



## Decision Summary LA24047

This document summarizes my reasons for issuing Approval LA24047 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA24047. 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 approval. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On November 20, 2024, Hutterian Brethren of Brant (Brant Colony) submitted a Part 1 application to the NRCB to expand an existing multi species CFO.

The Part 2 application was submitted on November 20, 2024. On January 15, 2025, I deemed the application complete.

The proposed expansion involves:

- Adding 40,000 chicken broilers
- Decreasing turkey numbers from 5,200 to 100
- Constructing a chicken broiler barn – 116 m x 37 m (380 ft. x 120 ft.)
- Convert an existing dairy barn into a calf and close up barn – 70.2 m x 18.3 m
- Removing the turkey barn from the list of permitted facilities, as it had burnt down and the applicant does not want to rebuild it

The addition of 40,000 chicken broilers increases the annual manure production and therefore, requires the applicant to apply for an Approval to expand their CFO.

#### a. Location

The existing CFO is located at N½ 20-17-26 W4M and S½ 29-17-26 W4M in Vulcan County, roughly 6.5 km south of the hamlet of Brant, Alberta. The terrain is slightly undulating. The closest common body of water is an alkaline slough, called the 'Brant Lake' which is approximately 150 m to the east of any manure collection area at this operation. The Little Bow River is 2.5 km to the west of the operation.

#### b. Existing permits

The CFO is currently permitted under NRCB Approval LA21061. This approval allows the construction and operation of a 145 milking cows (plus associated dries and replacements), 13,000 chicken layers, 13,000 chicken pullets, 400 swine farrow to finish, 3,724 swine feeders, 5,200 turkey broilers, 700 ducks, and 200 geese CFO. The CFO's existing permitted facilities are listed in the appendix of Approval LA24047.

## 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 1.5 miles. (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, and to Foothills County which has a boundary within the notification distance.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- posting it on the Vulcan County website, as Vulcan County indicated they do not use a newspaper for notices, and
- sending 18 notification letters to people identified by Vulcan County and Foothills County as owning or residing on land within the notification distance.

The full application was made available for viewing in 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 was emailed to Alberta Environment and Protected Areas (EPA).

I also sent a copy of the application to Sunshine Gas Coop Ltd. and Ranahan Resources Ltd. as they are utility right-of-way (ROW) holders on the subject land.

I received a response from Bradley Calder, a water administration technologist with EPA. In his response, Mr. Calder stated that Brant Colony does not have an open application in the Digital Regulatory Assurance System (DRAS) and there is no active authorizations or registrations for the legal land descriptions stated within the application form, under the *Water Act* or *Water Resources Act*. Mr. Calder listed several water wells from the Alberta Water Well Information Database that are located within the N ½ 20-17-26 W4 and stated that it appears no licenses

are associated with these wells. Mr. Calder noted that the diversion of water from any unlicensed well for any purpose other than those that are exempt require a licence and diversion of water from an unlicensed well is a contravention of the Water Act.

Mr. Calder stated that the applicant had told him water is supplied through license 003912-00-02, which includes a gross diversion of 117 acre-feet for the purpose of irrigation, livestock, and landscape watering, with the license including a consumptive use (livestock and landscape watering) of 56 acre-feet. Mr. Calder calculated the total water requirement for the proposed livestock to be approximately 28 acre-feet.

Mr. Calder stated that the applicant is required to provide the license number(s) from any quarters that may supply water to the land locations specified in the application for the additional water requirements and should it be determined that additional water is required, options for obtaining a legal water source for additional diversions can be discussed with EPA. The response from EPA was forwarded to the applicant for their information and action. The applicant is reminded it is their responsibility to ensure they have adequate water for their entire operation's requirements.

I did not receive any responses from any utility right-of-way holders.

