

Decision Summary LA24034

This document summarizes my reasons for issuing Approval 24034 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA24034. 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 approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On July 16, 2024, Van Driel Farms Ltd (Van Driel) submitted a Part 1 application to the NRCB to expand an existing beef cattle CFO.

The Part 2 application was submitted on August 21, 2024. On August 28, 2024, I deemed the application complete.

The proposed expansion involves:

- Increasing livestock numbers from 5000 beef feeders to 5000 beef feeders and 1000 beef finishers
- Constructing two feedlot pens – (41.4 m x 109.7 m each (136 ft x 320 ft each))
- Constructing a catch basin (catch basin #5) – 40 m x 25 m x 2.5 m deep (adjusted dimensions)
- Expanding an existing catch basin (catch basin #4) from 20 m x 40 m x 3 m to the total dimensions of 25 m x 40 m x 3 m deep

In addition, Van Driel is also applying to gain permission to use an already constructed concrete manure transfer pit (6.1 m x 4.27 m x 1.83 m deep) that will convey manure contaminated runoff pooling in the northeast corner of the CFO to a catch basin.

During my site visit on October 18, 2024, I saw that the proposed catch basin #5 has already been constructed. The constructed dimensions are too small and will have to be adjusted to the above noted dimensions. Subsequent to my site visit, an NRCB inspector went to see Van Driel to discuss the unauthorized construction of the concrete pit and the catch basin (#5).

Compliance Directive CD 24-07 was issued on October 29, 2024, directing Van Driel to permanently close the unauthorized catch basin and unauthorized concrete manure runoff transfer pit if an NRCB permit for these structures has not been obtained.

a. Location

The existing CFO is located at NE 22-8-25 W4M in the Municipal District (MD) of Willow Creek, approximately four km southeast of the Town of Fort McLeod, Alberta. The topography of the area is rolling to undulating. The nearest common bodies of water are two ephemeral drainages, one 505 m to the north and the other 485 m to the south of the CFO.

b. Existing permits

Currently, the NRCB has issued Authorization LA23016 and Approval LA22031A. Collectively, these NRCB permits allow Van Driel to construct and operate a 5000 beef feeder CFO. The CFO's existing permitted facilities are listed in the appendix to the Approval LA24034.

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 and no other municipality's border is within the notification distance.

A copy of the application was sent to the MD of Willow Creek, which is the municipality where the CFO is located. Also, a copy of the application was sent to the Blood Tribe Kainaiwa because the border of I.R. 148 with the MD of Willow Creek is located within the specified distance.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in the Macleod Gazette newspaper in circulation in the community affected by the application on August 28, 2024, and
- sending 24 notification letters to people identified by the MD of Willow Creek as owning or residing on land within the notification distance.

The full application was made available for viewing at the NRCB Lethbridge 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.

Referral letters and a copy of the complete application were emailed to Alberta Environment and Protected Areas (EPA), Alberta Transportation & Economic Corridors (TEC), and the Lethbridge Northern Irrigation District.

I also sent a copy of the application to ATCO Gas who has a right of way on this land.

The NRCB received a response from:

- Ms. Leah Olson, a planning/development technologist with TEC who stated that a permit is not required from her department; and
- Bradley Calder, water administration technologist with EPA. Mr. Calder stated in his response that there are no open applications to EPA from this land location. He continued to state that Van Driel has a surface water license that may allow Van Driel to withdraw 6,250 m³ for the CFO. He also pointed out that there are no groundwater diversion authorizations or traditional agriculture registrations for this land location. Based on Mr. Calder's calculation, the existing license does not meet the current water needs of this CFO and he stated that it is unclear where the legal source of water is obtained from. He requested proof of a legal source of water prior to commencing construction of the proposed facilities. EPA's response was forwarded to Van Driel for his information and action. Van Driel sent me a copy of their water license but are reminded that it is their responsibility to obtain all applicable approvals and licenses for this expansion.

No other responses from referral agencies were received.

