

## Decision Summary LA24017

This document summarizes my reasons for issuing Approval LA24017 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA24017. 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 April 4, 2024, Westview Feeders Ltd. (Westview Feeders) submitted a Part 1 application to the NRCB to expand an existing beef CFO and asked for a six month extension to submit the Part 2 which was granted.

The Part 2 application was submitted on March 4, 2025. On March 11, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing beef feeder numbers from 2,500 to 3,500
- Constructing 6 feedlot pens – 41.5 m x 57.9 each (136 ft. x 190 ft. each)
- Constructing a catch basin – 40 m x 50 m x 3 m deep

#### a. Location

The existing CFO is located at NW 4-10-23 W4M in Lethbridge County, roughly 2.8 km east of the village of Monarch. The terrain is mainly flat with a slight slope to the southeast. The Oldman River is one km to the south.

#### b. Existing permits

As the CFO existed on January 1, 2002, the CFO is grandfathered with a deemed approval under section 18.1 of AOPA. That deemed permits include Lethbridge County MD Permits 93-173 issued January 22, 1994, and 99-69, issued July 13, 1999. The first permit allowed an expansion of an existing beef feedlot by an additional 500 head. It is not clarified if these are feeder or finisher cattle. The second permit allowed a second expansion by an additional 1000 head, also not defined. Together those two deemed permits allow for the construction and operation of a CFO with a minimum of 1,500 beef feeders. The determination of the CFO's deemed permit status under section 18.1 of AOPA is explained in Appendix B attached. The deemed facilities are listed in the appendix to the Approval LA24017.

### 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 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 Sunny South News newspaper in circulation in the community affected by the application on March 11, 2025, and
- sending 35 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), Alberta Transportation & Economic Corridors (TEC), and the Lethbridge Northern Irrigation District (LNID).

I also sent a copy of the application to Atco Gas & Pipelines Ltd., and Lethbridge North County Potable Water Coop Ltd. who are right of way holders on this land.

The NRCB also received a response from:

- Ms. Leah Olson, a development and planning technologist with TEC. In her response, she stated that a development permit is required. No other concerns were raised. Westview applied for a ‘development permit in proximity of a provincial highway’ which was approved on March 12, 2025.
- Ms. Adriane Gomes Preissler, a water administration technologist with EPA. In her response, Ms. Gomes Preissler stated that the attached water use agreement may cover the additional water needs and added that it is the operator’s responsibility to ensure that sufficient water is available.
- TC Energy – B&A Studios Inc., a planning consultant with TC Energy, stated in their response that TC has no comments or concerns with this proposal.
- A representative of the LNID stated that the existing water conveyance agreement is

sufficient for the proposed increase. No other comments or concerns were included in the response.

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 two exceptions (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS). The owners of those residences have 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

#### **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 of 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. The application's consistency with the land use provisions of Lethbridge County's municipal development plan is addressed in Appendix A, attached.

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 directly affected (See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1). John and Joan Oskam, and Jacob, Wayne and Glen Wever provided MDS waivers and are directly affected parties.

## 8. Environmental risk of CFO facilities

As part of my review of this application, I assessed the risk to the environment posed by the CFO's existing 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).)

The assessment found that the existing feedlot pens pose a low potential risk to groundwater and surface water.

In addition, I also assessed the proposed new feedlot pens and catch basin, using the ERST, and determined that they also pose a low risk to groundwater and surface water.

## 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. Janzen also listed the setbacks required by Lethbridge County's land use bylaw (LUB) and noted that the application appears to meet these setbacks.

I have considered the effects the proposed CFO expansion may have on natural resources administered by provincial departments. I was not made aware by EPA about any concerns 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 decisions made by the Environmental Appeals Board / the Director under the *Water Act* in respect of the subject of this application (<http://www.eab.gov.ab.ca/status.htm>, accessed April 14, 2025).

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 in the environment are acceptable because the application meets all of AOPA's technical requirements. 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 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). In my view, this presumption is not rebutted.

## **10. Terms and conditions**

Approval LA24017 specifies the cumulative permitted livestock capacity as 3,500 beef feeders and permits the construction of the 6 feedlot pens and catch basin.

