

Decision Summary LA23047

This document summarizes my reasons for issuing Authorization LA23047 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA23047. 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 December 5, 2023, Hutterian Brethren Church of Spring Valley (Spring Valley Colony) submitted a Part 1 application to the NRCB to construct a new chicken layer barn to replace an old, outdated facility, that no longer conforms to the current animal health requirements, at an existing multi species CFO.

An increase in animals numbers is not proposed.

The Part 2 application was submitted on January 8, 2024. On January 9, 2024, I deemed the application complete.

The proposed construction involves:

- Constructing a new chicken layer barn – 68.6 m x 16.8 m (225 ft. x 55 ft.)

The proposed location of the new barn is partly covering the footprint of an existing barn (pullet barn) that will be decommissioned. The existing layer barn will be converted into a pullet barn.

a. Location

The existing CFO is located at SE 5 and E ½ 4 - 5 - 23 W4M in Cardston County, roughly 2 km northwest of the Village of Spring Valley. The landscape is relatively flat with a sharp drop towards an old riverbed of the St. Mary River 628 m to the north and to an irrigation canal 260 m to the south.

b. Existing permits

The CFO is already permitted under Approval LA20031 and Authorization LA20042.

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 1.5 miles (2,414 m) from the CFO

None of the CFO facilities are located within 100 m of a bank of a river, stream, or canal and no other municipality is within the notification radius.

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

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 the Blood Tribe, Alberta Health Services (AHS), Alberta Environment and Protected Areas (EPA), Alberta Transportation and Economic Corridors (TEC), and the Magrath Irrigation District.

I also sent a copy of the application to Alta Link Management, Chief Mountain Gas Coop Ltd., ATCO Gas, and the Oldman River Regional Planning Commission.

The NRCB received a response from Mr. Wade Goin, a public health inspector with AHS, Mr. Jeff Gutsell, a hydrogeologist with EPA, and Ms. Jessica Lahnert, administrative coordinator, Land with ATCO.

- Mr. Goin stated in his response that AHS has no concerns.
- Mr. Gutsell has no questions or concerns because there is no increase in water requirements.
- Ms. Lahnert stated that ATCO Gas has no objections.

I also contacted Ms. CloAnn Wells from the Blood Tribe. In our conversation, she stated that she had received the application package but did not voice any concerns at that time.

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 Cardston 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 nearby residences
- 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

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.

Municipalities that are affected parties are identified by the Act as "directly affected." Cardston County is an affected party (and directly affected) because the proposed facility is located within its boundaries.

Mr. Joe Thomas, development officer with Cardston County, provided a written response on behalf of Cardston County. Mr. Thomas stated that the County has no concerns with this application. The application's consistency with Cardston County's municipal development plan is addressed in Appendix A, attached.

7. Environmental risk of facilities

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.

In this case, the risks posed by Spring Valley Colony's existing CFO facilities were assessed in 2020 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.

New facilities that meet all AOPA liner requirements are presumed to pose a low risk to surface water and groundwater.

8. Terms and conditions

Authorization LA23047 permits the construction of the chicken layer barn and the conversion of the existing layer barn into a pullet barn.

Authorization LA23047 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 LA23047 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 LA23047 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA23047.

Authorization LA23047 must be read in conjunction with Spring Valley Colony's Approval LA20031 and Authorization LA20042 which remain in effect.

February 21, 2024

(Original signed)
Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization LA23047

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.

“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.)

Spring Valley Colony’s CFO located in Cardston County and is therefore subject to that county’s MDP. Cardston County adopted the latest revision to this plan in December 1999, under Bylaw #448/99.

Section 4 of the MDP – titled ‘Municipal Planning Policy’- provides land use policies for development within the county’s boundaries. The introductory statement of section 4.1 states that agriculture is the predominant land use in the county and that it is imperative to protect agricultural endeavours. Section 4.1 then discusses planning issues unrelated to CFOs. The MDP’s only direct references to CFOs (called “intensive livestock operations”) are in terms of CFO (parcel) subdivisions and limiting development near existing CFOs rather than vice versa (section 4.6.20).

Although section 4.8 (Environmental considerations) does not specifically refer to CFOs, it provides guidance to all developments in environmental significant areas identified in the report “Environmentally Significant Areas in the Oldman River Region: MD of Cardston”. Spring Valley Colony’s new chicken layer barn is not within an environmentally sensitive or significant area.

Section 4.10 (Fringe areas) provides guidance for development within urban “fringe areas”. Spring Valley’s new layer barn is not located in or near any fringe areas identified in the MDP.

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

APPENDIX B: Explanation of conditions in Authorization LA23047

Authorization LA23047 includes several conditions, discussed below:

a. Decommissioning of the existing pullet barn

Spring Valley proposes to construct the new layer barn on top of the existing pullet barn. Therefore, a condition will be added requiring Spring Valley to decommission the barn according to Technical Guideline: Closure of Manure Storage Facilities and Manure Storage Areas (Agdex 096-90) for facilities posing a low risk to groundwater and surface water prior to commencing construction of the new layer barn.

b. Construction Deadline

Spring Valley Colony proposes to complete construction of the proposed new chicken layer barn between December 31, 2025, and December 31, 2026. I determined that a three-year time frame is sufficient to complete a project of that size. The deadline of December 31, 2026, is included as a condition in Authorization LA23047.

c. Post-construction inspection and review

The NRCB's general practice is to include conditions in new permits to ensure that the new facilities are constructed according to the required design specifications. Accordingly, Authorization LA22047 includes conditions requiring:

- the concrete used to construct the liner of the manure collection and storage portion of the chicken layer 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” and to submit proof from the concrete supplier (e.g. invoice) or from a qualified third party that the specifications have been met

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 LA23047 includes a condition stating that Spring Valley Colony shall not place livestock or manure into the new layer barn until NRCB personnel have inspected the barn and confirmed in writing that it meets the authorization requirements.