

## Decision Summary LA25002

This document summarizes my reasons for issuing Approval LA25002 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25002. 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 2, 2025, Prairie View Feeders Ltd. (Prairie View) submitted a Part 1 application to the NRCB to expand an existing beef CFO.

The Part 2 application was submitted on February 10, 2025. On February 18, 2025, I deemed the application complete.

The proposed expansion involves:

- Adding 2,000 beef finishers
- Constructing 6 feedlot pens – total dimensions 298.7 m x 68.9 m
- Constructing a catch basin – 25 m x 55 m x 4 m deep

#### a. Location

The existing CFO is located at NW 22-10-22 W4M in Lethbridge County, roughly 6 km northwest of the hamlet of Diamond City. The terrain is flat. The nearest common body of water is Park Lake, 2.8 km south of the CFO.

#### b. Existing permits

The CFO is currently permitted under NRCB Approval LA24018. This permit allows the construction and operation of a 4,000 head beef feeder CFO. The CFO's existing permitted facilities are listed in the appendix to the Approval LA25002.

### 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 is within the notification radius.

A copy of the application was sent to Lethbridge County, 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 Sunny South News newspaper in circulation in the community affected by the application on February 18, 2025, and
- sending 47 notification letters to people identified by Lethbridge County 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.

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

I also sent a copy of the application to ATCO Gas, Alpha Bow Energy Ltd., and Lethbridge North County Potable Water Co-op Ltd. who have utilities right of ways on this land location.

In their response, a water administration technologist with EPA, noted that Prairie View chose “Option 2: Processing the AOPA permit and Water Act license separately” to meet the water requirements of the proposed expansion. When contacted, Prairie View informed EPA that they would be applying for more water through the LNID.

In their response, the LNID stated that they do not oppose the application. They provided the water required for the proposed expansion and payment terms. Additionally, they stated that the required setback to all LNID pipeline rights-of-way is 15 m from the outside boundary. The LNID Lateral E1 pipeline is within close proximity to the proposed pens and catch basin and will require verification of the setback distance from the LNID.

These responses were discussed with the applicant for their information and action.

No other responses 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 Lethbridge County'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 nearby residences, with one exception (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS). The owner of that residence has signed a written waiver of the MDS requirement to their residence
- 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 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." Lethbridge County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Hilary Janzen, a manager, planning and development with Lethbridge County, provided a written response on behalf of Lethbridge County. Ms. Janzen stated that the application is consistent with Lethbridge County's land use provisions of the municipal development plan. She also stated that the proposed expansion is not within an intermunicipal development plan or area structure plan area. The application's consistency with the land use provisions of Lethbridge County's municipal development plan is addressed in Appendix A, attached.

Ms. Janzen also stated that it appears that the existing feedlot pens do not meet the development setback to the centre line of the county road right-of-way (Township 10-4), and that the location of the proposed feedlot pens also appear to not meet the setback. Ms. Janzen said the maps did not adequately illustrate the proximity. Some of the existing feedlot pens were permitted as a deemed permit (grandfathered), and the others were permitted under Approval LA19006. At the time LA19006 was issued, the County and the approval officer concluded that the road setbacks at that time were met. For the proposed pens, as explained in Appendix A, an MDP provision referring to setbacks in a land use bylaw is likely not a land use provision. However, the NRCB may address setbacks through conditions (see discussion part 9 and Appendix B of this decision summary).

The NRCB considers a person who owns a residence within the MDS of the CFO, and who waives the MDS requirements in writing to be automatically considered a directly affected (See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1). Anthony and Nella Slingerland provided an MDS waiver and are a directly affected party.

No responses were received from any other person, organization, or member of the public.

## **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. In this case, it is not clear whether the catch basin, proposed to be 4 m deep, will meet the water table requirement at the time of construction. As part of my review of this application, I assessed the risk to the environment posed by the CFO's proposed manure storage facilities and manure collection areas. I used the NRCB's environmental risk screening tool (ERST) to assist in my assessment of risk to surface water and groundwater (see NRCB Operational Policy 2016-7: *Approvals*, part 9.17). The tool provides for a numeric scoring of risks, which can fall within 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).)

For the sake of efficiency, I first assessed the proposed catch basin using the ERST. This appears to be the CFO's highest risk facility as it will be below grade and will store manure contaminated run-off. The assessment found that the catch basin poses a low potential risk to groundwater and surface water. Because this is the CFO's highest risk facility, I presume that the CFO's other existing facilities also pose a low potential risk to both groundwater and surface water. From a review of other information gathered in the course of this application, I am satisfied that the screening provided by the ERST is adequate and that the presumption is not rebutted. Nevertheless, I have included conditions requiring that the construction of the catch basin be supervised by an engineer and to cease construction immediately if the water table is encountered during construction. These conditions are explained in Appendix B.