Approval LA24017 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 LA24017 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 LA24017: Lethbridge County MD Permits 93-173 and 99-69. 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 LA24017 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA24017.

Westview Feeders' deemed approval, including municipal development permits # 99-69 and # 93-173 are therefore superseded, and their content consolidated into this Approval LA24017, unless Approval LA24017 is held invalid following a review and decision by the NRCB's board members or by a court, in which case the deemed approval and MD Permits 99-69 and 93-173 will remain in effect.

April 17, 2025

(Original signed)  
Carina Weisbach  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Determination of deemed permit status
- C. Explanation of conditions in Approval LA24017

## **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.)

Westview Feeders’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 in March 2022, under Bylaw #22-001.

The relevant section of this MDP is Section 3 – Intensive Livestock/Confined Feeding Operations.

Policy 3.0 is speaking about the circumstance under which CFO development is supported by the county.

This policy is rather vague, and I do not consider this a land use provision that I can consider.

Policy 3.1 states that new CFOs are not permitted to be established within the CFO exclusion zone (Map 2).

This CFO is an existing CFO and is not located within any of the exclusion zones. This application is therefore consistent with this policy.

Policy 3.2 states that that new CFOs shall not be supported within the CFO exclusion areas in identified higher density residential growth centers or within a CFO exclusion area identified in an intermunicipal development plan (IDP).

This CFO is an existing CFO. In addition, it is not located within any of those areas.

Policy 3.3 states that existing CFOs are allowed to expand if they are located within an CFO exclusion area if the IDP allows for such.

Again, this CFO is not located within a CFO exclusion area and no IDPs apply to this location.

Policy 3.4 speaks on procedures concerning the municipality itself.

I do not interpret this a land use provision that I can consider in my consistency determination.

Policy 3.5 states that CFOs shall not establish or expand if they are located in any of the environmentally sensitive areas as identified in the Cotton Wood Report: County of Lethbridge: Environmentally Significant Areas in the Oldman River region (1987).

This CFO is not located within any of these areas. This application is therefore consistent with this policy.

Policy 3.6 states that no MSF/MCA shall be located within any of the setbacks as outlined in the land use bylaw.

Although this policy could be interpreted as dictating the siting of a CFO facility, something that I am not allowed to consider according to section 20(1.1) AOPA, all proposed facilities meet these setbacks. A waiver has been obtained from TEC, waiving the mandatory 800 m setback from a provincial highway.

Policy 3.7 states that CFOs are only allowed in lands zoned as 'Rural Agriculture' but prohibited in all other areas. It then continues to state that CFOs shall not be established on parcels smaller than 80 acres.

Under section 20(1.1) AOPA, I am not allowed to consider any provisions respecting tests or conditions related to the site for an MSF or MCA. I interpret this provision as such.

Policy 3.8 states that existing CFOs are allowed to continue to operate if they operate within AOPA requirements.

I do not consider this a land use provision and am therefore not able to include this section in my MDP consistency determination.

Policy 3.9 requests the consistent application and enforcement of AOPA regulations in respect to manure spreading.

I do not interpret this as being a land use provision. I will therefore not include this section in my MDP consistency determination.

Policy 3.10 speaks on the implementation of a reciprocal MDS.

Because this is a matter regulated by the county, I will not include this policy in my MDP consistency determination.

Based on my analysis outlined above and supported by the comments from Lethbridge County, I determined that this application is consistent with all applicable MDP provisions.

## **APPENDIX B: Determination of deemed permit status**

Westview Feeders claims that its CFO is grandfathered (that is, it has a “deemed” permit) under section 18.1 of AOPA. I am treating that as a request for a determination of deemed permit status. A grandfathering determination is necessary in this case because it is necessary to determine which footprint is grandfathered and, therefore, is exempt from having to meet AOPA regulations under section 20(1.2) of AOPA). See NRCB Operational Policy 2023-1: *Grandfathering (Deemed Permit)*, part 3.1.

Under section 11(1) of the Administrative Procedures Regulation under AOPA, because I am cross-appointed as an NRCB inspector, I conducted an investigation into the deemed permit status of the CFO.

