal District (M.D.) of Willow Creek No. 26 Intermunicipal Development Plan (Bylaw No. 2015-006 and Bylaw No. 1717) which was enacted in April 2015.

The following policies from the Intermunicipal Development Plan (IDP) pertain to CFOs:

*4.3.1 Existing CFOs located within the Plan Area will be allowed to continue to operate under acceptable operating practices and within the requirements of the Agricultural Operation Practices Act and Regulations.*

*4.3.2 New CFOs are not permitted to be established within the CFO Exclusion Area as per the Little Bow River Project Intermunicipal Development Plan, Section 4.2 Policy 4.2.2, as illustrated on Map 12.*

*4.3.3 New CFOs are not permitted to be established within the CFO Exclusion Area as defined in the Vulcan County Municipal Development Plan and illustrated on Map 12.*

*4.3.4 Any existing CFO permit holders may be allowed to expand operations within CFO Exclusion Areas if it is to upgrade and modernize (within the requirements of the Agricultural Operations Practices Act and Regulations), demonstrating changes will reduce negative impacts (e.g., odours) to the residents of the area, additional environmental protection will be considered, and comments from both the municipalities are received and considered by the NRCB.*

*4.3.5 If either Vulcan County or the M.D. of Willow Creek No. 26 are in receipt of an application for new or expanded CFOs within the Plan Area, they shall forward a copy of the application to the other municipality.*

Policy 4.3.1 and 4.3.4 would apply to application LA21011XA since the proposed modifications are at an existing CFO. However, in this case, the application is not proposing to expand the CFO, rather it is only modifying the facilities that have been previously deemed or permitted.

Policy 4.3.2 and 4.3.3 do not apply to the application as there is an existing CFO, and the application is not for a new operation.

Policy 4.3.5 is not a land use provision, but rather refers to process between the two municipalities. In any case, the NRCB referred application LA21011XA to both municipalities.

For these reasons, I conclude that the application is also consistent with the land use provisions of the IDP.

## **APPENDIX B: Alberta Health Services comments**

As noted in part 3 above, an AHS land use specialist / public health inspector provided two comments quoted below (where EPH means Environmental Public Health), followed by my responses:

*“If complaints are received by AHS-EPH with respect to construction or operations on the subject lands, AHS-EPH will work in association with NRCB to address any public health issues. This could include the implementation of appropriate mitigation strategies (e.g. odor management, emissions monitoring, groundwater monitoring etc.) as deemed appropriate.”*

NRCB inspectors respond to complaints received about the ongoing operation of a CFO. Complaints can be reported through the NRCB’s 24-hour reporting line: 1-866-383- 6722 or toll free at 310-0000. For any complaints that are submitted to AHS, NRCB inspectors will endeavor to work with AHS, as appropriate, to resolve those complaints.

*“If any evidence of contamination or other issues of public health concern are identified at any time, AHS-EPH wishes to be notified.”*

It is NRCB protocol to inform AHS if the NRCB becomes aware of human health-related impacts arising from a CFO.

As noted in the decision summary above, the proposed modifications meet all AOPA technical requirements. Several of these requirements are designed to prevent or minimize manure leakage from CFO facilities and thus to prevent CFO manure from reaching and contaminating groundwater. Because the proposed modification meets these requirements, it will not pose a material risk to groundwater. The proposed facilities meet MDS requirements, which mitigate nuisance impacts.

## APPENDIX B: Explanation of conditions in Approval LA21011XA

### 1. New construction completion conditions (poultry barn extension and attached solid manure storage)

#### a. Construction deadline

Little Bow Colony did not propose a construction completion deadline to complete the extension of the existing poultry barn with attached manure storage. A post-construction deadline extension to November 30, 2027, is considered to be a reasonable timeframe for this scope of work. I have therefore included a construction deadline of November 30, 2027, in Approval LA21011XA.

#### 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, the approval includes a condition requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the poultry barn extension with attached manure storage 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. Little Bow Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the poultry barn extension with attached manure storage.

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. The approval includes a condition stating that Little Bow Colony shall not place livestock or manure in the manure storage or collection portions of the new poultry barn extension with attached manure storage until NRCB personnel have inspected the layer barn with attached manure storage and confirmed in writing that they meet the approval requirements.

### 2. Conditions to be carried forward and modified from Approval LA21011X

#### a. Layer Barn and Attached Solid Manure Storage.

Construction conditions #1-3 from Approval LA21011X are carried forward as they relate to the chicken layer barn not yet constructed, with condition #1 being modified to reflect the new construction completion deadline date.

#### b. Operating Conditions (carried forward from development permit #98-062)

Approval LA21011X carried forward a condition from Municipal Development Permit #98-062 and re-worded it due to the passage of time and change in regulatory regime. Condition #5 of LA21011X states the following:

*“Monitoring wells must be checked annually. If liquid is detected in the monitoring wells, the permit holder shall sample and test the water, according to water well*

*monitoring requirements prescribed by the NRCB in writing. The NRCB may, based on the monitoring results and at its discretion, revise those requirements from time to time, in writing.”*

In 2023, it was observed by NRCB Environmental Specialists that the samples received from Little Bow Colony and submitted to the NRCB for analysis had data omitted, and the appropriate samples were not collected. As previously written, condition #5 did not provide specifics to the applicant, including sampling procedures, location, and parameters for the leak detection requirements required for the CFO. This resulted in the applicant sampling different wells than what was initially intended through condition #5.

Therefore, pursuant to section 23 of AOPA (approval officer amendments), I have determined that condition #5 of Approval LA21011X should be re-worded to reflect the monitoring requirements suggested by the NRCB Environmental Specialists’ technical guidance to state the following:

***“The permit holder shall visually inspect the slurry tank sump annually. If any liquid is observed in the slurry tank sump, the permit holder shall collect a sample and send the liquid for analysis following the parameters outlined in LA21011XA Leak Detection Monitoring Statement. The NRCB may, based on the monitoring results and at its discretion, revise those requirements from time to time, in writing.”***

The Water Well Monitoring Statement which outlined the monitoring well requirements in Approval LA21011X will be amended to reflect the new condition and provide further clarification on what needs to be sampled (see LA21011XA Leak Detection Monitoring Statement).

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that all existing operating conditions from LA21011XA should be otherwise carried forward, and conditions #4 -6 be re-numbered to conditions #7-9.