#### **4. Alberta Land Stewardship Act (ALSA) regional plan**

Section 20(10) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

As required by section 4(1) of the South Saskatchewan Regional Plan (SSRP), I considered that document's Strategic Plan and Implementation Plan and determined that the application is consistent with those plans. In addition, there are no notices or orders under the Regulatory Details portion of the SSRP that apply to this application.

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

I have determined that the proposed expansion is consistent with the land use provisions of Vulcan County's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

The CFO's location does not fall within the plan area boundary for the intermunicipal development plan between Vulcan County and Foothills County.

#### **6. AOPA requirements**

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

- 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 10 and in Appendix B, the application meets all relevant AOPA requirements.

## **7. Responses from municipalities 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 proposed expansion is located within its boundaries.

Ms. Alena Matlock, a development officer with Vulcan County, provided a written response on behalf of Vulcan County. Ms. Matlock stated that the application is consistent with Vulcan County's land use provisions of the municipal development plan (MDP), and it falls outside of the Confined Feeding Operation exclusion zone located within Vulcan County's MDP. Additionally, Ms. Matlock stated that the land zoning for the surrounding areas (1,600 m) is rural general, and it appears the proposal meets the required setbacks, however, it was not confirmed in the application. The application's consistency with the land use provisions of Vulcan County's municipal development plan is addressed in Appendix A, attached.

Foothills County is a municipality that is also an affected person because its boundary falls within the notification distance (see NRCB Approval Policy part 7.2.1). Foothills County is also therefore a directly affected party, though did not submit a response to the application.

Apart from municipalities, any member of the public may request to be considered "directly affected."

No responses were received from any other person, organization, or member of the public.

## **8. Environmental risk of CFO facilities**

New CFO facilities which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. There may be circumstances where, because of the proximity of a shallow aquifer, or coarse subsurface materials, or surface water systems an approval officer may require groundwater monitoring for the facility. Based on the information in the application, as well as from a site visit, I did not identify any reasons to implement a groundwater monitoring condition for the new chicken broiler barn.

When reviewing a new approval 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](http://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 Brant Colony's existing CFO facilities were assessed in 2014 and 2021 using the ERST. According to those assessments, the facilities posed a low potential risk to surface water and groundwater.

There have been no changes related to groundwater or surface water protection, water wells, or CFO facilities since the assessments were done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

## 9. Other factors

Because the approval application 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 as their regulatory authority is limited.

Ms. Matlock stated that 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 proposed chicken broiler barn meets those setbacks.

I have considered the effects the proposed expansion may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concern submitted under section 73 of the *Environmental Protection and Enhancement Act* or under section 109 of the *Water Act* in respect of the subject of this application.

I am not aware of a written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>), accessed February 24, 2025.

Finally, I considered the effects of the proposed construction on the environment, the economy, 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. I see nothing in the information before me to suggest that effects on the environment will be unacceptable and, 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 MDP then the proposed development is presumed to have an acceptable effect on the economy and community. I encountered no submissions or evidence, including from Vulcan County, that effects on the community and economy would be unacceptable. In my view, this presumption is not rebutted.

I also presumed that the proposed construction 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). In addition, the land around the CFO is zoned Rural General. In my view, this presumption is not rebutted.

## 10. Terms and conditions

Approval LA24047 specifies the cumulative permitted livestock capacity as 145 milking cows (plus associated dries and replacements), 13,000 chicken layers, 13,000 chicken pullets, 400 swine farrow to finish, 3,724 swine feeders, 100 turkey broilers, 40,000 chicken broilers, 700 ducks, and 200 geese. Approval LA24047 also permits the construction of the chicken broiler barn and converting an existing dairy barn into a calf and close up barn.

Approval LA24047 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.

In addition to the terms described above, Approval LA24047 includes conditions that generally address construction deadlines, monitoring, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

For clarity, and pursuant to NRCB policy, I consolidated the following permit with Approval LA24047: Approval LA21061 (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. All conditions from Approval LA21061 have been carried forward (see Appendix B for details).

