



## Decision Summary RA24046

This document summarizes my reasons for issuing Approval RA24046 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document RA24046. 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 November 18, 2024, the Hutterian Brethren Church of Holt (Holt Colony) submitted a Part 1 application to the NRCB to expand an existing multi-species CFO.

The Part 2 application was submitted on January 8, 2025. On January 17, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing livestock numbers from 5,000 to 20,000 chicken layers
- Constructing layer barn #2 – 70.9 m x 34 m (232' 6" x 111' 6")

The application also notified the NRCB of the proposed construction of an L-shaped area in the front of the barn for egg gathering/sorting, cooler and office. 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 section 6-47-9 W4M in the Municipal District (MD) of Wainwright, roughly 14 km north and west of Irma, AB. Topography of the site is hummocky with a general slope to the southwest.

#### b. Existing permits

To date, the CFO has been permitted under NRCB Approval RA23016. That permit allowed the construction and operation of a multi-species CFO with the following livestock capacity:

- 400 sows farrow to finish
- 130 milking cows (plus associated dries and replacements)
- 1,500 beef finishers
- 5,000 chicken layers
- 9,275 chicken broilers
- 1,300 turkeys
- 1,200 ducks, and
- 300 geese

The CFO's existing permitted facilities are listed in the appendix to the Approval RA24046.

## 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".)

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 MD of Wainwright, 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 Wainwright Edge newspaper in circulation in the community affected by the application on January 17, 2025, and
- sending 10 notification letters to people identified by the MD of Wainwright as owning or residing on land within the notification distance.

The full application was made available for viewing 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 ATCO Gas and Pipelines Ltd. and to Pine Cliff Energy Ltd. as they are right of way holders.

Ms. Laura Partridge, a senior water administration officer, responded on behalf of EPA. Ms. Partridge provided resources to verify water requirements at the colony. Ms. Partridge also included the *Water Act* licence application process if required.

The applicants are reminded that they are responsible for obtaining licences under the *Water Act*.

#### **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 MD of Wainwright's municipal development plan. (See Appendix A for a more detailed discussion of the MD'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 C, 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 MD of Wainwright is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Dana Smith, the director of development services with the MD of Wainwright, provided a written response on behalf of the MD of Wainwright. Ms. Smith stated that there is no intermunicipal development plan or area structural plans in effect for the proposed location, and that the application meets the required setbacks. Ms. Smith indicated that a section of their municipal development plan (MDP) prohibits CFOs or manure storage facilities within 100 metres of a water body, watercourse or ravine. Ms. Smith's response stated that the proposed layer barn is within 40 m of a waterbody.

There is an existing two-cell earthen liquid manure storage facility located 40 m from the proposed layer barn. The closest body of water is a slough located 120 metres from the proposed layer barn.

The application's consistency with the land use provisions of the MD of Wainwright's MDP, and the MD's concerns are addressed in Appendix A, attached.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received a response from one individual.

The individual who submitted a response owns or resides on land within the 1.5 mile notification distance for affected persons. Because of his location within this distance, and because he submitted a response, he qualifies for directly affected party status. (See NRCB Operational Policy 2016-7: Approvals, part 7.2.1)

The directly affected party raised concerns regarding odours and difficulty competing with colonies. These concerns are addressed in Appendix B.

## **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 surface or groundwater monitoring for the facility. In this case a determination was made, and monitoring is not required.

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 Holt Colony's existing CFO facilities were assessed in 2023 using the ERST. According to this assessment, 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 the 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.

Ms. Smith noted that the application meets the setbacks required by the MD of Wainwright's land use bylaw (LUB).

I have considered the effects the proposed CFO expansion 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.

I am not aware of any written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>, accessed February 26, 2025).

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, views from the MD of Wainwright, concerns from the directly affected party, and my own observations from site visits.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, I presumed that the effects in the environment are acceptable because the application meets all of AOPA's technical requirements. In my view, this presumption is not rebutted and the directly affected party's concerns have been addressed.

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 and the directly affected party's concerns have been addressed.