## **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.

As mentioned above in part 7, Ms. Hilary Janzen listed the setbacks required by Lethbridge County's land use bylaw (LUB) and noted that the application appears to not meet the setbacks to the county road. Upon receiving this response, Prairie View has been in contact with the county and is in the process of applying for a setback waiver. I have not received a setback waiver from Lethbridge County yet, therefore I have included a condition that the proposed feedlot pens must meet the 38.1 m setback to the county road right-of-way centreline, unless they obtain a waiver (see Appendix B).

I have also considered the effects the proposed expansion may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concerns submitted under section 73 of the *Environmental Protection and Enhancement Act* or under section 109 of the *Water Act* in respect of the subject of this application.

I am not aware of a written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>, accessed March 27, 2025).

Finally, I considered the effects of the proposed CFO 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, responses from Lethbridge County, submissions from directly affected parties, and my own observations from site visits.

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 (subject to water table depth at the time of construction). 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 expansion is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted (see discussion of the MDP in Appendix A).

I also presumed that the proposed CFO 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 addition, the land where the CFO is located is zoned Rural Agricultural. In my view, particularly with the addition of the condition related to the road setback, this presumption is not rebutted.

## **10. Terms and conditions**

Approval LA25002 specifies the cumulative permitted livestock capacity as 2,000 beef finishers and 4,000 beef feeders and permits the construction of the six new feedlot pens and catch basin.

Approval LA25002 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 LA25002 includes conditions that generally address setbacks, construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

For clarity, and pursuant to NRCB policy, I consolidated the following permit with Approval LA25002: Approval LA24018 (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 B discusses which conditions from the historical permits are or are not carried forward into the new approval.

## **11. Conclusion**

Approval LA25002 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25002.

Prairie View's NRCB-issued Approval LA24018 is therefore superseded, and its content consolidated into this Approval LA25002, unless Approval LA25002 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA24018 will remain in effect.

April 14, 2025

(Original signed)  
Kailee Davis  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Approval LA25002

## **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.)

Prairie View’s CFO is located in Lethbridge County and is therefore subject to that county’s MDP. Lethbridge County adopted the latest revision to this plan on March 10, 2022, under Bylaw #22-001.

The policies pertaining to CFOs are in part 4, section 3 “Intensive Livestock/Confined Feeding Operations.”

Section 3.0 states that the county is supportive of CFOs in areas that are less prone to conflict and where municipal infrastructure can support such developments.

This is likely not a land use provision as it is subjective what can or cannot be supported by municipal infrastructure and that is not within NRCB’s discretion.

Section 3.1 and 3.2 states that new CFOs are not permitted in the MDP CFO exclusion areas (Maps 2A and 2B), IDP CFO exclusions areas, or in CFO exclusion zones of high density residential growth centres.

This application is not for a new CFO. Regardless, the proposed expansion is not in any exclusion areas identified in these policies and is therefore consistent with this policy.

Section 3.3 states that existing operations within an urban fringe district may be permitted to expand or make improvements with consideration to any IDP that allows for such.

The proposed expansion is not within an urban fringe district and is therefore consistent with this policy.

Section 3.4 pertains to the consistency of CFO exclusion zones across the county’s planning documents.

This policy is procedural in nature and is not a land use provision. Therefore, it is not relevant to my MDP consistency determination.

Section 3.5 states that CFOs shall not be supported to establish or expand within environmentally sensitive areas identified in the *Cotton Wood Report: County of Lethbridge: Environmentally Significant Areas in the Oldman River Region (1987)*.

The proposed expansion is not located within any environmentally sensitive areas identified in that report and is therefore consistent with this policy.

Section 3.6 states that “no part of a CFO building, structure, corrals, compost area, or stockpile is to be located within the property line and public roadway setbacks, including provincial highways, as outlined in the municipal Land Use Bylaw.”

The response provided on behalf of Lethbridge County states that the proposed pens appear to be within the development setback to county roads.

In my view, Section 3.6 is a granular, site-specific setback, is a “test or condition,” and is not a land use provision relevant to MDP consistency. However, recognizing that setbacks to roads can be an important municipal tool, I have included a condition that the proposed pens must meet the 38.1 m setback to township road 10-4 or be waived by the County.

Section 3.7 states that CFOs are discretionary uses only in areas zoned as Rural Agriculture with a minimum parcel size of 80 acres.

