

Decision Summary LA19018A

This document summarizes my reasons for issuing Authorization LA19018A, an amended version of Authorization LA19018. This amended approval is issued on my own motion, 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 permit file.

1. Background

Merlin Bevans (Bevans) owns and operates an existing dairy confined feeding operation (CFO) on SE 7-3-25 & SW 8-3-25 W4M in Cardston County. The existing CFO is approximately 0.5 km west of the Town of Cardston, Alberta. The terrain is slightly undulating with a general slope to the northeast. An unnamed drainage course runs along the west-northwest side of the existing facilities, and then bends towards the east. This drain is collected by an unnamed tributary of Layton Creek.

On August 6, 2019, the NRCB issued Authorization LA19018 permitting the construction of an extension to the dairy barn (21.3 m x 24.4 m), a dry cow barn (45.7 m x 36.6 m), and a maternity barn (12.2 m x 21.3m). The construction completion deadline was set to be December 31, 2021. Bevans received an extension to this deadline to December 31, 2023.

To date, only the maternity barn has been built and inspected on April 7, 2022.

Bevans did not request an extension to the December 31, 2023, construction deadline prior to that date.

As per NRCB policy (Operational Policy 2015-1 Construction Deadlines, Part 4), if some permitted facilities have not been constructed and a request to amend the permit to extend the construction deadline has not been made, the approval officer is to use section 23 of AOPA to amend this permit on the approval officer's own motion to remove any unconstructed facilities.

As required under section 9 of the Administrative Procedures Regulation under AOPA, I advised the operator on March 11, 2024, of my intention to amend the permit to reflect what had been built to date. On March 14, 2024, Mr. Bevans phoned, stating that he thought the construction completion deadline was this year and that he still wants to build the outstanding facilities. Although I understand that Bevans' intent to construct these facilities remains, the policy is very clear on how I have to proceed in such circumstances. Because the construction completion deadline has passed without the applicant requesting a time extension to construct the facilities, the policy directs me to amend the permit to reflect what has been built within the permitted time (3 years plus a two year extension). Therefore, due to the passing of the construction completion deadline and failure to ask for a second extension prior to the deadline, I will amend Authorization LA19018 to reflect the facilities that have already been constructed. Any new construction will require the operator to apply for a new permit.

I am therefore amending Registration LA19005 on my own motion under section 23 of AOPA, to exclude the unconstructed dairy barn extension and proposed new dry cow barn from the permitted CFO facilities.

2. Terms and conditions

Authorization LA19018A specifies the permitted livestock capacity as:

- 85 dairy cows (plus associated dries and replacements)

and removes the permitted construction of the dairy barn extension and new dry cow barn.

For clarity and efficiency, and in accordance with NRCB policy, I am issuing a new authorization: LA19018A which supersedes and replaces authorization LA19018 (see NRCB Operational Policy 2016-7: *Approvals*, part 11.2). This is carried out under section 23 of AOPA, which enables approval officers to amend AOPA permits on their own motion.

Therefore, Authorization LA19018A contains all of the relevant terms from Authorization LA19018 except the construction conditions related to the dairy barn extension and new dry cow barn that were not constructed. All other existing facilities are listed in the appendix of Authorization LA19018A.

3. Conclusion

Authorization LA19018A is issued for the reasons provided above.

Bevan's NRCB-issued Authorization LA19018 is therefore superseded, unless Authorization LA19018A is held invalid following a review and decision by the NRCB's board members or by a court, in which case Authorization LA19018 will remain in effect.

April 23, 2024

(original signed)
Carina Weisbach
Approval Officer