

Decision Summary LA25042

This document summarizes my reasons for issuing Authorization LA25042 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25042. 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 authorization. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On May 26, 2025, River Road Hutterian Brethren and River Road Farming Co. Ltd. (collectively referred to as River Road Colony) submitted a Part 1 application to the NRCB to construct a manure collection area (MCA) and manure storage facility (MSF) at an existing multi species CFO.

The Part 2 application was submitted on July 14, 2025. On July 15, 2025, I deemed the application complete.

The proposed construction involves:

- Constructing a dairy barn (101.8 m x 53.9 m) with in-barn manure pit (11.6 m x 4.6 m x 3.7 m deep)
- Decommissioning and removing the following facilities
 - Calf barn
 - Existing dairy barn
 - Dairy barn liquid manure storage
 - Dairy barn corrals

The application also notified the NRCB of the proposed construction of a milk room that is to be attached to the dairy 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.

a. Location

The existing CFO is located at NE 32-1-14 W4M in the County of Warner No.5 (County of Warner), approximately 20 km southeast of the Town of Milk River. The terrain is relatively flat with a gentle slope towards the Milk River valley which is located approximately two km north of the CFO.

b. Existing permits

The CFO is already permitted under Approval LA21062.

2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies all parties that are “affected” by an authorization application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- the municipality where the CFO is located or is to be located
- 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 municipality entitled to divert water from that body within 10 miles downstream
- any other municipality whose boundary is within a notification distance. In this case, the notification distance is 1.5 miles (2,414 m) from the CFO

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.

3. Notice to other persons or organizations

Under NRCB policy, 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 Agriculture and Irrigation (AGI).

I also sent a copy of the application to Chinook Gas Co-op Ltd. who is a utility right-of-way (ROW) holder on the subject land.

I received responses from an administrator with AGI and Bradley Calder, a water administration technologist with EPA.

An administrator with AGI named Paul Broadhead as the inspector responsible for this application.

Mr. Calder stated that as it appears there will not be an increase in livestock numbers and therefore no increase in additional water requirements, EPA has no further questions or concerns regarding the application.

I did not receive a response from Chinook Gas Co-op Ltd.

Authorization LA25042 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. MDP consistency

I have determined that the proposed construction 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 (IDP).

5. AOPA requirements

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

- 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 groundwater protection requirements for the design of floors, liners, and protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 8 and Appendix B, the application meets all relevant AOPA requirements.

6. Responses from municipality

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.

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 facility is located within its boundaries.

Mr. Shawn Hathaway, the 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 meets the County of Warner’s municipal development plan (MDP). The application’s consistency with the land use provisions of the County of Warner’s MDP is addressed in Appendix A, attached.

Mr. Hathaway did not list the setbacks required by the County of Warner’s land use bylaw (LUB), but noted the proposed development meets the LUB. The proposed dairy barn meets the setbacks outlined in the County of Warner’s LUB.

7. Environmental risk of facilities

New MSF/MCA 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, porous subsurface materials, or surface water systems an approval officer may require groundwater monitoring for the facility. The information on this file supports the assumption that risks to groundwater and surface water are low.

When reviewing a new authorization 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 River Road Colony's existing CFO facilities were assessed in 2022 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

The circumstances have not changed since that assessment was done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

8. Terms and conditions

Authorization LA25042 permits the construction of the dairy barn with in-barn manure pit.

Authorization LA25042 contains terms that the NRCB generally includes in all AOPA authorizations, 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, Authorization LA25042 includes conditions that generally address construction deadlines, document submission, construction inspection, and decommissioning. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization LA25042 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25042.

Authorization LA25042 must be read in conjunction with River Road Colony's NRCB-issued Approval LA21062, which will remain in effect.

September 3, 2025

(Original signed)

Kelsey Peddle
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Authorization LA25042

APPENDIX A: Consistency with municipal land use planning

Under section 22(2) of AOPA, an approval officer may only approve an application for an authorization or amendment of an authorization 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.

This does not mean consistency with the entire MDP. In general, “land use provisions” cover 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 22(2.1) 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.)

River Road 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 Authorization LA25042

Authorization LA25042 includes several conditions, discussed below:

a. Construction deadline

River Road Colony proposes to complete construction of the proposed new dairy barn with in-barn manure pit by “end of 2028”. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2028, is included as a condition in Authorization LA25042.

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, Authorization LA25042 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the dairy barn with in-barn manure pit to meet the specification for category B (liquid manure shallow pits) and category C (solid manure – wet) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas.”
- b. River Road Colony to provide evidence or written confirmation from a qualified third party that the concrete used for the manure collection and storage areas 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. Authorization LA25042 includes a condition stating that River Road Colony shall not place livestock or manure in the manure storage or collection portions of the new dairy barn with in-barn manure pit until NRCB personnel have inspected the dairy barn with in-barn pit and confirmed in writing that it meets the authorization requirements.

c. Decommissioning of facilities

As proposed by River Road Colony, a condition will be included in the authorization requiring the co-permit holders to decommission the calf barn, existing dairy barn, dairy barn liquid manure storage, and dairy barn corrals according to Technical Guideline Agdex 096-90 “Closure of Manure Storage Facilities and Manure Collection Areas” and be inspected by NRCB personnel.