

Decision Summary RA11058A – Approval Officer Amendment of Approval RA11058

This document summarizes my reasons for issuing Approval RA11058A, an amended version of Approval RA11058. This amended approval is issued under section 23 of the *Agricultural Operation Practices Act* (AOPA). My decision is based on the act and its regulations, the policies of the NRCB and all other materials in the application file.

Approval RA11058 and its associated documents are available from the decisions search engine on the Natural Resources Conservation Board (NRCB) website at www.nrcb.ca.

1. Background and reasons for the amendment

The Hutterian Brethren Church of Rainbow, operating as Rainbow Colony Farming Co. Ltd. (Rainbow Colony) owns and operates a multi-species confined feeding operation (CFO) on the S1/2 1-35-26 W4M and NW 1-35-26 W4M. Rainbow Colony also owns a dairy replacement facility at SE 6-35-25 W4M (whose CFO status has not been determined) and a swine quarantine barn at NE 2-35-26 W4M (discussed below). These sites are located in Red Deer County, roughly 23 km southeast of Innisfail, Alberta.

On March 2, 2005, the NRCB issued Authorization RA04031A for the construction of the swine quarantine barn at NE 2-35-26 W4M. That authorization along with a deemed approval (under section 18.1 of AOPA) discussed in Decision Summaries RA04031 and RA04031A, allowed the construction and operation of a multi-species CFO with 580 swine (farrow to finish), 50 milking cows (plus associated dries and replacements), 300 laying hens, 1,000 ducks and 300 geese at S1/2 1-35-26 W4M.

The swine quarantine barn under Authorization RA04031A was constructed and approved for use in 2005.

On August 9, 2012, the NRCB issued Approval RA11058 that allowed Rainbow Colony to construct a dairy barn, an earthen liquid manure storage, a series of dairy pens (that permit and its supporting documents refers to them as corrals; for clarity, those documents' references to corrals should be read as pens under AOPA), and a heifer barn. The approval also allowed an expansion of the CFO's existing permitted livestock capacity to include an additional 70 milking cows (with associated dries and replacements also allowed on site). The total amount of permitted dairy livestock was increased to 120 milking cows (with associated dries and replacements also allowed onsite). Approval RA11058 included flexible (extendable) construction completion deadlines of July 30, 2015 for these facilities.

The earthen liquid manure storage and dairy barn under Approval RA11058 were constructed and approved for use in 2012 and 2014, respectively. The construction deadline for the dairy pens and the heifer barn were extended twice at Rainbow Colony's request to March 31, 2018; the dairy pens and heifer barn under Approval RA11058 are yet to be constructed.

On June 26, 2017 the NRCB issued Rainbow Colony Authorization RA17027. That permit allowed for the construction of a heifer barn and a calf barn. These two barns are intended to replace existing heifer pens and a dry cow barn (at the dairy replacement facility noted above) at

SE 6-35-25 W4M and the permitted but not constructed dairy pens and heifer barn under Approval RA11058. The barns permitted by Authorization RA17027 are yet to be constructed and have a construction deadline of December 31, 2020.

On March 29, 2019, I spoke with Mr. Darius Hofer of Rainbow Colony about the overdue construction deadline for the dairy pens and heifer barn permitted by Approval RA11058. I informed Mr. Hofer that I would need to amend Approval RA11058, in accordance with NRCB policy (discussed below), to reflect what has and hasn't been constructed at the CFO to date. On that occasion, Mr. Hofer did not object to my intent to amend Approval RA11058.

Based on the above, I am amending Approval RA11058 on my own motion under section 23 of AOPA and in accordance with NRCB's *Construction Deadlines* policy (Operational Policy 2015-1). Under the construction deadline policy an approval officer amendment is warranted if there is partial construction and a construction deadline has not been met. In this case, the amendment documents what has been constructed within the allowed construction completion deadline. The facilities that were not constructed within the deadline will be removed from the permit and no longer allowed to be constructed unless a new permit is issued for them. Considering that the CFO has adequate existing or otherwise permitted facilities for the dairy livestock I am not amending the CFO's amount of permitted livestock at this time.

2. Other factors considered

This approval officer amendment meets all relevant AOPA requirements with the terms and conditions summarized below, in Approval RA11058 and Decision Summary RA11058.

As noted in Decision Summary RA11058, that application was consistent with the land use provisions of Red Deer County's municipal development plan. This approval officer amendment does not affect that municipal development plan consistency determination. (See Part 2 of Decision Summary RA11058 for a more detailed discussion of the county's municipal development plan.) As the permitted animal capacity for the CFO is not changing, the assessments and conclusions in Decision Summary RA11058 about other considerations under Section 20 of AOPA also remain valid.

3. Terms and conditions

For clarity and efficiency, and in accordance with NRCB policy, I have consolidated Approval RA11058 into the new Approval RA11058A. Consolidating permits generally involves carrying forward all non-redundant terms and conditions from the prior permit into the new permit, and then cancelling the prior permit.

Therefore, Approval RA11058A contains all of the relevant terms from Approval RA11058, except for the construction conditions related to the dairy barn and earthen liquid manure storage which are already met. Those conditions will be carried forward, but will be stated as already met conditions in the appendix to Approval RA11058A.

4. Conclusion

Approval RA11058A is issued for the reasons provided above.

Approval RA11058A should be read in conjunction with the deemed approval and Authorization RA17027 which remain in effect.

Approval RA11058 is therefore cancelled, unless Approval RA11058A is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval RA11058 will remain in effect.

May 8, 2019

(Original Signed)
Jeff Froese
Approval Officer