

Decision Summary BA24014

This document summarizes my reasons for issuing Approval BA24014 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document BA24014. 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 approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On November 15, 2024, The Hutterian Brethren Church of Warburg (Warburg Colony) submitted a Part 1 application to the NRCB to expand an existing multi-species CFO.

The Part 2 application was submitted on January 9, 2025. On February 7, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing livestock numbers of chicken layers (plus associated pullets) from 10,000 to 25,000
- Constructing a new chicken layer barn with attached manure storage pad – 73 m x 26 m and 12 m x 15 m

The application also notified the NRCB of the proposed construction of an egg grading and storage room. This facility is an “ancillary structure,” under section 1(1)(a.1) of the *Agricultural Operations, Part 2 Matters Regulation*, because it will not be used to store or collect manure or to confine livestock. Therefore, under section 4.1 of that regulation, this structure is part of the CFO but does not need to be permitted under the Act.

a. Location

The existing CFO is located on the N½ 22, NE 21, and SW 27-49-3 W5M in Leduc County, roughly 10 km NW from the town of Warburg, AB. The terrain is rolling sloping to the South and North with a tributary to Strawberry Creek approximately 2,500 m to the South and a seasonal drainage located behind the existing facilities.

b. Existing permits

To date, the NRCB has issued Approval BA05004 and Authorizations BA13005 and BA14009. Collectively, these NRCB permits allow Warburg Colony to construct and operate a multi-species CFO. The CFO’s existing permitted facilities are listed in the appendix to Approval BA24014.

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 Leduc County, which is the municipality where the CFO is located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in paper newspaper in circulation in the community affected by the application on February 7, 2025, and
- sending 30 notification letters to people identified by Leduc County as owning or residing on land within the notification distance.

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

I also sent a copy of the application to APEX Utilities.

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. There is no ALSA regional plan for the area where the CFO is located.

5. Municipal Development Plan (MDP) consistency

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

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) with the use of an expansion factor
- 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 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.” Leduc County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Mr. Benjamin Ansaldo, a planner with Leduc County, provided a written response on behalf of the County. Mr. Ansaldo stated that the application is consistent with the County’s land use provisions of the municipal development plan (MDP). The application’s consistency with the land use provisions of the County’s MDP is addressed in Appendix A, attached.

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

8. Environmental risk of CFO facilities

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.) 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 Warburg Colony’s existing CFO facilities were assessed in 2013, 2015, and 2016 using the ERST. According to those assessments, the facilities posed a low potential risk to surface water and groundwater.

The circumstances have not changed since the assessments were done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

New CFO facilities which clearly meet or exceed AOPA requirements are automatically assumed to pose a low risk to surface water 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 environmental or construction monitoring for the facility. In this case a determination was made, and monitoring 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.

Mr. Ansaldo noted that the application meets the required setbacks in the Leduc County's land use bylaw.

I have considered the effects the proposed CFO may have on natural resources administered by provincial departments. A copy of the application was provided to EPA who stated that the applicant requires an additional water license. This requirement was forwarded to the applicant for their action.

I am not aware of any written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>, accessed March 5, 2025).

Finally, I considered the effects of the proposed expansion 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, having considered all the information before me (including in Technical Document BA24014, and from my site visit), 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 land use provisions then the proposed development is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted based on the information available.

I also presumed that the proposed expansion 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 my view, this presumption is not rebutted because I did not see any information that suggested it was not an appropriate use of land.

10. Terms and conditions

Approval BA24014 specifies the cumulative permitted livestock capacity as:

- 1,600 beef finishers
- 150 milking cows (plus associated dries and replacements)
- 250 swine (farrow to finish)
- 25,000 chicken layers (plus associated pullets)
- 14,800 chicken broilers
- 1,200 ducks
- 150 geese

and permits the construction of the layer barn with attached manure pad.

Approval BA24014 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 BA24014 includes conditions that generally address construction deadlines, 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 permits with Approval BA24014: Approval BA05004 and Authorizations BA13005 and BA14009 (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. Appendix B discusses which conditions from the historical permits are or are not carried forward into the new approval.

11. Conclusion

Approval BA24014 is issued for the reasons provided above, in the attached appendices, and in Technical Document BA24014.

