

Decision Summary LA25047

This document summarizes my reasons for issuing Approval LA25047 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25047. 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 June 6, 2025, Hutterian Brethren of Lathom (Lathom Colony) submitted a Part 1 application to the NRCB to expand an existing multi species CFO.

The Part 2 application was submitted on June 20, 2025. On July 2, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing chicken layer numbers from 35,000 to 55,000
- Constructing a solid manure storage attached to the existing layer barn – 12.2 m x 9.8 m (40 ft. x 32 ft.)

The application also notified the NRCB of the proposed construction of an office/egg sorting and collection area that will be attached to the south end of the existing layer barn. 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.

The existing chicken layer barn will be able to house the proposed increase in chicken layer numbers and therefore an extension of the existing chicken layer barn is not required.

a. Location

The existing CFO is located at NW 15-19-17 W4M in the County of Newell, roughly 15 km west of the city of Brooks. The terrain is generally flat.

b. Existing permits

The CFO is currently permitted under NRCB Approval LA18049. This approval allows the construction and operation of a 100 dairy cows (plus associated dries and replacements), 6,000 feeder pigs, 35,000 chicken layers, 35,000 chicken pullets, 2,000 chicken broilers, 1,600 ducks and 300 geese. The CFO’s existing permitted facilities are listed in the appendix of Approval LA25047.

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, and no other municipality is within the notification distance.

A copy of the application was sent to the County of Newell, 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 Brooks Bulletin newspaper in circulation in the community affected by the application on July 2, 2025, and
- sending 3 notification letters to people identified by the County of Newell 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 the Eastern Irrigation District.

I also sent a copy of the application to Alta Link Management Ltd., Pioneer Gas Coop Ltd., and Torxen Energy Ltd. because they are right of way holders on that land.

No responses were received from any person or organization that were notified of this application.

LA25047 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.

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. MDP consistency

I have determined that the proposed expansion is consistent with the land use provisions of the County of Newell'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 (IDP).

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 Newell is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Maria Jackson, a development officer with the County of Newell, provided a written response on behalf of the County of Newell. Ms. Jackson stated that the application is consistent with the County of Newell's land use provisions of the municipal development plan (MDP). The application's consistency with the land use provisions of the County of Newell'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

New CFO facilities which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater.

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 Lathom Colony's existing EMS and the hog barns, which are the deepest, below ground level facilities and therefore have the highest potential risk to groundwater, were assessed in 2009 using the ERST. According to that assessment, the EMS and the hog barns posed a low potential risk to surface water and groundwater.

Since the 2009 risk assessment, a new version of the ERST was developed. For these reasons, I reassessed the risks posed by the EMS and hog barns. My reassessment confirmed the results of the previous assessment: the risk remains low. All other facilities were also assessed using the updated version of the ERST and all scored low risk to groundwater and surface water.

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. Jackson also listed the setbacks required by the County of Newell's land use bylaw (LUB) but did not comment if these setbacks have been met. Upon review, all applicable setbacks have been met.

I have considered the effects the proposed MSF 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* / section 109 of the *Water Act* in respect of the subject of this application. Furthermore, the application meets AOPAs technical requirements, and the applicant has been reminded that it is their responsibility to ensure they have received the appropriated water licensing for the proposed CFO expansion.

I am not aware of any written decision of the Environmental Appeals Board for this application (<https://eab.gov.av.ca/status.htm>), accessed July 25, 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. 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. 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. The zoning for the land where the CFO is located is Agriculture – General District.

10. Terms and conditions

Approval LA25047 specifies the cumulative permitted livestock capacity as 100 dairy cows (plus associated dries and replacements), 6,000 feeder pigs, 55,000 chicken layers, 35,000 chicken pullets, 2,000 chicken broilers, 1,600 ducks, and 300 geese, and permits the construction of the solid manure storage.

Approval LA25047 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 LA25047 includes conditions that generally address the construction deadline, 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 LA25047: Approval LA18049 (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 in Approval LA18049 are carried forward into the new approval.