I also presumed that the proposed CFO 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 RA24046 specifies the cumulative permitted livestock capacity as:

- 400 sows farrow to finish
- 130 milking cows (plus associated dries and replacements)
- 1,500 beef finishers
- 20,000 chicken layers
- 9,275 chicken broilers
- 1,300 turkeys
- 1,200 ducks
- 300 geese, and permits the construction of layer barn #2.

Approval RA24046 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 RA24046 includes conditions that generally address a construction deadline, document submission and a construction inspection. For an explanation of the reasons for these conditions, see Appendix C.

For clarity, and pursuant to NRCB policy, I consolidated the following permit with Approval RA24046: Approval RA23016 (see NRCB Operational Policy 2016-7: Approvals, part 11.5). Permit consolidation helps the permit holder, municipality, neighbours 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 C discusses which conditions from the historical permits are or are not carried forward into the new approval.

## **11. Conclusion**

Approval RA24046 is issued for the reasons provided above, in the attached appendices, and in Technical Document RA24046.

Previously issued Approval RA23016 is therefore superseded, and its content consolidated into this Approval RA24046, unless Approval RA24046 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval RA23016 will remain in effect.

March 19, 2025

(Original signed)

Francisco Echegaray  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Concerns raised by the directly affected party
- C. Explanation of conditions in Approval RA24046

## 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.)

Holt Colony’s CFO is located in the MD of Wainwright and is therefore subject to that county’s MDP. The MD of Wainwright adopted the latest revision to this plan on June 20, 2023, under Bylaw 1694.

Section 7.3 of the MDP relates to intensive agricultural operations and CFOs.

Policy 7.3.1 states that “the MD of Wainwright supports the development of new or expanding CFOs in the agricultural and rural development area, where there is limited potential for land use conflict”. I interpret this as being a general guiding principle. According to the MD of Wainwright’s Land Use Bylaw 1695, Holt Colony’s CFO is in the land use district Agricultural, where intensive agriculture is a discretionary use.

Policy 7.3.2 states that CFOs must meet MDS requirements, as set out in AOPA. Holt Colony’s application meets the AOPA MDS requirements.

Policy 7.3.3 specifies four areas (a.- d.) where the MD of Wainwright considers CFO development to be inappropriate. CFOs shall not be permitted:

- a. Within 1.6 km of land used for residential, commercial, recreational or institutional use or land designated for such uses;*

Subsection (a) essentially creates exclusion zones surrounding areas based on specific land use or land designation. The land surrounding Holt Colony’s site is zoned as agricultural, and is used for agricultural purposes; therefore, it is not designated or used for commercial, recreational, or institutional purposes.

This policy suggests that there is a 1.6 km setback to residences, regardless of how the land is zoned. The MD of Wainwright’s response indicated that their interpretation is residential uses other than those within the colony itself, and instead refers to adjacent or neighboring residential dwellings beyond the colony.

In my view, the first portion of 7.3.3.a. modifies AOPA's MDS to residences by making it a blanket 1.6 km. The NRCB's board (see *Wyntjes*, Board Decision 2007-11 at 6 et seq.) and Approvals Policy (see the NRCB Operational Policy 2016-7: Approvals, part 8.2.5) 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 policy cannot be considered for purposes of my MDP consistency determination. Regardless, there is one residence in the vicinity of the CFO, located 1,700 m (1.7 km) from the CFO. The application therefore meets this policy.

*b. Within 100.0 m of a water body, watercourse or ravine*

This policy is not a specific land use provision but adds additional setbacks to general water bodies or water ways. AOPA already has requirements for setbacks to common bodies of water, which this application meets. The closest body of water is a slough located 120 metres from the proposed layer barn.

*c. Within 1.6 km of an urban municipality, an intermunicipal development plan boundary, or a hamlet; or*

The proposed CFO expansion meets this setback.

*d. Within the Environmentally Significant Area*

Holt Colony's CFO is not located within the Environmentally Significant Area, as identified on map A4 of the MDP.

