

## Decision Summary BA25010

This document summarizes my reasons for issuing Approval BA25010 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document BA25010. 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 March 18, 2025, the Hutterian Brethren Church of Pibroch (Pibroch Colony) submitted a Part 1 application to the NRCB to expand an existing multi species CFO.

The Part 2 application was submitted on March 19, 2025. On April 1, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing chicken layers (plus associated pullets) from 7,500 to 30,000
- Increasing sheep (ewes with lambs) from 200 to 450
- Decrease finisher pigs from 2,000 to 700
- Constructing a new layer barn (with attached solid manure storage pad) – 91 m x 30 m and 18 m x 10 m
- Convert the existing finisher barn to a sheep barn

The application also notified the NRCB of the proposed construction of an egg grading/office area. 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 the W½ 28-61-26 W4M and NE 29-61-26 W4M in Westlock County, roughly 20 km North of the town of Westlock, AB. The terrain is relatively flat with Dapp Creek running through the middle of the Colony and the existing hog earthen manure storage being adjacent to the Creek.

#### b. Existing permits

To date, the NRCB has issued Authorization BA20015 which permitted the construction of a manure collection area in a replacement heifer shelter.

That authorization included a determination of the CFO’s grandfathered status; however, it did not make a formal grandfathering of facilities and livestock numbers. As apart of Approval BA25010, the applicant has requested a grandfathering determination of the CFO. The

completed determination of the CFO's deemed permit status under section 18.1 of AOPA is explained in Appendix C, attached. The list of the CFO's existing permitted facilities are included in the appendix to the Approval BA25010.

## **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 proposed facilities are located within 100 m of a bank of a river, stream or canal.

A copy of the application was sent to Westlock 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 the Westlock News and Town and County newspapers which are in circulation in the community affected by the application on April 1, 2025, and
- sending 31 notification letters to people identified by Westlock 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), and Alberta Transportation & Economic Corridors (TEC).

I also sent a copy of the application to Pembina River Natural Gas Co-Op Ltd. who is a right of way holder.

In a response from TEC, it was stated they had no concerns with the application and requested the applicant contact them to obtain a roadside development permit. This request was sent to the applicant for their follow-up.

No other responses were received.

Approval BA25010 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).

#### **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.

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

I have determined that the proposed expansion is consistent with the land use provisions of Westlock 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)
- 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 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." Westlock County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Kathleen Deshoux, a development officer with Westlock County, provided a written response on behalf of the County. Ms. Deshoux 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 Westlock County's MDP, is addressed in Appendix A, attached.

No other responses were received regarding the application.

## 8. Environmental risk of CFO facilities

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. Based on the lithology in the water wells on site indicating several meters of clay and a relatively deep groundwater source a determination was made, and monitoring is not required.

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 Pibroch 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.

There have been no changes related to groundwater or surface water protection, water wells, or CFO facilities since that assessment was 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. Deshoux noted that the application meets the required setbacks in Westlock County's land use bylaw.

I have considered the effects the proposed expansion of the CFO may have on natural resources administered by provincial departments. A copy of the application was provided to EPA.

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 BA25010, 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 BA25010 specifies the cumulative permitted livestock capacity as livestock numbers:

- 80 milking cows (plus associated dries and replacements)
- 30,000 layers (plus associated pullets)
- 4,000 broilers
- 300 turkeys
- 1,600 ducks
- 600 geese
- 450 sheep (ewes with lambs)
- 700 finisher pigs
- 2,197 beef finishers

and permits the construction of the new layer barn with attached manure pad and the conversion of the finisher swine barn to a sheep barn.

Approval BA25010 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 BA25010 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 BA25010: Municipal Permits 91-065, 97-091-WES, 98-033, and NRCB issued Authorization BA20015 (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 BA25010 is issued for the reasons provided above, in the attached appendices, and in Technical Document BA25010.

