

Decision Summary LA24010B

This document summarizes my reasons for issuing Approval LA24010B under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA24010B. 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 amendment of an approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On March 19, 2025, Hutterian Brethren of Waterton (Waterton Colony) submitted an application for amendment to the NRCB to amend a permit at a multi species CFO.

The amendment is for a change in location of the approved chicken layer barn in Approval LA24010A and a slight change in dimension to account for a different cage system as previously envisioned.

The complete application for amendment was submitted on April 1, 2025. On April 16, 2025, I deemed the application complete.

The proposed amendment involves:

- Amending the location and dimensions of the layer barn (total dimensions) – 115.2 m x 24.4 m (this dimension includes the below discussed office space (23.3 m x 24.4 m) and attached manure storage area (15.2 m x 24.4 m))

The application also notified the NRCB of the proposed construction of attached office and egg sorting space (23.3 m x 24.4 m). 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 at S½ 3-4-28 W4M in the Municipal District (MD) of Pincher Creek, roughly 12 km east of the Hamlet of Twin Butte, Alberta, on the southwest end of Waterton reservoir. The topography of the area is hummocky and terraced towards the flood plain of the Waterton River. The Waterton River runs along the southside of the CFO. The closest facility to Waterton River is a feedlot, located approximately 100 m north of the Waterton River.

b. Existing permits

To date, the CFO has been permitted under NRCB Approval LA24010A. That permit allowed the construction and operation of a 140 milking cows (plus associated dries and replacements), 80 swine farrow to finish, 25,000 chicken layers, 15,000 chicken pullets, 2,000 beef finishers, 1,000 ducks, 500 geese, and 600 sheep CFO. The CFO’s existing permitted facilities are listed in the appendix to Approval LA24010B.

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”).

Waterton Colony is within the IDP area between the MD of Pincher Creek and Cardston County. Because some CFO facilities are within a 100 m of the Waterton River, both municipalities and the United Irrigation District were notified of this application.

A copy of the application was sent to MD of Pincher Creek, which is the municipality where the CFO is located, and to Cardston County which has a boundary within the affected party radius.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in the Shootin’ the Breeze newspaper in circulation in the community affected by the application on April 16, 2025, and
- sending 20 notification letters to people identified by the MD of Pincher Creek and Cardston County as owning or residing on land within the notification distance.

The full application was made available for viewing at the NRCB office in Lethbridge 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) and the United Irrigation District.

I also sent a copy of the application to Chief Mountain Gas Coop Ltd., Fortis Alberta Ltd., and Alberta Wind Energy Corp. because they are right of way holders on this land.

The NRCB received a response from Ms. Adriane Gomes Preissler, a water administration technologist with EPA. In her response, Ms. Gomes Preissler stated that there are no concerns with this application and added that Waterton Colony should contact EPA if additional water licensing is required.

Approval LA24010B does not relieve the permit holder from complying with other applicable laws, such as safety codes, other municipal bylaws, provincial legislation (e.g. *Historical Resources Act*), and federal legislation (e.g. *Migratory Birds Convention Act*).

No other responses were received from any of the referral agencies or right of way holders that were notified of this application.

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 modification remains consistent with the land use provisions of the MD of Pincher Creek's municipal development plan. The MD adopted its current MDP on Month XX, 202X, under Bylaw #1330-21. This is the same MDP that I considered when I issued Approvals LA24010 and LA24010A. Waterton Colony's present application is consistent with that MDP for the same reasons as those provided in Appendix A of Decision Summaries LA24010 and LA24010A.

It also remains consistent with the IDP consistency determination done in conjunction with Approval LA24010.

A new determination does not need to be done in this case.

6. AOPA requirements

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

- Meet the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS)
- Meet the required AOPA setbacks from water wells, springs, and common bodies of water
- Have sufficient means to control surface runoff of manure
- Meet AOPA's nutrient management requirements regarding the land application of manure
- Meet AOPA groundwater protection requirements for the design of floors and liners of manure storage facilities and manure collection areas

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.” The MD of Pincher Creek is an affected party (and directly affected) because the proposed new location of the permitted chicken layer barn is located within its boundaries.

The NRCB did not receive a response from the MD of Pincher Creek.

The application’s consistency with the land use provisions of the MD of Pincher Creek’s municipal development plan is addressed in Appendix A of Decision Summary LA24010.

Cardston County is also a directly affected party because the location of the proposed chicken layer barn is within the IDP area. The NRCB did not receive a response from Cardston County. The application’s consistency with the land use provisions of the IDP between the MD of Pincher Creek and Cardston County is addressed in Appendix A of Decision Summary LA24010.

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

8. Environmental risk of CFO facilities

The proposed new location and dimensions of the new chicken layer barn clearly meet or exceed AOPA requirements. It may therefore be assumed to pose a low risk to surface and groundwater. The information on this file supports the assumption that risks to groundwater and surface water are low.

The Environmental Risk Screening Tool (ERST) analysis for all other facilities as discussed in Decision Summary LA24010 remains valid.

9. Other factors

The previous Approval LA24010 discussed how the application is consistent with other factors, including natural resources, the environment, economy, the community and the appropriate use of land. The change of location has no impact on these determinations.

Because 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.

The new location meets all property line setbacks.

10. Terms and conditions

Rather than issuing a separate ‘amendment’ to Approval LA24010A, I am issuing a new approval (Approval LA24010B) with the required amendment. Approval LA24010B therefore contains all terms and conditions in Approval LA24010A but with the amended location and new dimensions.

11. Conclusion

Approval LA24010B is issued for the reasons provided above and in Technical Document LA24010B.

Waterton Colony's Approval LA24010A is therefore superseded, and its content consolidated into this Approval LA24010B, unless Approval LA24010B is held invalid following a review and decision by the NRCB's board members or by a court, in which case Waterton Colony's Approval LA24010A remain in effect.

May 28, 2025

(original signed)
Carina Weisbach
Approval Officer