

Decision Summary BA11012A – Amendment of NRCB Approval BA11012

This document summarizes my reasons for issuing Approval BA11012A, an amended version of Approval BA11012 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document BA11012A (formerly BA18026). 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, and the information contained in the permit file.

1. Background

Approval BA11012A relates to a broiler breeder poultry confined feeding operation (CFO) owned and operated by Rietveld Poultry Farms Ltd. (Rietveld Poultry). The CFO is located at E½ 16-53-18-W4M in Lamont County.

The CFO is currently permitted by a deemed registration under 18.1 of AOPA, and by NRCB Approval BA11012 which permitted Rietveld Poultry to construct:

- two new broiler breeder barns (91.4 m x 26.2 m) (each)
- egg room/server area (61.6 m x 4.6 m and 30.5 m x 6.1 m) (ancillary structures)
- one new solid manure storage pad (30 m x 30 m)

Condition #3 of the approval prohibited Rietveld Poultry from placing any birds or manure in the new barns or manure storage pad until they had been inspected by NRCB personnel.

When the NRCB issues permits with this type of condition, NRCB staff's routine practice is to inform the permit holders that they must contact the NRCB when the construction has been completed, so that the NRCB staff can conduct a timely post-construction inspection.

Conditions #2 a, b, and c of the approval required construction of the manure storage facilities to be completed prior to December 15, 2015. Rietveld Poultry completed construction in 2013; however, they did not notify NRCB staff that they were ready for a construction completion inspection nor did NRCB staff follow-up on this deadline.

In November 2018 NRCB staff had found that the proposed barn size and layout had been changed. In discussion with representatives of Rietveld Poultry, it was determined that while they were constructing the permitted two barns (total area 4423.8 m²) they realized that altering their plan to four smaller barns (total area 3276.8 m²) was a better design for their operation and more in-line with standard broiler breeder operations. Rietveld Poultry did not inform the NRCB of their proposed change, nor did they apply to amend their permit to reflect this proposed change. This change represents a reduction of 16% in the permitted solid manure storage capacity.

Rietveld Poultry constructed the four smaller barns and also abandoned the construction of the permitted long term solid manure storage pad deciding to use temporary manure storage sites instead.

NRCB staff completed inspections of the site on December 20, 2018 and February 20, 2019. These visits along with the initial authorization application (BA18026) found that the applicant had stayed within the footprint of the permitted CFO. They had constructed four barns 64 m x 12.8 m each as opposed to two barns 91.4 m x 26.2 m each and had not constructed (nor intend to) construct the long term solid manure storage pad. At the time of the inspections the applicant was informed of the contraventions and applied to permit the changes from the initial permit. Initially it was determined that an NRCB authorization to permit the construction of the two unpermitted barns was warranted. However it was later determined that a minor amendment to Approval BA11012 would more accurately capture changes on-site.

My review of the alterations have determined that the change to four smaller barns has not: enlarged the footprint of the operation, moved the operation any nearer neighbouring residences, or allowed the operation to house more livestock numbers than they are permitted.

In addition, at the time of Approval BA11012 there was no opposition to the application from neighbours, counties, or referral agencies. There has also been no documented complaints about the operation until late 2018.

2. Minor Amendment

Under section 19(1) of AOPA, the NRCB is generally required to provide public notice of an application for a new or amended approval (or to require the applicant or provide such notice). However, under section 19(1.1) of the act, an NRCB approval officer may forego providing public notice of a proposed approval amendment if, in the approval officer's opinion, the proposed amendment is for a "minor alteration to an existing building or structure" at a CFO, that will involve only a "minimal change" to the structure's risk to the environment or disturbance, if any. As the footprint of the barns is unchanged, I find that building four smaller barns in place of two large barns is a minor alteration.

An environmental risk screening was completed for the additional barns. The facilities were all determined to pose a low risk to groundwater and surface water. For the reasons given in part 1 and 2 above, the change from two larger barns to four smaller barns results in a minimal change, if any, to the risk to the environment and minimal change, if any, to the disturbance. Additionally, no increase in animal numbers is being permitted by this application.

Based on this, Approval BA11012 is being amended to change the number and dimensions of the barns as well as remove the previously permitted long term solid manure storage pad.

For these reasons, Rietveld Poultry's amendment is being processed under section 19(1.1) of AOPA as a "minor amendment" – that is, without public notice or notice to affected persons.

3. Responses from municipality and referral agencies

As a part of the initial authorization the application was referred to Lamont County, Alberta Health Services (AHS), and Alberta Environment and Parks (AEP). Responses were received from Lamont County and AHS.

Ms. Tina Cosby, a senior development officer with Lamont County, provided a written response on behalf of the county. As noted in section 2, Lamont County is a directly affected party.

Ms. Cosby stated that the application is consistent with the county's municipal development plan and also listed the setbacks required by the county's land use bylaw (LUB) and noted that the location of the existing barns meets these setbacks.

Ms. Cosby also contacted the applicant about submitting a farm declaration form for the county's purposes as well as contacting Alberta Transportation to obtain a road side development permit. I spoke with Ms. Cosby and she did not have any concerns with the application and was in contact with Rietveld Poultry regarding their request to complete County and Transportation forms.

Mr. Ward, an environmental health officer at AHS, sent a response including several comments regarding compliance with the Nuisance and General Sanitation Regulations of 2003 under the Alberta Public Health Act. As stated in the referral letter to AHS, an approval officer at the NRCB can only consider comments with respect to matters that I am authorized to consider under AOPA, which does not include compliance with the Nuisance and General Sanitation Regulations, although it is expected that the applicant will meet all applicable regulations regarding the operation. Mr. Ward also raised comment about having all water wells on site tested on an ongoing schedule. Environmental risk screening conducted at the time of the original application and re-risk scored as a part of this amendment indicates that the site scores low risk to both groundwater and surface water. The AHS response was forwarded to the applicant for their information.

4. Other factors considered

This application to amend Approval BA11012 meets all relevant AOPA requirements with the terms and conditions summarized below, in Approval BA11012 and Decision Summary BA11012.

As noted in Decision Summary BA11012, that application was consistent with the land use provisions of Lamont County's municipal development plan. This amendment does not affect that municipal development plan consistency determination (see Appendix A of Decision Summary BA11012) as the permitted manure storage area is reduced. The assessments and conclusions in Decision Summary BA11012 about other considerations under Section 20 of AOPA also remain valid and I adopt them here.

5. Terms and conditions carried forward from Approval BA11012

For convenience and clarity, I am issuing an entirely new, amended approval and cancelling Approval BA11012, rather than issuing a separate amendment and leaving Approval BA11012 in place.

Approval BA11012A contains all the terms in Approval BA11012, except several terms have been modified to reflect the number and dimensions of the barns as well as removing the solid manure storage pad as a permitted facility. The conditions are also being revised to reflect the NRCB's current permit drafting terminology. The construction conditions in Approval BA11012 that have been completed will be carried forward to an appendix of Approval BA11012A. As these conditions would apply to barns 3 and 4 and the applicant has now met these conditions for all four barns I will not be amending these conditions. Construction conditions 1c and 2c pertain to the no longer permitted solid manure storage pad and therefore will be deleted.

6. Conclusion

Approval BA11012A is issued, for the reasons provided above.

Approval BA11012 will therefore be cancelled, unless Approval BA11012A is held invalid following a review and decision by the NRCB's board member or by a court, in which case Approval BA11012 and the CFO's deemed registration will remain in effect.

April 30, 2019

(Original Signed)

Nathan Shirley
Approval Officer