Pibroch Colony's deemed permits, including municipal development permits # 91-065, 97-091-WES, and 98-033, and NRCB-issued Authorization BA20015 are therefore superseded, and their content consolidated into this Approval BA25010, unless Approval BA25010 is held invalid following a review and decision by the NRCB's board members or by a court, in which case the previous permits will remain in effect.

June 9, 2025

(Original signed)

Nathan Shirley  
Approval Officer

## Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval BA25010
- C. Determination of deemed permit status

## **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.)

Pibroch Colony’s CFO is located in Westlock County and is therefore subject to that county’s MDP. Westlock County adopted the latest amendments revision to this plan in January 2023, under Bylaw #05-2016.

Section 4.1 of the MDP relates to the Agricultural Use Area, which is where Pibroch Colony’s CFO is located.

Policy 4.1.1.3 clarifies that the “primary use” of this area is for both “extensive and intensive agricultural uses and confined feeding operations”. This is considered a general guiding principle and is not considered a land use provision; therefore this is not relevant to my decision. In any respect, this application is consistent with this provision.

Policy 4.1.2.2 states in part that the county will provide “input” to the NRCB on applications for new or expanded CFOs, based on the “technical and locational merits” of each application. This policy is likely not a land use provision because it requires site-specific, discretionary determinations (see Operational Policy 2016-7, Approvals, part 9.2.7). Therefore, this policy is not relevant to the MDP consistency determination required by section 20(1) of AOPA.

Policy 4.1.2.2 states further that CFOs and manure storage facilities “must fully satisfy all the requirements and regulations adopted under that Act, specifically the minimum distance separation requirements and the land base requirements.” Policy 4.1.2.3 states “Minimum distance separations for CFOs shall conform to standards set out in the Agricultural Operations Practices Act.” Together, the use of the term “minimum distance separation” in policies 4.1.2.2 and 4.1.2.3 appear to be a reference to the minimum distance separation (MDS) requirement in section 3 of the Standards and Administration Regulation under AOPA. These MDP policies are likely not relevant to my MDP consistency determination, because these policies are based on AOPA’s MDS requirements. (See also Operational Policy, Approvals, part 9.2.7). That said, the CFO meets the MDS and land base requirements under AOPA and meets all other AOPA technical requirements.

Policy 4.1.2.4 specifies CFOs requiring an approval, registration, or authorization maintain a 2.4 km setback from “corporate boundaries of any urban municipality within Westlock County” or a

0.8 km CFO setback from “Community Areas designated on Map 7.2.” Pibroch Colony is not within any of these setbacks and therefore meets this policy’s setback requirement.

Policy 4.1.2.5 states that CFOs are “discouraged from locating in environmentally sensitive areas where slope instability and or groundwater contamination may be of concern.” This policy is likely not a land use provision because it requires site-specific, discretionary determinations (see Operational Policy 2016-7, Approvals, part 9.2.7). Therefore, this policy is not relevant to the MDP consistency determination required by section 20(1) of AOPA. At any rate, the application meets the “technical and locational” requirements of AOPA.

Policy 4.1.2.6 states that in addition to AOPA, Area Structure Plans (ASP) in Westlock County and MDP policies in respect to CFOs should be followed. The development officer confirmed that there are no ASPs or IDPs in place at this time that are applicable to this location.

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



## **APPENDIX B: Explanation of conditions in Approval BA25010**

Approval BA25010 includes several conditions, discussed below, and carries forward a condition from municipal permit 98-033 (see sections 2 of this appendix). Construction conditions from historical permits that have been met are identified in the appendix to Approval BA25010.

Approval BA25010 includes several conditions, discussed below:

### **1. New conditions in Approval BA25010**

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

Pibroch Colony proposes to complete construction of the proposed layer barn with attached solid manure storage pad by the end of 2026. This request is considered reasonable, however to account for possible delays in construction the construction deadline of December 1, 2027, is included as a condition in Approval BA25010.

