

Decision Summary LA25024

This document summarizes my reasons for issuing Approval LA25024 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25024. 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 March 19, 2025, Hutterian Brethren of Miltow and Miltow Farming Co Ltd. (collectively referred to as Miltow Colony) submitted a Part 1 application to the NRCB to expand an existing multi species CFO.

The Part 2 application was submitted on May 7, 2025. On May 15, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing chicken layer numbers from 300 to 30,000
- Increasing duck numbers from 0 to 400
- Increasing chicken pullet numbers from 0 to 15,000
- Constructing a new layer and pullet barn (70.7 m x 30.9 m) with attached manure storage room (13.4 m x 17.5 m)

The applicant notified me at the time of submitting their Part 2 application that the bull barn that was permitted in Authorization LA18035 is no longer being used to house livestock or store manure and has been converted for storage. Therefore, this facility is being amended out of this permit.

The applicant also notified the NRCB of the proposed construction of an egg grading facility/offices that is to be attached to the proposed layer and pullet barn with attached manure 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, these structures are part of the CFO but do not need to be permitted under the Act.

a. Location

The existing CFO is located at NW 17-004-14 W4M in the County of Warner, roughly 25 km northeast from the Village of Warner. The terrain is gently undulating. The closest common body of water is a marsh located approximately 900 m south of the proposed layer and pullet barn with attached manure storage room.

b. Existing permits

The CFO was originally permitted by an unnumbered permit issued by the County of Warner on April 3, 1990. This permit allowed the construction and operation of a hog, dairy and calf CFO. Municipal Permit #00-05 was issued on May 2, 2000, which allowed for construction of swine facilities. Collectively, these development permits are a deemed (i.e. grandfathered) permit under section 18.1(1)(b) of AOPA.

Since AOPA came into effect on Jan. 1, 2002, the CFO has received Authorizations LA04048A, LA07017, and LA18035 from the NRCB. Collectively, these NRCB permits and the deemed permit allow the construction and operation of a CFO with the following animal numbers:

- 90 milking cows (plus associated dries and replacements)
- 300 chicken layers
- 6,000 chicken broilers
- 400 swine (farrow to finish)

The CFO's deemed and NRCB-permitted facilities are listed in the appendix of Approval LA25024.

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 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 May 15, 2025, as there is no newspaper available in the area, and
- sending 10 notification letters to people identified by the County of Warner and 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 Alberta Transportation & Economic Corridors (TEC).

I also sent a copy of the application to Triple W Natural Gas Coop Ltd., and South East Alberta Water Coop Ltd. as they are right-of-way (ROW) holders on the subject land.

I received responses from Leah Olsen, a development and planning technologist with TEC and Bradley Calder, a water administration technologist with EPA.

In her response, Ms. Olsen stated that TEC has no concerns or requirements with this proposal and a permit will not be required.

In his response Mr. Calder stated that there are three water wells on NW 17-04-14 W4 that are owned by Miltow Colony, two of which are domestic wells and one stock well. He stated that an application for the stock well is in review with EPA. Mr. Calder calculated the total water requirements for the proposed livestock to be 22,037 m³ and it appears the applicant has sufficient water from an agreement with South East Alberta Water Coop Ltd, calculated as approximately 57,346 m³, though it was not confirmed by South East Alberta Water Coop Ltd. Mr. Calder stated that should the agreement with South East Alberta Water Coop Ltd. not be sufficient, the applicant is required to provide the licence numbers from any quarters that may supply water to the land location specified in this application and options for obtaining additional water can be discussed with EPA.

In a conversation with the applicant on July 17, 2025, they indicated they only have two water wells on site, water well ID#s 151818 and 298302. They explained that the third water well in the EPA water well database, water well ID# 299136, was never developed and the hole that was drilled for that well was filled back in immediately after drilling.

Approval LA25024 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*).

I did not receive any other responses.

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.) There is no applicable intermunicipal development plan.

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." 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 the County has no concerns with the development and it meets all of their zoning and land use requirements. 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 from a site visit, I did not identify any reasons to implement groundwater monitoring for the proposed facility.

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 Miltow 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.

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.

While Mr. Hathaway did not list the setbacks required by the County of Warner's land use bylaw (LUB), he did state that the application meets all of the County's zoning and land use requirements.

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 July 18, 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 in 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 submission or evidence, including from the 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). The land the CFO is located on is zoned Extensive Agriculture. In my view, this presumption is not rebutted.

10. Terms and conditions

Approval LA25024 specifies the cumulative permitted livestock capacity as 90 milking cows (plus associated dries and replacements), 400 swine farrow to finish, 6,000 chicken broilers, 30,000 chicken layers, 15,000 chicken pullets, 400 ducks, and permits the construction of the layer and pullet barn with attached manure storage room.

Approval LA25024 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 LA25024 includes conditions that generally address construction deadline, 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 permits with Approval LA25024: the deemed approval (including MD Permits 00-04 and 00-05), and Authorizations LA04048A, LA07017, and LA18035 (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 LA25024 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25024.