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.

As required by section 4(1) of the South Saskatchewan Regional Plan (SSRP), I considered that document's Strategic Plan and Implementation Plan and determined that the application is consistent with those plans. In addition, there are no notices or orders under the Regulatory Details portion of the SSRP that apply to this application.

5. Municipal Development Plan (MDP) consistency

I have determined that the proposed expansion is consistent with the land use provisions of the MD of Willow Creek'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 protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized 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 Willow Creek is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Cindy Chisholm, director of planning & development with the MD of Willow Creek (MD), provided two written responses on behalf of the MD. Ms. Chisholm stated that the application is not consistent with the MD of Willow Creek's land use provisions of the municipal development plan because the concrete pit and potentially the proposed new catch basin are within the road allowance and Van Driel will need to apply for a variance of the 75 ft setback from a municipal road allowance right of way for Township Road 84. The application's consistency with the land use provisions of the MD of Willow Creek's municipal development plan is addressed in Appendix A, attached. Ms. Chisholm informed me that Van Driel since submitted an application to the MD for a waiver of the road setback for the concrete runoff transfer pit which has now been granted (Development Permit 138-24 was issued on November 15, 2024).

On September 26, I sent an email to Ms. CloAnn Wells, a development officer with the Blood Tribe Kainai to inquire if they had any concerns with this application. On October 2, Ms. Wells requested another copy of the application which was sent the same day. The NRCB has not receive a response from the Blood Tribe to this date.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received a response from Mr. Byron Whitford on behalf of McNab Ranch Ltd, Stan McNab, and Jean McNab.

McNab Ranch Ltd, Stan McNab, and Jean McNab who submitted a joint response own or reside on land within the 1.5 mile notification distance for affected persons. Because of their location within this distance, and because they submitted a response, they qualify for directly affected party status. (See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1)

The directly affected parties raised concerns regarding detrimental impact on the environment, increase in invasive weeds, water quality and quantity, waste management, and unauthorized construction. 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. The proposed facilities meet AOPA requirements, and information on this file supports the assumption that risks to groundwater and surface water are low.

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.) 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, in 2006, the risk to groundwater and surface water posed by Van Driel's CFO was determined to be low as laid out in NRCB Board Review 06-01, page 15. In 2012 the feedlot pens in the northeast corner were reassessed because they have the highest potential to pose a risk to surface water and groundwater. The reasoning was that the pens do not have an AOPA approved liner and runoff pools in the northeast corner, flowing through a culvert underneath the approach and into the next quarter section which is crop land under the ownership of Van Driel. The assessment conducted in 2012 concluded that the risk to groundwater and surface water was low.

Although the feedlot pens in the northeast corner were determined to pose a low risk to surface water at that time, runoff from this part of the feedlot is not contained. In discussion with the operator, it was agreed that a concrete transfer pit is the best solution to prevent continuous pooling of manure contaminated runoff in this area by collecting all runoff from the contributing area in the northeast corner of the CFO and pump it into the uphill catch basin north of the dairy barn (now calf barn).

Subsequent to the above mentioned assessments, no new assessments for the existing facilities were done other than a new assessment of the new feedlot pens and catch basins in 2022 in conjunction with Approval LA22031 (later amended to Approval LA22031A). According to that assessment, those 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 2022 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.

Although road setbacks are an important tool for municipalities and are listed in the MD of Willow Creek's land use bylaw which is referenced in the MDP (section 9.1 of the MDP), I do not consider them as a land use provision in comparison to land use zoning determinations. Having said that, I recognize that there is a potential safety risk associated with CFO facilities that are located within road setbacks, and that safety is a key reason for road setbacks. To address this concern, I am including a condition in this approval that the concrete pit should be surrounded by a permanent safety barrier.

