



## Decision Summary RA24002

This document summarizes my reasons for issuing Approval RA24002 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24002. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://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](http://www.nrcb.ca).

### 1. Background

On January 12, 2024, Suncrest Hutterian Brethren operating as Suncrest Farming Co. Ltd. (Suncrest) submitted a Part 1 application to the NRCB to expand a multi-species CFO.

The Part 2 application was submitted on March 1, 2024. On March 14, 2024, I deemed the application complete.

The proposed expansion involves:

- Increasing the permitted number of chicken layers from 17,500 to 30,000
- Constructing a chicken layer barn – 120.4 m x 32.6 m with attached manure storage – 21.3 m x 9.1 m
- Decommissioning existing layer barn

#### a. Location

The existing CFO is located at SW 2-36-13 W4M and SE 3-36-13 W4M in the County of Paintearth, roughly 20 km southeast of Castor, AB. The topography of the site is flat to gently sloping.

#### b. Existing permits

To date, the NRCB has issued Approvals RA10046A and RA10046B, and Authorizations RA13013 and RA13013A. Collectively, these NRCB permits allow Suncrest to construct and operate a 450 sow farrow to finish, 17,500 layer chicken, 6000 broiler chicken, and 200 milking cow (plus dries and replacements) multi-species CFO. The CFO's existing permitted facilities are listed in the appendix to the Approval RA24002.

## 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”.)

A copy of the application was sent to the County of Paintearth, 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 Castor Advance and the East Central Alberta Review newspapers in circulation in the community affected by the application on March 14, 2024, and
- sending 3 notification letters to people identified by the County of Paintearth as owning or residing on land within the notification distance.

The full application was also made available for viewing at the NRCB’s Red Deer office 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.

A referral letter and a copy of the complete application was emailed to Alberta Environment and Protected Areas (EPA).

I also sent a copy of the application to Onstad Energy Corp., Paintearth Gas Co-op Ltd., and Atco Electric Ltd. as right of way holders.

I received a response from Mr. Scott Bagshaw, the general manager at Paintearth Gas Co-op Ltd. Mr. Bagshaw stated he had no concerns with the application and added that he had reached out to the applicant as a reminder to sign up for a new gas contract as the proposed barn is in a different quarter than the existing facilities at the CFO.

I also received a response from Ms. Laura Partridge, a senior water administration officer with the EPA. Ms. Partridge provided information on how to check for existing water licenses at the CFO, and reminded the applicant of their responsibility in ensuring they are sufficiently licensed for the proposed increase in livestock numbers. The applicant has been made aware of this requirement.

No other responses were received from any other individual or organization.

### **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.

There is no ALSA regional plan for the area where the existing CFO is located.

## **5. Municipal Development Plan (MDP) consistency**

I have determined that the proposed expansion is consistent with the land use provisions of the County of Paintearth's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

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

Mr. Todd Pawsey, a director of community services with the County of Paintearth, provided a written response on behalf of the County of Paintearth. Mr. Pawsey stated that the application is consistent with the land use provisions of the County of Paintearth's municipal development plan. Mr. Pawsey also mentioned a related land use policy regarding the upgrading of Range Road 132 to sustain heavy traffic. The applicant is reminded it is their responsibility to work with the County regarding road use. The application's consistency with the land use provisions of the County of Paintearth'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." The NRCB did not receive responses from any other individuals or parties.

## **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. An assessment was made,

and groundwater monitoring is not required for this 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](http://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 Suncrest's existing CFO facilities were assessed in 2009, 2010, 2013 and 2014 using the ERST. According to these assessments, 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.

Mr. Pawsey also listed the setbacks required by the County of Paintearth's land use bylaw (LUB) and noted that the application meets these setbacks.

I have considered the effects the proposed layer barn 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 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 appropriate water licensing for the CFO.

I am not aware of any written decision of the Environmental Appeals Board for this location (<http://eab.gov.ab.ca/status.htm>), accessed May 10, 2024.