Miltow Colony's deemed approval (including MD Permits 00-04 and 00-05) and NRCB-issued Authorizations LA04048A, LA07017, and LA18035 are therefore superseded, and their content consolidated into this Approval LA25024, unless Approval LA25024 is held invalid following a review and decision by the NRCB's board members or by a court, in which case the deemed approval, including municipal development permits #'s 00-04 and 00-05, and Authorizations LA04048A, LA07017, and LA18035 will remain in effect.

July 23, 2025

(original signed)
Kelsey Peddle
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Approval LA25024

APPENDIX A: Consistency with municipal land use planning

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), and any applicable intermunicipal development plan (IDP).

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.)

In this case, there is no applicable IDP.

Miltow 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 the land use bylaw. 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 LA25024

Approval LA25024 includes several conditions, discussed below, and carries forward a number of conditions from Authorization LA04048A (see sections 2 and 3 of this appendix). Construction conditions from historical permits that have been met are identified in the appendix to Approval LA25024.

1. New conditions in Approval LA25024

a. Construction deadline

Miltow Colony proposes to complete construction of the proposed new layer and pullet barn with attached manure storage room by November 30, 2027. This time-frame is considered to be reasonable for the proposed scope of work. Therefore, the deadline of November 30, 2027, is included as a condition in Approval LA25024.

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 LA25024 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the new layer 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. Miltow Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the layer 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 LA25024 includes a condition stating that Miltow Colony shall not place livestock or manure in the manure storage or collection portions of the new layer and pullet barn with attached manure storage room until NRCB personnel have inspected the new layer and pullet barn with attached manure storage room and confirmed in writing that it meets the approval requirements.

2. Conditions carried forward and modified from Authorization LA04048A

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that conditions #12(a) and (c), 13, 14(a), and 15(b) from Authorization LA04048A should be carried forward and re-numbered to reflect the new construction conditions of this permit. Condition #12(c) is modified to include the latest technical guideline for leak detection monitoring parameters, Technical Guideline Agdex 096-52 “Leak Detection Monitoring Parameters”.

3. Conditions not carried forward from Authorization LA04048A

Approval LA25024 includes the terms and conditions in historical permits, except those noted below.

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that conditions #1-4, 14(b), 14(c), 15(a), and 16 from Authorization LA04048A should be removed and therefore are not carried forward to Approval LA25024. My reasons for removing these conditions are as follows:

Condition #1 of LA04048A states “[t]he operator is to adhere to and follow the requirements of the *Agricultural Operation Practices Act* and the regulations passed pursuant to that act, from time to time”. This condition is redundant as it is repeated in the opening paragraph of Approval LA25024. Therefore, I will not be carrying forward this condition.

Condition #2 of LA04048A states “[t]he operator is to adhere to the descriptions contained in the filed application and the decision report together with the site plan, building plans, operating plan, manure management plan, engineering reports and other attached documents, unless otherwise noted in the following conditions”. This condition is redundant as it is repeated in the second paragraph of Approval LA25024. Therefore, I will not be carrying forward this condition.

Condition #3 of LA04048A states “[f]or each instance where the applicant has committed to higher standards than required by AOPA, these commitments have been included as conditions.” This condition is redundant, as operators are required to follow all conditions of NRCB permits. Further, conditions that were determined to be “higher standards than required by AOPA” have been carried forward into this approval as operating conditions. Therefore, I will not be carrying forward this condition.

Condition #4 of LA04048A states “[t]he applicant or operator is responsible for all costs associated with monitoring, sampling, testing, recording and reporting requirements.” This condition is redundant as it is repeated in the fourth paragraph of Approval LA25024. Therefore, I will not be carrying forward this condition.

Conditions #14(b) and 14(c) of LA04048A relate to the application and incorporation of manure within 48 hours. These conditions are redundant as they are repeated in AOPA (Standards and Administration Regulation, Section 24(1)), and the opening paragraph of Approval LA25024 states “[t]he permit holder shall comply with the requirements of the *Agricultural Operation Practices Act* (AOPA) and the regulations passed pursuant to that act.” Therefore, I will not be carrying forward these conditions.

Condition #15(a) of LA04048A relates to manure application records that the applicant must maintain, as identified in AOPA. This condition is redundant as record keeping is outlined in AOPA’s Standards and Administration Regulations, Section 28. The opening paragraph of Approval LA25024 states “[t]he permit holder shall comply with the requires of the *Agricultural Operations Practices Act* (AOPA) and the regulations passed pursuant to that act.” Therefore, I will not be carrying forward this condition.

Condition #16 of LA04048A relates to the disposal of dead livestock, which is regulated by Alberta Agriculture and Irrigation (AGI) under the *Animal Health Act, Disposal of Dead Animals Regulation*, and is not regulated by the NRCB. Given AGI’s regulatory role, concurrent oversight of dead livestock disposal by the NRCB would be inefficient and may lead to inconsistency. Therefore, I will not be carrying forward this condition.