I have considered the effects the proposed CFO may have on natural resources administered by provincial departments. I was not made aware by any of the referral agencies that were notified of this application of any statements of concern submitted under section 73 of the *Environmental Protection and Enhancement Act* / section 109 of the *Water Act* in respect of the subject of this application or any written decision of the Environmental Appeals Board / the Director under the *Water Act* in respect of the subject of this application (checked on October 29, 2024, at <https://www.eab.gov.ab.ca/index.htm>).

Finally, I considered the effects of the proposed expansion on the environment, the economy, and the community, and the appropriate use of land.

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, and I did not receive any information otherwise. See Appendix B for further discussion.

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). The expansion is also a use consistent with the Rural General land use zoning. In my view, this presumption is not rebutted.

10. Terms and conditions

Approval LA24034 specifies the cumulative permitted livestock capacity as 5,000 beef feeders and 1,000 beef finishers and permits the construction of the additional feedlot pens (as per site plan included in Technical Document LA24034), the extension of catch basin #4, and the use of the concrete transfer pit and catch basin #5 (with adjusted dimensions).

Approval LA24034 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 LA24034 includes conditions that generally address construction deadlines, document submission, and 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 permits with Approval LA24034: Authorization LA23016 and Approval LA22031A (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. All conditions of these permits are carried forward into the new approval.

11. Conclusion

Approval LA24034 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA24034.

Van Driel's NRCB-issued Authorization LA23016 and Approval LA22031A are therefore superseded, and their content consolidated into this Approval LA24034, unless Approval LA24034 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Authorization LA23016 and Approval LA22031A will remain in effect.

November 19, 2024

(Original signed)
Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Determining directly affected party status and concerns raised
- C. Explanation of conditions in Approval LA24034

APPENDIX A: Consistency with municipal land use planning

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).

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 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 provisions are commonly referred to as “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.)

Van Driel’s CFO is located in the MD of Willow Creek and is therefore subject to that county’s MDP. The MD of Willow Creek adopted the latest revision to this plan in August 2019, under Bylaw #1841.

MD of Willow Creek Municipal Development Plan

Section 2 of the MD of Willow Creek’s MDP states that agriculture is a predominant land use in the MD though it also notes that it is important to balance other interests. Section 2 states that one of the main objectives of the MDP is to mitigate the siting of any CFOs to minimize conflicts with adjacent land uses. Policy 2.3 states that the MD shall establish guidelines with regards to the NRCB for the regulation and approval of CFOs within the MD. These guidelines are found in section 9.

I do not consider Section 2 and policy 2.3 to be “land use provisions.” Rather, I consider them to be a source of insight for the interpretation of the remaining portions of the MDP.

The MDP provisions relating to CFOs are in Section 9 Confined Feeding Operations / Intensive Livestock Operations.

Policy 9.1 of the MDP requests that the following setbacks are to be applied:

- a. The appropriate setbacks from the right-of-way of any public roadway which is not designated as a primary highway as established in the municipal LUB*

Road setbacks are likely not land use provisions in the sense that AOPA uses the concept in section 20(1)(a) or (b), which recognizes the higher-level land use planning of an MDP. Land use provisions provide generic directions about the acceptability of various land uses in specific areas. Specific siting rules such as roadway setbacks on the site are found more typically in land use bylaws and is more a condition related to the “site for a CFO” (a test or condition). Infringement into a road right of way setback is not an automatic basis for denying an application under AOPA. Having said that, this does not mean that AOPA disregards such matters as setbacks, which are an important expression of the municipality’s needs. Approval officers consider setbacks as a matter that would normally be considered if a development permit were being issued (section 20(1)(b)(i) AOPA) and can

tailor permit terms and conditions to respect the needs of the municipality in relation to the particular site (see discussion in section 9 above).

b. *As required by TEC for roads designated in the Memorandum of Agreement with the MD.*

As discussed in section 3 above, the application was sent to TEC for their review. TEC's response states that a permit from TEC is not required.

Policy 9.2 of the MDP directs the NRCB to consider six matters. These are quoted below, followed by my interpretation of how the provision is related to this application.