11. Conclusion

Approval LA25047 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25047.

Lathom Colony's Approval LA18049 is therefore superseded, and its content consolidated into this Approval LA25047, unless Approval LA25047 is held invalid following a review and decision

by the NRCB's board members or by a court, in which case Approval LA18049 will remain in effect.

August 6, 2025

(Original signed)

Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Approval LA25047

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). In this case, no IDP applies.

“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 provisions are commonly referred to as “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.)

Municipal Development Plan (MDP)

Lathom Colony’s CFO is located in the County of Newell and is therefore subject to that county’s MDP. The County of Newell adopted the latest revision to this plan on May 25, 2023, under Bylaw #2057-23.

The relevant section in the MDP is 3.5 Protecting Farmland and Stewarding Intensive Development.

Section 3.5 (a) states that “all lands in the County are agricultural unless otherwise designated by the MDP, an approved statutory or non-statutory plan, the LUB or provincial legislation”.

The land on which the CFO is located is zoned agricultural.

Sections 3.5 (b and c) are not directly related to CFO development and speak about the general nature of land use in the County.

Section 3.5 (d) is a statement recognizing that agricultural operations create dust, noise, odor and additional traffic related to their operation and is a normal and acceptable practice in an agricultural community.

I don’t consider this as a land use provision but rather as a recognition of effects of agricultural operations, not specifically CFOs, on surrounding lands. Therefore, I cannot consider this section in my analysis.

Sections 3.5 (e, f, and g) also do not relate to CFOs and are therefore irrelevant to my consistency determination.

Section 3.5 (h) states that new or expanding CFOs shall not be permitted within the CFO Restricted Areas as shown on the CFO Exclusion Area Maps in Section 6. This section also notes that the CFO Exclusion areas are based on the rationale of safe-guarding growth in and around urban and residential areas and protecting areas of environmental and cultural significance.

The CFO is not located in the CFO Exclusion Area. This application therefore meets this section.

Section 3.5 (i) speaks about existing CFOs within exclusion area and states that they are allowed to continue in accordance with the requirements of AOPA. The existing CFO meets all AOPA requirements.

Section 3.5 (j) encourages the NRCB to consider:

- i: the firm enforcement of AOPA to protect open bodies of water, irrigation canals, water wells, and drinking water supplies from contamination and
- ii: The inclusion of conditions in their decisions requiring applicants of new CFOs to enter into municipal road use agreements with the County, where applicable, to mitigate wear and tear on County roads.

The proposed construction at this CFO meets all setbacks to water wells, surface water bodies, and liner requirements as laid out in AOPA and its regulations.

The NRCB has no jurisdiction over road use and road maintenance which is solely the responsibility of the county as stated in a 2020 decision, where the Board clearly stated that “municipalities own the roads within their jurisdictions...” (Hutterian Brethren of Murray Lake, RFR 2020-09, p. 4). Therefore, I do not consider this section to be a land use provision that should be considered in my consistency determination.

Section 3.5 (k) is not related to CFOs.

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

APPENDIX B: Explanation of conditions in Approval LA25047

Approval LA25047 includes the conditions discussed below and carries forward all conditions from Approval LA18049. Construction conditions from Approval LA18049 are in the appendix to Approval LA25047.

New conditions in Approval LA25047

a. Construction deadline

Lathom Colony proposes to complete construction of the proposed new manure storage by December 2026. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of December 31, 2026, is included as a condition in Approval LA25047.

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 LA25047 includes conditions requiring:

- a. the concrete used to construct the liner of the manure storage area 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. Lathom Colony to provide evidence or written confirmation from a qualified third party that the concrete used for the manure storage area meets the required specifications.

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 LA25047 includes a condition stating that Lathom Colony shall not place manure in the manure storage area of the new facility until NRCB personnel have inspected the manure storage and confirmed in writing that it meets the approval requirements.