Finally, I considered the effects of the proposed expansion on the environment, the economy, and the community, and the appropriate use of land. In doing so, I had before me information in the application, the response from Paintearth County, and my own observations from a site visit.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, I presumed that the

effects on 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.

## **10. Terms and conditions**

Approval RA24002 permits the construction of the new chicken layer barn with attached manure storage, and specifies the cumulative permitted livestock capacity as:

- 450 sow farrow to finish
- 30,000 layer chickens
- 6,000 broiler chickens
- 200 milking cows (plus associated replacements and dries)

Approval RA24002 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 RA24002 includes conditions that generally address the construction deadline, document submission, post construction inspection and decommissioning. 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 RA24002: Approvals RA10046A and RA10046B, and Authorizations RA13013 and RA13013A (see NRCB Operational Policy 2016-7: Approvals, part 11.5). Permit consolidation helps the permit holder, municipality, neighbors 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 RA24002 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24002.

Suncrest's NRCB-issued Approvals RA10046A and RA10046B, and Authorizations RA13013 and RA13013A are therefore superseded, and their content consolidated into this Approval RA24002, unless Approval RA24002 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approvals RA10046A and RA10046B, and Authorizations RA13013 and RA13013A will remain in effect.

June 20, 2024

(Original signed)

Sarah Neff  
Approval Officer

**Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval RA24002

## APPENDIX A: Consistency with the municipal development plan

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).

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.)

Suncrest’s CFO is located in the County of Paintearth and is therefore subject to that county’s MDP. The County of Paintearth adopted the latest revision to this plan on August 17, 2021, under Bylaw 701-21.

Relevant sections of the MDP are located in Volume 4.0 – Agriculture. As relevant here:

Section 8 states that all regulations and policies relating to CFOs, including exclusion areas and buffer zones outlined in the Intermunicipal Development Plans (IDPs) “shall be followed by CFO developers, operators, and NRCB approval officers”. This is likely not a “land use provision”, however, Suncrest’s CFO is not within an IDP zone and meets the criteria regarding exclusion areas and buffer zones. The application is therefore consistent with this section.

Section 9 states that CFOs shall not be located “within 2 miles of any urban area that is not included in an IDP area, including the Village of Halkirk and all hamlets within the County of Paintearth.” Suncrest’s CFO is located outside of these areas and is therefore consistent with this section.

Section 10 states that CFOs shall not be located “within 1 mile of river hills, coulees, and any water bodies, as defined in the *Waters Act*, and includes (but not limited to) rivers, creeks, springs, wetlands, lakes and reservoirs.” Suncrest’s CFO is outside of these setbacks and is therefore consistent with this section.

Section 11 states that CFOs shall not be located within 1 mile of any “recreation area including Provincial Parks and Recreation Areas and other recreational or tourist locations”. Suncrest’s CFO is located outside of these setbacks and is therefore consistent with this section.

Section 12 relates to CFO applications that may potentially impact “Environmentally Significant Areas (ESAs)”, as shown in *Figure 8*, and states that these applications should be “evaluated on an individual basis”. Furthermore, it states that CFOs shall not be allowed within ESAs “unless environmental risks have been mitigated in accordance with best practices and scientific methods.” This is likely not a “land use provision” as it requires a test or condition regarding

risks being mitigated in ESA's. Regardless, Suncrest's CFO does not fall within an ESA, nor does it potentially impact one. Therefore, the application is consistent with this section.

Section 13 pertains to the protection of groundwater, stating CFOs shall not be located in areas of "very high risk" of groundwater contamination as determined in the "County of Paintearth Regional Groundwater Assessment 1999 or successor thereof". Suncrest's CFO is not located in an area considered as "very high risk" and is therefore consistent with this section.

Section 14 goes on to state that CFOs should not be allowed in areas identified as high risk "unless clear scientific evidence can be provided that proving that any groundwater contamination risk has been minimized and the appropriate mitigative measures have been taken to prevent possible groundwater contamination". This is likely not a "land use provision", as it requires a test or condition regarding minimized risk and mitigative measures. At any rate, Suncrest's CFO is not located in an area determined by the County as being "high or very high risk". Furthermore, the proposed layer barn meets AOPA's operational and construction requirements, which are designed to minimize the risks to groundwater and surface water.