(a) the cumulative effect of a new approval on any area near other existing CFO's/ILO's

This policy is likely not a "land use provision", as it calls for project-specific, discretionary judgements about the types of cumulative effects that should be considered and the acceptable maximum levels of each of those effects.

In a 2011 decision, the NRCB Board stated that consideration of cumulative effects is "not within the Board's regulatory mandate. As a statutory decision maker, the Board takes its direction from the authorizing legislation. AOPA does not provide for cumulative effects assessment." (*Zealand Farms*, RFR 2011-02 at page 5).

For these reasons, I do not consider this MDP provision to be relevant to my MDP consistency determination.

(b) environmentally significant areas contained in the "Municipal District of Willow Creek: Environmentally Significant Areas in the Oldman River Region" report

Van Driel's CFO is very close to, but not within, an area designated as of national significance in the referenced report (Map 1 of the report).

The report also assessed the planning area for major physical constraints such as flood plains, aeolian sands, unstable slope potential, and areas of artesian flow. The map shows that the CFO is close to an area with aeolian sands. The drilling report in Technical Document LA24034 shows very fine sandy loam of lacustrine origin to a depth of 6.2 m. Hydraulic conductivity testing confirmed that the materials found at this location meet AOPA requirements for natural occurring protective layers.

(c) providing notice to adjacent landowners including applications for registrations or authorization

This is likely not a "land use provision" because of its procedural focus and thus, I do not consider it to be relevant to my MDP consistency determination. Nevertheless, as explained above, the NRCB sent out notification letters to people identified by the MD of Willow Creek as owning or residing on land within the notification distance of 1.5 miles and gave notice in the Macleod Gazette. Therefore, the application met the notification requirements of AOPA (Operational Policy 2016-7: *Approvals*, part 8.7).

(d) applying minimum distance separation calculations to all country residential development

I interpret “minimum distance separation” as referring to the minimum distance separation (MDS) requirements in section 3 and Schedule 1 of the *Standards and Administration Regulation* under AOPA. The MDS is met to all neighbouring residences.

(e) restricting development in the flood plain, floodway, the flood way fringe and flood prone, or hazard lands within or adjacent to any watercourse within the MD; and

Van Driel’s CFO is not located within a known flood plain, floodway, the floodway fringe and flood prone, or hazard lands as identified in the Alberta Environment and Protected Areas flood hazard website. Also, as illustrated in Technical Document LA24034, the CFO meets AOPA setbacks to common bodies of water. Based on this information, the application is consistent with this provision.

(f) restricting development in any wetland or riparian area

Van Driel’s CFO is not located in a wetland or riparian area, and it meets the AOPA setbacks to common bodies of water. Therefore, the application is consistent with this provision.

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

APPENDIX B: Determining directly affected party status and concerns raised

The following individuals qualify for directly affected party status because they submitted a response to the application and they own or reside on land within the “affected party radius,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation:

McNab Ranch Ltd, Stan McNab, and Jean McNab who own the adjacent quarter sections to the north of Van Driel Farms (S½ 27-8-25 W4M and S½ 26-8-25 W4M). See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1. For ease of reference, these directly affected parties will be referred to collectively as the McNabs.

Concerns raised

The directly affected parties raised the following concerns as discussed below. In addition, the McNabs also requested the inclusion of an extensive list of conditions that would satisfy their concerns. I will not discuss this list in detail other than in my analysis below. The reason for this is that the conditions included in this approval will ensure that the CFO facilities and manure handling practices meet AOPA requirements. Complaints about CFOs, including manure spreading and odour, can be reported to the NRCB’s 24-hour reporting line (1-866-383-6722) and an NRCB inspector will follow up on the concern.

Invasive Weeds

As explained by the McNabs, the native grasslands under their operation are objected to encroachment of invasive weeds from the adjacent farm (Van Driel) through runoff, manure management and manure handling. The influx and establishment of invasive weeds is detrimental to the sustainability of these grasslands. The McNabs continued to explain that these grasslands need to be preserved as cultural heritage and that invasive weeds are one of the primary threats to these lands.