Warburg Colony's NRCB-issued Approval BA05004 and Authorizations BA13005 and BA14009 are therefore superseded, and their content consolidated into this Approval BA24014, unless Approval BA24014 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval BA05004 and Authorizations BA13005 and BA14009 will remain in effect.

March 26, 2025

(Original signed)

Nathan Shirley
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval BA24014

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.)

Warburg Colony’s CFO is located in Leduc County and is therefore subject to that county’s MDP. The county adopted the latest revision to this plan on August 27, 2024, under Bylaw #03-24.

Section 4.3.0.2 of the MDP lists planning objectives and policies for the county’s four agricultural areas. (The locations of these areas are shown on Map 4 of the MDP.) The existing CFO is in Agricultural Area West (A). The MDP provisions applicable to Warburg Colony’s proposed expansion are discussed below.

Section 4.3.2 states that the county supports the development of new or expanded CFOs provided the operation is compatible with the surrounding land uses. More specifically, section 4.3.2.1 states support for new or expanded CFOs provided the operation:

- a. does not create adverse impacts on environmentally significant lands;*
- b. has a satisfactory access;*
- c. is located within Agricultural Areas A or B,*
- d. is carried out in accordance with generally accepted farming practices regarding the storage, disposal and spreading of manure and the disposal of animal carcasses; and*
- e. meets the minimum setback distances to urban communities and residential development as regulated by the Agricultural Operation Practices Act.*

Section 4.3.2.1 (a) is likely not a land use provision because it requires site-specific, discretionary determinations (see NRCB Operational Policy 2016-7, *Approvals* 9.2.7.). At any rate, the application meets the technical and locational requirements of AOPA and is not located on the “environmentally significant lands” shown on Map 6 of the MDP.

Section 4.3.2.1 (b) is considered outside the mandate of AOPA. Additionally, the county did not raise concern regarding this matter. The applicant is reminded that they must comply with applicable transportation requirements.

Section 4.3.2.1 (c) is met as the CFO and the application is located in Agricultural Area A.

Section 4.3.2.1 (d) This part is likely not considered a “land use provision,” as it is likely a “test” under section 20(1.1) of AOPA related to the application of manure. At any rate, the applicant has provided proof that they have access to adequate spreading lands for manure management. The applicant must also adhere to all AOPA requirements including nutrient management on lands to which manure is applied.

Section 4.3.2.1 (e) the application meets the required minimum distance separation as set out by AOPA.

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

APPENDIX B: Explanation of conditions in Approval BA24014

Approval BA24014 includes several conditions, discussed below, and carries forward a number of conditions from Approval BA05004 (see sections 2 and 3 of this appendix). Construction conditions from historical Approval BA05004 and Authorizations BA13005 and BA14009 that have been met are identified in the appendix to Approval BA24014.

1. New conditions in Approval BA24014

a. Construction Deadline

Warburg Colony proposes to complete construction of the proposed new chicken layer barn with attached manure pad by December, 2027. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of December 1, 2027 is included as a condition in Approval BA24014.

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 BA24014 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the layer barn with attached manure pad 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. Warburg Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the layer barn.

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 BA24014 includes conditions stating that Warburg Colony shall not place livestock or manure in the manure storage or collection portions of the new layer barn with attached manure pad until NRCB personnel have inspected the facility and confirmed in writing that it meets the approval requirements.

2. Conditions carried forward and modified from BA05004

The following conditions from Approval BA05004 will be carried forward and revised to reflect current NRCB terminology.

05a. Water Well Testing Reporting

Drinking water quality tests including bacteriological and chemical factors must be conducted annually on the two water wells located less than 100 metres from the facilities with the results submitted annually to the NRCB by November 01.

04a. The NRCB must be notified immediately if there is an overflow or leak from any of the manure storage.

3. Conditions not carried forward from Approval BA05004

Approval BA25014 includes the terms and conditions in Approval BA05004, except those noted

below.

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that the following conditions will not be carried forward:

06a Manure must not be spread on frozen or snow covered ground.

06b Manure applied to cultivated land must be incorporated within 48 hours of spreading.

These conditions are considered redundant as they are requirements in AOPA and in the terms of the permit, therefore they will not be carried forward to Approval BA24014.