Section 15 states CFOs may be required to enter a "Road Use Agreement" at the discretion and request of the County. This is likely not a "land use provision" and is outside my discretionary judgement as an approval officer. The applicant is reminded that it is their responsibility to work with the County to ensure their roadways are adequate for the existing operation.

Section 16 pertains to existing CFOs located in the restricted areas listed in the above sections and states they "may be allowed to continue and minor expansions may be allowed provided the operation does not contravene those values which have been identified as important by the community." Suncrest's CFO is not within any of the restricted areas listed above and is therefore consistent with this section.

Section 17 essentially modifies AOPA's MDS requirements by stating "extended setbacks" from country residential parcels, farmsteads and multi lot residential subdivisions would be "double the current AOPA standards for residential setbacks".

The NRCB's Board (see Wyntjes, Board Decision 2007-11 at 6 et seq.) and Approvals Policy (see NRCB Operational Policy 2016-7: Approvals, part 9.2.7) have made it clear that approval officers should not consider MDP provisions that are based on, but modify and render more stringent, AOPA's MDS requirements. Thus, this section cannot be considered for purposes of my MDP consistency determination.

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



## **APPENDIX B: Explanation of conditions in Approval RA24002**

Approval RA24002 includes several conditions, discussed below, and carries forward 2 conditions from Authorization RA03021 (see section 2 of this appendix).

### **1. New conditions in Approval RA24002**

#### **a. Construction Deadline**

Suncrest proposes to complete construction of the proposed new chicken layer barn with attached manure storage by June 2026. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of June 30, 2026, is included as a condition in Approval RA24002.

#### **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 RA24002 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the layer barn with attached manure storage 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. Suncrest to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the layer barn with attached manure storage.

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 RA24002 includes a condition stating that Suncrest shall not place livestock or manure in the manure storage or collection portions of the new layer barn with attached manure storage until NRCB personnel have inspected the new barn and confirmed in writing that it meets the approval requirements.

#### **c. Facility decommissioning**

As noted in part 1 above, Suncrest proposes to decommission the existing layer barn. A condition has been included in Approval RA24002 requiring the existing layer barn to be decommissioned in accordance with Technical Guideline Agdex 096-90, “Closure of Manure Storage Facilities and Manure Collection Areas” and must be decommissioned within 1 year of the birds being removed from the barn.

### **2. Conditions carried forward and modified from Authorization RA03021**

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that conditions 3 c and 4 from Authorization RA03021 should be carried forward and updated to reflect the NRCB's current monitoring practices. A groundwater monitoring statement is included with Approval RA24002.

### **3. Liquid Earthen Manure Storage (EMS) leakage detection system**

c. Reporting of leakage detection well results must be done at the time of leakage detection well installation and every 12 months thereafter. The report will include, but will not be limited to:

- Background information – site description, soil logs, diagrams
- Water level elevations
- Elevation of liquid manure in the EMS at the time of water sampling
- Dates when the EMS was emptied
- Inspection of the surface well casing for its integrity
- Explanation of the water sampling collection technique
- Field and laboratory work
- Laboratory reports as follows:

Indicators to be done at the time of leakage detection well installation and every 12 months thereafter:

- $\frac{3}{4}$  pH, Total Dissolved Solids, Electrical Conductivity
  - $\frac{3}{4}$  Chloride, Potassium, Orthophosphates, DOC
  - $\frac{3}{4}$  Nitrogen Species: Ammonia, Nitrate Nitrogen, Total Kjeldahl Nitrogen
  - $\frac{3}{4}$  Bacterial: E-Coli
- Discussion and explanation of the results including a trend analysis
  - Recommendations

The reports are to be submitted to the NRCB until such time as the NRCB adjusts the monitoring frequency, test parameters and/or report contents.

### **4. Manure Application**

- a. The operator must maintain manure application records as identified in the regulations.
- b. Surface applied manure must be incorporated within 24 hours of spreading.