Policy 7.3.4 states that the NRCB has jurisdiction over CFOs, and that all CFOs must meet AOPA's requirements, specifically MDS and land base requirements. This is not a specific land use provision but is a statement of law and jurisdiction. As noted in section 6 of this decision summary, Holt Colony's application meets these requirements.

Policy 7.3.5 states that in addition to MDS, CFOs are not allowed within 2.4 km (1.5 miles) of the corporate boundaries of:

- a. any urban municipality;*
- b. multi-lot country residential areas;*
- c. Hamlets;*
- d. the Lakeside Residential District in the MD of Wainwright Land Use Bylaw; and*
- e. Dillberry Provincial Park;*

*which areas shall be considered an urban fringe when calculating the regulations under AOPA.*

The application meets these setbacks.

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



## **APPENDIX B: Concerns raised by the directly affected party**

Mr. Jerry Olson (SW 30-46-9 W4) qualifies for directly affected party status because he submitted a response to the application and he owns or resides on land within the “affected party radius,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation. See NRCB Operational Policy 2016-7: Approvals, part 7.2.1.

The directly affected party (DAP) raised the following concerns which are listed and summarized below, together with my analysis and conclusions:

- 1. Increase in odours** – The DAP expressed concern about a potential increase in odours from the pigs, the recently expanded feedlot operation and now with the expansion of the chicken operation.

### **Approval officer’s conclusions:**

AOPA’s minimum distance separation (MDS) is a means for mitigating odours and other nuisance impacts from CFO facilities. Holt Colony’s proposed CFO expansion is located outside of the required MDS from other existing residences. The closest neighbouring residence is located more than 1,600 m away from the nearest CFO facility, and Mr. Olson’s residence appears to be located more than 3,000 m away. These distances exceed the required 737 m MDS to those residences. It is presumed that nuisance effects from the CFO facilities are acceptable if the MDS has been met.

Nuisance and other impacts outside of the MDS for a CFO are typically not considered when making a decision, unless there is a direct and adverse impact greater than what may be normally expected, which can be directly linked to the CFO. These effects would be considered in the analysis on ‘effects on the community’ in an approval officer’s decision. In this case, the land zoning within one mile of the operation is ‘Agriculture’.

Although I do not consider nuisance concerns as ‘trivial’ in nature, I presume the impacts of the proposed CFO expansion as acceptable, because of the land zoning and MDS requirements as laid out in AOPA have been met.

It is reasonable to expect that there will be some odour emissions and other potential nuisances when the CFO is expanded.

Often, any issues that arise relating to the operation of a CFO, and other disagreements, can be resolved through good communication between neighbours and the CFO operator. However, if a member of the public has concerns regarding a CFO, including whether the operation is complying with AOPA, they may contact the NRCB through its toll-free reporting line (1-866-383-6722). An NRCB inspector will follow up on the concern.

- 2. Effects on the economy**

In his response, the DAP stated that, as a grain farmer, it is difficult to compete with CFOs of this size regarding land purchases or rentals, and that these big CFOs will be the only ones left farming.

**Approval officer's conclusions**

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, if the application is consistent with the land use provisions of the municipality's MDP, then the proposed development is presumed to have an acceptable effect on the economy. As noted in section 5 and Appendix A of this decision summary, the proposed CFO expansion meets the land use provisions of the MD of Wainwright's MDP.

## **APPENDIX C: Explanation of conditions in Approval RA24046**

Approval RA24046 includes several conditions, discussed below, and carries forward one condition from Approval RA23016. Construction conditions from historical permits that have been met are identified in the appendix to Approval RA24046.

### **1. New conditions in Approval RA24046**

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

Holt Colony proposes to complete construction of the proposed new layer barn by November 30, 2028. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of November 30, 2028, is included as a condition in Approval RA24046.

#### **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 RA24046 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the layer 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. Holt 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. Approval RA24046 includes a condition stating that Holt Colony shall not place livestock or manure in the manure storage or collection portions of the new layer barn until NRCB personnel have inspected the barn and confirmed in writing that it meets the approval requirements.