AO analysis:

As explained in a conversation with Van Driel, the construction of the road (section road) between the two properties serves as a berm, preventing any runoff from reaching the McNab property. In addition, the construction of the runoff control mechanisms at Van Driel’s CFO are designed to capture all runoff from the feedlot pens, effectively preventing potential runoff from reaching any of the adjacent quarter sections, including the NW 23-8-25 W4M which is under Van Driel’s ownership.

The concern of invasive weeds distribution through manure spreading and manure handling is outside the scope of AOPA. The operator is encouraged to control any weed infestation on his land to prevent further spreading of these species.

Water scarcity

The McNabs are concerned about further draw on the local water resources.

AO analysis:

Van Driel provided the NRCB with a copy of an existing surface water license for this land location. Because water licencing is outside the jurisdiction of the NRCB and is solely regulated by EPA, I will not further discuss this issue. However, should Van Driel need more water than is

allowed in the existing water licence, Van Driel should get into contact with EPA to ensure all water needs for the permitted livestock have been met.

Water quality

The McNabs are also concerned about the contamination of surface water and groundwater through runoff and nutrients leaching into surrounding water sources. They continued to analyze the methods used to investigate the hydraulic conductivity of the soils that lead to the conclusion that the present soil materials in this area meet AOPA's requirements for natural occurring protective layers and requested further testing.

The McNabs also indicated that the testing done in the winter of 2016 is outdated and should be done within the past three years of the application. It should also include current groundwater tests (pump tests at this CFO).

They also requested the installation of monitoring wells at the site and surrounding manure spreading lands with annual testing in addition to a runoff control system designed by an engineer.

AO analysis:

The soil investigation was conducted by a professional engineer who is registered with APEGA (Association of Professional Engineers and Geoscientist of Alberta) as a geotechnical engineer. I do not have any reason to doubt the conclusions of this investigation nor do approval officers generally conduct their own data gathering (Approval Policy section 3.5).

In respect to the drilling results and the accuracy of older reports, I would like to point out that although the depth of water table can change depending on various factors such as climate, the soils present at this site do not change over time. At the time of drilling, the water table was below the drilling zone of 6.2 m, and with that, in excess of 1 m below the construction zone as required under AOPA (Section 9 (2)(a) Standards and Administration Regulation, AOPA). To ensure that this requirement has been met, I will include a condition requiring Van Driel to cease construction and report immediately to the NRCB should the water table be within one meter of the construction zone during the construction of the new facilities.

In addition, the aforementioned suggestion to conduct pump tests to analyze groundwater seemed to be on the assumption that there are groundwater wells. However, there are no groundwater wells at this land location. There were two attempts (test holes) to see if groundwater is present but were decommissioned as indicated in EPA water well database (water well ID 1250098 and 1250099). Currently, Van Driel relies on water resources covered by an existing surface water licence (as discussed above). I conclude that the soil testing undertaken by the retained engineer satisfy AOPA requirements to prove that a natural occurring protective layer is present at this CFO. Furthermore, facilities that pose a low risk to groundwater do not require groundwater monitoring or leak detection groundwater monitoring.

Again, there are no water wells located within the listed manure spreading lands. In order to prevent nutrients from leaching into deeper soil horizons and subsequent leakage into groundwater resources, operators have to follow strict soil testing regimes as laid out in sections 22 – 27 of the Standards and Administration Regulation of AOPA, to prevent nutrient loading and subsequent leaching of nutrients in groundwater resources. This is an ongoing condition, as stated in the opening paragraph in this permit that states: *"The permit holder shall comply with the requirements of the Agricultural Operation Practices Act (AOPA) and the regulations passed pursuant to that Act."*

The runoff control system at this CFO is comprised of several runoff control catch basins. The location of the catch basins was determined by the operator who has the best knowledge of surface water flow at this site. The volume calculation is based on the area contributing runoff to each individual catch basin. The total volume has to be able to accommodate a 1 in 30 year rainfall event as laid out in Table 1 and 2 of Schedule 2 of the Standards and Administration Regulation. As explained in Technical Document LA24034 the catch basins have sufficient volume to accommodate the required runoff volume.