As noted in Lethbridge County’s response, the parcel is zoned Rural Agricultural and is therefore consistent with this part of the policy.

The minimum parcel size stipulation is a condition for the site of a CFO and is not a land use provision. Section 20(1.1) of AOPA states that Approval Officers shall not consider provisions respecting tests of conditions related to the site of a CFO. Nevertheless, the application is consistent with this part of the policy.

Sections 3.8, 3.9, 3.10, and 3.11 discuss CFO operational practices with respect to AOPA, manure spreading, the use of a reciprocal MDS, and collaboration with the NRCB, respectively.

These policies are not land use provisions (test or condition, not applicable, procedural) and therefore not relevant to my MDP consistency determination.

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



## **APPENDIX B: Explanation of conditions in Approval LA25002**

Approval LA25002 includes several conditions, discussed below. Construction conditions from historical permits that have been met are identified in the appendix to Approval LA25002.

### **a. Construction above the water table**

Sections 9(2) of the *Standards and Administration Regulation* under the *Agricultural Operation Practices Act* (AOPA) 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.”

It is noted in the subsoil investigation report included with the application that minor perched groundwater was encountered in one of the boreholes, but that it is not a groundwater resource. This is likely the water table approximately 1.6 m below grade. The bottom of the catch basin is proposed to be 4 m below grade.

Based on this information, the proposed catch basin may not meet the one metre requirement of section 9(2). However, because the height of the water table can vary over time, the lack of adequate depth to water table indicated in Prairie View’s report does not mean that there will be an inadequate depth at the time of construction. To address this variability and ensure that the depth requirement is met at the time of construction, conditions are included requiring Prairie View to cease construction and notify the NRCB immediately if the water table is encountered during construction, in addition to a construction completion report signed by an engineer confirming that the water table was not observed at the time of construction.

### **b. Groundwater protection requirements**

Prairie View proposes to construct the new catch basins with a 3.1 metre thick naturally occurring protective layer. Section 9 of AOPA’s *Standards and Administration Regulation* specifies a maximum hydraulic conductivity for this type of protective layer in order to minimize leakage.

The hydraulic conductivity of the protective layer was measured by installing a monitoring well at the time of borehole drilling. This approach provides an adequate representation of the protective layer proposed to be used to protect the groundwater resource.

The regulations provide that the actual hydraulic conductivity of a 5 metre thick naturally occurring protective layer for a catch basin must not be greater than  $1 \times 10^{-6}$  cm/sec. In this case, the in-situ measurement was  $1.0 \times 10^{-8}$  cm/s. This value is below the maximum value in the regulations. Therefore, the proposed naturally occurring protective layer exceeds the hydraulic conductivity requirement in the regulations.

To provide additional assurance that the as-built catch basins adequately protect groundwater, Approval LA25002 includes conditions requiring Prairie View to provide an engineer’s completion report certifying that the catch basins were constructed at the proposed locations with the proposed dimensions, and that any sandy areas in the catch basins are over excavated and re-packed.

### **c. Construction deadline**

Prairie View proposes to complete construction of the proposed feedlot pens and catch basin by December 31, 2025. This time-frame is not considered to be reasonable for the proposed scope of work because of the uncertainty of contractor and supply availability. The deadline of December 1, 2027 is included as a condition in Approval LA25002.

### **d. County road setback**

The development setback to a county road right-of-way, for lands zoned Rural Agriculture in Lethbridge County's Land Use Bylaw, is 38.1m. As mentioned in part 7 and in Appendix A under discussion of Section 3.6 of the MDP, I am adding a condition requiring Prairie View to provide written confirmation, from a professional surveyor, that the feedlot pens are located at least 38.1 m from the centre of Township Road 10-4. Alternatively, Prairie View may provide a setback waiver from Lethbridge County stating that the feedlot pens can encroach on the development setback to the road. Section 20(1)(b)(i) of AOPA requires me to consider matters that would normally be considered if a development permit were being issued, and a road setback is one of those matters. I am authorized to impose a condition like this under section 20(3) AOPA, which allows me to impose terms and conditions that a municipality could impose if the municipality were issuing a development permit.

### **e. 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 LA25002 includes a condition requiring the permit holder provides written confirmation from a qualified third party confirming the final constructed dimensions of the catch basin.

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 LA25002 includes conditions stating that Prairie View shall not place livestock or manure in the feedlot pens and shall not allow manure contaminated run off to enter the catch basin until NRCB personnel have inspected the facilities and confirmed in writing that they meet the approval requirements.