

Decision Summary LA24033

This document summarizes my reasons for issuing Authorization LA24033 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA24033. 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 July 3, 2024, the Hutterian Brethren Church of West Raley (West Raley Colony) submitted a Part 1 application to the NRCB to construct an attached manure storage room to an existing broiler barn at an existing multi-species CFO. No change in animal numbers is proposed.

The Part 2 application was submitted on July 12, 2024. On July 15, 2024, I deemed the application complete.

The proposed construction involves:

- Constructing a manure storage room attached to the broiler barn – 10.7 m x 13.7 m (35 ft. x 45 ft.)

a. Location

The existing CFO is located at SE 13-4-25 W4M in Cardston County, at the south end of the St. Mary Reservoir, approximately 2.5 km west of the Hamlet of Raley. The topography of this area is slightly undulating with several coulees cutting through, sloping towards the St. Mary Reservoir. There is a sharp drop along the banks of the reservoir with the highest water level significantly below the top of the banks.

b. Existing permits

The CFO is permitted under Approval LA19028.

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 0.5 miles (804 m) from the CFO

Some of the CFO facilities are located within 100 m of a bank of a river, stream or canal. Cardston County, the Blood Tribe, and EPA were notified of this application.

A copy of the application was sent to Cardston County, which is the municipality where the CFO is located, and to the Blood Tribe which has a boundary within the notification distance for the CFO.

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 Transportation and Economic Corridors (TEC).

I also sent a copy of the application to Alta Link Management Ltd. because they have Right of Ways on this land.

The NRCB received a response from:

Ms. Leah Olson, a development/planning technologist with TEC. In her response, Ms. Olson stated that a permit will not be required.

Mr. George Roth, a water administration technologist with EPA. In his response, Mr. Roth stated that there are no groundwater diversion authorizations for any of the wells issued for that land location. He continued to state that there are four licenses for use on that quarter and added that if additional water is needed, West Raley Colony should contact EPA.

No other responses were received.

4. Municipal Development Plan (MDP) consistency

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

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 and liners of manure storage facilities and manure collection areas

6. Responses from the 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." Cardston County is an affected party (and directly affected) because the proposed facility is located within its boundaries.

The development officer with Cardston County did not provide a response. The application's consistency with Cardston County's municipal development plan is addressed in Appendix A, attached.

No response was received from the Blood Tribe.

7. Environmental risk of facilities

New MSF which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. 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 West Raley Colony's existing CFO facilities were assessed in 2016 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 LA24033 permits the construction of the manure storage room attached to the existing broiler barn.

Authorization LA24033 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 LA24033 includes conditions that generally address construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

9. Conclusion

Authorization LA24033 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA24033.

Authorization LA24033 must be read in conjunction with West Raley Colony's Approval LA19028 which remains in effect.

August 19, 2024

(Original signed)

Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization LA24033

APPENDIX A: Consistency with the municipal development plan

Under section 22 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).

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 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 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.)

West Raley Colony’s CFO is located in Cardston County and is therefore subject to that county’s MDP. Cardston County adopted the latest revision to this plan in March 2001, under Bylaw No. 466.2001 (amendment of Bylaw No. 448/99).

Section 4 of the MDP – titled “Municipal Planning Policy” – establishes the land use policies that serve as guidance for development within the county’s boundaries. The introductory statement of section 4.1 states that agriculture is the predominant land use in the county and that it is imperative to protect agricultural endeavours. Section 4.1 then discusses planning issues unrelated to CFOs. The MDP’s only direct references to CFOs (called “intensive livestock operations”) are in terms of CFO (parcel) subdivisions and limiting development near existing CFOs rather than vice versa (section 4.6.20).

Although section 4.8 (environmental considerations) does not specifically refer to CFOs, it provides policies for all developments in environmentally significant areas identified in the report: “Environmentally Significant Areas in the Oldman River Region: MD of Cardston”. West Raley Colony’s CFO is within an environmentally sensitive or significant area identified in that report (Regionally significant site (Map 1) and Significant archaeological sites: Map 3 and Table 3). However, West Raley Colony is an existing CFO, established prior to January 1, 2002.

Section 4.10 (Fringe areas) provides guidance for any developments within urban “fringe areas”. West Raley Colony’s existing and proposed CFO facilities are not located in an urban fringe area identified in the MDP and is therefore consistent with this policy.

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

APPENDIX B: Explanation of conditions in Authorization LA24033

Authorization LA24033 includes several conditions, discussed below:

a. Construction Deadline

West Raley Colony proposes to complete construction of the proposed new manure storage room attached to broiler barn by December 31, 2026. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of December 31, 2026, is included as a condition in Authorization LA24033.

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 LA24033 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the manure storage room attached to broiler barn 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. West Raley Colony to provide evidence or written confirmation from a qualified third party that the concrete used for the manure collection and 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. Authorization LA24033 includes a condition stating that West Raley Colony shall not place manure in the new manure storage room attached to existing broiler barn until NRCB personnel have inspected the manure storage room and confirmed in writing that it meets the authorization requirements.