

Decision Summary LA25015

This document summarizes my reasons for issuing Approval LA25015 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25015. 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 February 5, 2025, Prairiehome Hutterian Brethren (Prairiehome Colony) submitted a Part 1 application to the NRCB to expand an existing multi-species CFO.

The Part 2 application was submitted on February 25, 2025. On March 5, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing chicken layer numbers from 25,000 to 75,000
- Increasing chicken pullet numbers from 20,000 to 50,000
- Increasing chicken broiler numbers from 0 to 3,000
- Constructing a layer barn (131 m x 36.6 m) with an attached manure storage room (12.2 m x 10.7 m)
- Constructing a pullet barn (99.1 m x 15.8 m) with an attached manure storage room (12.2 m x 10.7 m)

a. Location

The existing CFO is located at NW & S½ 3-7-15 W4M in the County of Warner, roughly 15 km east of Wrentham, Alberta. The terrain at the site of the CFO is flat. The closest common body of water is a slough approximately 320 m south of the catch basin, across Highway 61.

b. Existing permits

The CFO is currently permitted under NRCB Approval LA18008, which superseded all previous permits. This permit allows the construction and operation of a mixed species CFO with the capacity for 480 swine farrow to finish, 120 milking cows (plus associated dries and replacements), 25,000 chicken layers, 20,000 chicken broilers and pullets, 700 ducks, and 100 turkeys. The CFO's existing permitted facilities are listed in the appendix of Approval LA25015.

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 the County of Warner, which is the municipality where the CFO is located.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public notice on the County of Warner’s website on March 5, 2025, and
- sending 9 notification letters to people identified by the County of Warner 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 were emailed to Alberta Environment & Protected Areas (EPA) and Alberta Transportation & Economic Corridors (TEC).

I also sent a copy of the application to Triple W Natural Gas Coop Ltd., Ridge Reservoir Water Association, South East Alberta Water Coop Ltd., Fortis Alberta Inc., Capstone Infrastructure Corporation, and Skiff Water Coop Ltd. as they are utility right-of-way (ROW) holders on the subject lands.

I received responses from Leah Olsen, a development and planning technologist with TEC, Bradley Calder, a water administration technologist with EPA, and Jeff Skeith, a chief financial officer with Triple W Natural Gas Coop Ltd.

In her response, Ms. Olsen stated that TEC had no concerns or requirements with respect to this proposal and that a permit from TEC is not required.

In his response, Mr. Calder stated that Prairiehome Hutterian Brethren had no open applications in the Digital Regulatory Assurance System (DRAS) and there is no active authorizations or registrations for the legal land descriptions stated within the application under the *Water Act* or *Water Resources Act*. Mr. Calder did state, however, that there is a license 0047159-00-02, license holder Prairiehome Hutterian Brethren, and the purpose is a cooperative residential

water supply, with the aquifer source through two wells with a gross diversion up to 9,868 m³.

Mr. Calder noted that the applicant had provided agreements with three water co-ops that have total contributions of 93,075 m³ annually and calculated the total water requirements for the proposed livestock as about 32,524 m³ or 26.4 acre-feet. Mr. Calder also noted that there are three water wells within SW 03-07-15 W4 associated with Prairiehome Hutterian Brethren, two of which may be associated with license 0047159-00-02. Mr. Calder stated that the diversion of water from any unlicensed well for any purpose other than those that are exempt require a license and diversion of water from an unlicensed well is a contravention of the *Water Act*.

Mr. Calder stated that the applicant is required to provide the licence number(s) from any quarters that may supply water to the land locations specified in the application for the additional water requirements so they can be confirmed by EPA. He stated that should it be determined that additional water is required, options for obtaining legal water sources for the additional diversion(s) 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 licensing for their entire operation's requirements.

In his response, Mr. Skeith stated that Triple W Natural Gas Co-op had no objections to this application.

I did not receive responses from the other ROW 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 the County of Warner'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)
- 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 11 and in Appendix B, the application meets all relevant AOPA requirements.

7. 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." The County of Warner is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Mr. Shawn Hathaway, chief administrative officer with the County of Warner, provided a written response on behalf of the County of Warner. Mr. Hathaway stated that the application fits into their MDP and that he has no concerns with what is being presented. The application's consistency with the land use provisions of the County of Warner's municipal development plan is addressed in Appendix A, attached.