Waste management

The McNabs are concerned about the availability of sufficient manure spreading lands needed for this size of CFO and added that the manure spreading lands listed in the application will not provide the acres needed. They suggested that the lands indicated as available is an overestimation of actual available land base which is in their opinion more like 450 acres. They continued that it would be appropriate to develop a detailed nutrient management plan and manure handling plan to ensure that AOPA requirements are met.

AO analysis:

The manure production and required land base at this CFO is calculated using the numbers provided in the Manure Characteristics and Land Base Code which is part of AOPA (Agdex 096-8; see also section 2.1 of the Standards and Administration Regulation). Based on this calculation, Van Driel will need 647 acres of irrigated land. Van Driel has listed a total of 895 of irrigated land. Adjusting to usable lands, 720 acres of irrigated land will be available for manure spreading. This satisfies this requirement. As laid out in Part 2 General Administration Matters, the operator has to keep records where manure has been applied as well as do regular soil testing according to Schedule 3, entitled Nutrient Management and Determination of Land Base (see previous analysis).

NRCB process

The McNabs commented that some of the proposed facilities in this application have already been constructed which does not allow an accurate review of any application and to voice concerns. The McNabs requested that any further development goes through proper process prior to construction.

AO analysis:

It is correct that Van Driel has constructed the concrete pit and catch basin #5 listed in this application prior to submitting the application. As explained in section 1, the construction was reported to the compliance division of the NRCB which subsequently issued Compliance Directive CD 24-07 (see section 1 above). Generally, I would like to point out that unauthorized construction is unfortunate. But that does not, under any circumstances, preclude these CFO facilities from having to meet all AOPA requirements including liner requirements. The analysis if they meet all AOPA requirements includes the consideration of any concerns that directly affected parties might bring forward. If it has been determined that an unauthorized facility does not meet these requirements it will not be authorized for use and must be removed.

APPENDIX C: Explanation of conditions in Approval LA24034

Approval LA24034 includes several conditions, discussed below, and carries forward all conditions from Approval LA22031A and Authorization LA23016. Construction conditions from historical permits that have been met are identified in the appendix to Approval LA24034.

1. New conditions in Approval LA24034

a. Permanent barrier around the concrete pit

In order to address possible safety issues due to the location of the concrete pit, I included a condition requiring the permit holder to install a permanent safety barrier around the concrete pit.

b. Construction deadline

Van Driel proposes to complete construction of the proposed new feedlot pens, new catch basin (#4), catch basin expansion and manure transfer pit by August 20, 2025. This timeframe seems a little short for the proposed scope of work. Therefore, the alternative deadline of December 31, 2026, will be included as a condition in Approval LA24034 to allow for any unforeseen circumstances preventing construction.

c. Water table

As explained in Appendix B, in order to address the concerns of the McNabs about fluctuating groundwater (water table in this case), I will include a condition requiring Van Driel to immediately notify the NRCB should they be within 1 m of the water table during the construction of catch basin #5 and the extension of catch basin #4 as per Section 9(2) of the *Standards and Administration Regulation* under the *Agricultural Operation Practices Act* (AOPA) that requires the bottom of the manure storage facility or manure collection area to be not less than one metre above the water table of the site “at the time of construction.”

d. 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 LA24034 includes conditions requiring:

- a. Van Driel to provide written confirmation from a qualified third party that catch basin #5, the final dimensions of catch basin #4, and the additional feedlot pens are constructed as specified in this permit.

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 LA24034 includes conditions stating that Van Driel shall not place livestock, manure, or manure contaminated runoff in the manure storage or collection portions of the new facilities until NRCB personnel have inspected the facilities and confirmed in writing that they meet the approval requirements.