## 11. Conclusion

Approval LA24047 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA24047.

Brant Colony's NRCB-issued Approval LA21061 is therefore superseded, and its content consolidated into this Approval LA24047, unless Approval LA24047 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA21061 will remain in effect.

March 10, 2025

(Original signed)  
Kelsey Peddle  
Approval Officer

## Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval LA24047

## **APPENDIX A: Consistency with the municipal development plan**

Under section 20 of AOPA, an approval officer may only approve an application for an approval or amendment of an approval 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 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.”) “Land use provisions” also do not impose procedural requirements on the NRCB. (See NRCB Operational Policy 2016-7: *Approvals*, part 9.2.7.)

Brant Colony’s CFO is located 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.

Part 4 of Vulcan County’s MDP deals specifically with CFOs. Sections 4.1 to 4.3 of the MDP provide specific provisions for proposed CFO expansions.

Section 4.1 precludes CFO expansions in any of the exclusion zones shown in Appendix B of the MDP. Brant Colony’s proposed expansion is not located in any of the exclusion areas shown in this appendix.

Sub-sections 4.2(a), (c), and (d) of the MDP establish several setbacks to roads. None of the existing or proposed CFO facilities are within any of these setbacks.

Sub-section 4.2(b) states that applications for CFOs near a highway “should be referred to Alberta Transportation for a roadside development permit.” This is likely not a land use provision because of its procedural focus and therefore, is not relevant to my MDP consistency determination. Regardless, Brant Colony’s CFO is not located near a highway.

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.

As for sub-section (b), it is also likely not a land use provision, as it calls for project-specific, discretionary judgements about the acceptable level of impacts on environmentally sensitive

areas. Having said that, the existing CFO is close to “Brant Lake”. “Brant Lake” is classified as a regionally significant area because of its alkalinity and because it provides nesting grounds for shorebirds, resting areas for migrating shorebirds, and habitat for waterfowl. Management considerations for this area include the maintenance of natural shorelines and adjacent vegetation that keeps the area attractive for nesting. The proposed chicken broiler barn is farther away from the shoreline than other existing and previously permitted facilities and will therefore, not create any additional impact to the existing vegetation along the shorelines of this lake.

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 and is therefore not relevant to my MDP consistency determination. Having said that, as required by AOPA, the NRCB notified Vulcan County and several referral agencies, and provided notification on the Vulcan County website on January 15, 2025. In addition, notification letters informing parties of the application were sent to landowners or occupants within a 1.5-mile radius, as identified by Vulcan County and Foothills County (see part 2 above).

Sub-section 4.3(d) of the county’s MDP call 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 is likely not a land use provision and therefore, 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 5 of Technical Document LA24047 (see Operational Policy 2016-7: Approvals, part 8.15).

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



## **APPENDIX B: Explanation of conditions in Approval LA24047**

Approval LA24047 includes several conditions, discussed below, and carries forward all conditions from Approval LA21061. Construction conditions that have been met from historical permits are in the appendix to Approval LA24047.

### **1. New conditions in Approval LA24047**

#### **a. Construction Deadline**

Brant Colony proposes to complete construction of the proposed new broiler barn by November 30, 2028. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2028, is included as a condition in Approval LA24047. The construction deadline for the conversion of the dairy barn into a calf and close up barn remains as December 31, 2025.

#### **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, Approval LA24047 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the 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. the concrete used to construction the liner of the manure storage and collection system in the existing dairy barn conversion to meet the specifications for category C (solid manure – wet) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas.”
- c. Brant Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the broiler barn and dairy barn conversion.

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed in accordance with the permit requirements. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Approval LA24047 includes a condition stating that Brant Colony shall not place livestock or manure in the manure storage or collection portions of the new broiler barn and dairy barn conversion until NRCB personnel have inspected the broiler barn and converted dairy barn and confirmed in writing that it meets the approval requirements.