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 porous subsurface materials, and surface water systems an approval officer may require groundwater monitoring for the facility. Based on the information in the application, as well as the information I gathered from a site visit, I did not identify any reasons to implement a groundwater monitoring condition for the new layer and pullet barns with attached manure storage rooms.

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 Prairiehome Colony's existing CFO facilities were assessed in 2018 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

A new water well was drilled on the site in 2023 (water well ID# 9961028). This well is located approximately 200 m from the proposed new pullet barn and approximately 350 m from the existing pullet, layer, and duck/broiler barn. This well is drilled into the same aquifer as the existing water wells on site (water well ID#'s 288115 and 288116), is protected by a pump house, and is further away from CFO facilities than the existing water wells on site. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

9. Exemptions

In Approval LA18008, the duck and broiler barn were proposed to be constructed within the 100 m water well setback and an exemption was granted. In this application, the proposed layer and pullet barns with attached manure storage rooms are proposed to be constructed more than 100 m from any water well. Therefore, the exemption that was granted for Approval LA18008 remains.

10. 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.

While Mr. Hathaway did not list the setbacks required by the County of Warner's land use bylaw (LUB), he did note that the application meets these 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 April 2, 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. 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 County of Warner, that effects on the community and economy would be unacceptable. In my view, this presumption is not rebutted.

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.

11. Terms and conditions

Approval LA25015 specifies the cumulative permitted livestock capacity as 120 dairy cows (plus associated dries and replacements), 480 swine farrow to finish, 75,000 chicken layers, 50,000 chicken pullets, 3,000 chicken broilers, 700 ducks, and 100 turkeys. Approval LA25015 also permits the construction of the layer barn with an attached manure storage room and the pullet barn with an attached manure storage room.

Approval LA25015 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 LA25015 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 permit with Approval LA25015: Approval LA18008 (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 LA18008 have been carried forward (see the Appendix of Approval LA25015).

12. Conclusion

Approval LA25015 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25015.

Prairiehome Colony's NRCB-issued Approval LA18008 is therefore superseded, and its content consolidated into this Approval LA25015, unless Approval LA25015 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA18008 will remain in effect.

April 16, 2025

(Original signed)
Kelsey Peddle
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval LA25015

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.)

Prairiehome Colony’s CFO is located in the County of Warner and is therefore subject to that county’s MDP. The County of Warner adopted the latest revision to this plan in November 1999, under Bylaw No. 804-99.

As relevant here, section 4.1.5 of the MDP sets out land uses and the areas where the uses are encouraged. Sub-section 4.1.5(c) addresses “intensive agriculture”. This section states that intensive agriculture is “generally accepted everywhere in the county within the principles of minimum distance separation and the land use bylaw, particularly in the irrigated areas of the county”. It also states that intensive agriculture should:

- have regard for the minimum distance separation calculation, and
- ensure compliance with the land use bylaw and any other regulation.

Section 4.1.5(c) refers to Bylaw No. 930-17. Under that bylaw, the subject land is currently zoned Extensive Agriculture. CFOs are listed as a discretionary land use under this zoning category and NRCB approval, rather than a municipal permit, is required.

Section 4.1.5(c) also refers to compliance with “any other regulation”. This is likely not a “land use provision” for purposes of the MDP consistency requirement under AOPA. Regardless, no party, including the County of Warner, has identified “any other regulation” that the application does not meet.

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

APPENDIX B: Explanation of conditions in Approval LA25015

Approval LA25015 includes several conditions, discussed below, and carries forward all conditions from Approval LA18008. Construction conditions that have been met from historical permits are identified in the appendix to Approval LA25015.

a. Construction Deadline

Prairiehome Colony proposes to complete construction of the proposed layer barn with attached manure storage room and pullet barn with attached manure storage room by October 2026. To account for unforeseen delays, it is my opinion that a longer timeframe is appropriate for the proposed construction. Therefore, the deadline of October 31, 2027, is included as a condition in Approval LA25015.

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 LA25015 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 storage room and pullet barn with attached manure storage room 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. Prairiehome Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the layer barn with attached manure storage room and pullet barn with attached manure storage room.

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 LA25015 includes a condition stating that Prairiehome Colony shall not place livestock or manure in the manure storage or collection portions of the new layer barn with attached manure storage room or pullet barn with attached manure storage room until NRCB personnel have inspected the facilities and confirmed in writing that they meet the approval requirements.