#### **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 BA25010 includes conditions requiring:

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

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 BA25010 includes conditions stating that Pibroch Colony shall not place livestock or manure in the manure storage or collection portions of the new layer barn and solid manure storage pad until NRCB personnel have inspected the facilities and confirmed in writing that they meet the approval requirements.

### **2. Conditions carried forward and modified from 98-033**

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that condition #3 from 98-033 should be carried forward as modified as it is more stringent than AOPA.

- Manure be spread no nearer than 1500 feet from a residence

## **APPENDIX C: Determination of deemed permit status**

Pibroch Colony claims that its CFO is grandfathered (that is, it has a “deemed” permit) under section 18.1 of AOPA. I am treating that as a request for a determination of deemed permit status. A grandfathering determination is necessary in this case because:

- It is necessary to determine which facilities/footprint is grandfathered and, therefore, exempt from having to meet AOPA regulations under section 20(1.2) of AOPA).

See NRCB Operational Policy 2023-1: Grandfathering (Deemed Permit), part 3.1.

Under section 11(1) of the Administrative Procedures Regulation under AOPA, because I am cross-appointed as an NRCB inspector, I conducted an investigation into the deemed permit status of the CFO. I also determined the capacity of the CFO: that was in place on January 1, 2002.

In this case, the operator bears the onus of providing sufficient evidence to support their claim (See NRCB Operational Policy 2023-1: Grandfathering (Deemed Permit), part 2.3).

The CFO has received 3 permits from Westlock County, they are:

- Municipal Permit 91-065 which wasn't for any specifically listed project.
- Municipal Permit 97-091 was to construct a new hog barn for 5,000 hogs and to expand the existing sow barn from 200 to 300 sows.
- Municipal Permit 98-033 was to construct a 4,000 head beef feeder feedlot.

### Notice:

As required under section 11(2) of the Administrative Procedures Regulation, I provided notice to those parties who would be entitled to notice if this were an application for a new approval. I determined the notification distance to be 1.5 miles on the basis of the deemed capacity claimed by the owner or operator under Operational Policy 2023-1: Grandfathering (Deemed Permit), part 4.1.

In this case, the NRCB provided notice of the deemed permit determination as part of the notice for the proposed new layer barn with attached solid manure storage pad application and change in livestock numbers.

### Findings:

Under section 18.1(2)(c), the CFO's deemed capacity is the capacity stated in the CFO's development permit. Therefore, the CFO has a deemed capacity of:

- 80 milking cows (plus associated dries and replacements)
- 7,500 layers (plus associated pullets)
- 4,000 broilers
- 300 turkeys
- 1,600 ducks
- 600 geese
- 200 sheep (ewes with lambs)
- 4,000 beef feeders
- 300 swine farrow to finish

- 2,500 swine finisher

The development permit also included a 300 sows farrow to finish operation; however, Pibroch Colony has reduced the swine operation to 700 finisher pigs and the newer finisher pig barn is being converted to a sheep barn. Therefore, the swine component will be reflected as it currently operates and has capacity for in Approval BA25010.

Some of the historical feedlot pens have been decommissioned. However, the existing feedlot pens have a capacity for approximately 2,000 beef finishers due to increased density from installing concrete in the pens. As the municipal permit was for 4,000 beef feeders, using the AOPA change in category calculator the conversion of 4,000 beef feeders to finishers allows for 2,197 finishers. Although a change in livestock category does not require a permit, I have updated the permit to reflect current operations as beef finishers.

Validity today:

Finally, Operational Policy 2023-1: Grandfathering (Deemed Permit), part 9.0 suggests that field services staff assess the validity of a deemed permit today.

Under Operational Policy 2023-1: Grandfathering (Deemed Permit), part 9.1, I considered whether the CFO has been abandoned since January 1, 2002. I considered factors relevant to abandonment, as identified in Operational Policy 2016-3: Permit Cancellations under AOPA Section 29. As noted in a site visit and discussions with the operator, apart from the swine operation, the CFO facilities have been in continuous use since 2002. I therefore conclude this CFO has not been abandoned.