The CFO has two permits issued by Lethbridge County: MD Permit 93-173 issued January 22, 1994, upon a review hearing that stated that the existing permitted animal numbers are 300 head of hogs and 1,000 head of cattle. On July 13, 1999, MD Permit 99-69, was issued. The first permit allowed an expansion of an existing beef feedlot by an additional 500 head. It is not clarified whether these are feeder or finisher cattle. The second permit allowed a second expansion by an additional 1000 head, also not defined. Together those two deemed permits allow for the construction and operation of a CFO with a minimum of 1,500 beef feeders.

Under section 18.1(2)(b) of AOPA, if a CFO existed on January 1, 2002, with a municipal permit that does not specify the CFO’s total livestock capacity, then the deemed livestock capacity of the CFO is the capacity of its enclosures to confine livestock on January 1, 2002.

### Notice:

As this is an application for an expansion of an existing CFO, public notice was given as required under section 5 of the Administrative Procedures Regulation. The public notice included the invite for public input on the capacity of the CFO on January 1, 2002. In addition, notification letters were sent to anyone identified by Lethbridge County of living within the 1.5 mile notification distance. The distance is based on the animal numbers applied for in this application.

In response to notice of the grandfathering determination, I did not receive any submissions relating to the capacity of the enclosures on January 1, 2002.

### Findings:

Because this was an application for an expansion, I only determined if the existing facility have changed since January 1, 2002, but did not determine the exact capacity using Technical Guideline Agdex 096-81 Calculator for Determining Livestock Capacity of Operations as They Existed on January 1, 2002. At any rate, based on the comments provided in the documents from the appeal hearing, the CFO was permitted by 1,000 head of cattle prior to receiving the subsequent two municipal permits. Together the capacity would be 2,500 head of cattle.

Based on aerial photos, I was able to establish that the facilities have not changed since January 1, 2002. These facilities are therefore grandfathered and listed in the appendix of this approval.



## **APPENDIX C: Explanation of conditions in Approval LA24017**

Approval LA24017 includes several conditions, discussed below, and carries forward a number of conditions from municipal development permits # 93-173 and # 99-69 (see section 2 of this appendix). Construction conditions from historical municipal development permits # 93-173 and # 99-69 are in the appendix to Approval LA24017.

### **1. New conditions in Approval LA24017**

#### **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.”

Based on this information, the proposed catch basin does not meet the one metre requirement of sections 9(2). However, because the height of the water table can vary over time, the lack of adequate depth to water table indicated in Westview Feeders' 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, a condition is included requiring Westview Feeders to cease construction and notify the NRCB immediately if the water table is encountered during construction.

#### **b. Construction deadline**

Westview Feeders proposes to complete construction of the proposed new catch basin and 6 feedlot pens by December 31, 2027. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of December 31, 2027, is included as a condition in Approval LA24017.

#### **c. 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 LA24017 includes conditions requiring:

- i. Westview Feeders to provide evidence or written confirmation from a qualified third party that the catch basin has been constructed with the dimensions specified in this approval.

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 LA24017 includes a condition stating that Westview Feeders shall not place livestock or manure in the manure storage or collection portions of the new feedlot pens nor allow manure contaminated runoff to enter the catch basin until NRCB personnel have inspected the catch basin and feedlot pens and confirmed in writing that they meet the approval requirements.

## **2. Conditions not carried forward from municipal development permits # 93-173 and # 99-69**

Approval LA24017 includes the terms and conditions in municipal development permit #93-173 and #99-69, except those noted below.

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that conditions 3, and 5 to 7 from municipal development permit #93-173, and conditions 6 and 7 from municipal development permit #99-96, should be deleted and therefore are not carried forward to Approval LA24017. My reasons for deleting these conditions are as follows:

### **Municipal development permit # 93-173**

Condition 3 states “that the applicant shall restrict further development of the feedlot in the future to south of the existing facility.”

This application was to construct additional feedlot pens to the south. As stated in the section 3 above, the application was sent to Lethbridge County for their analysis and comments. The county did not state or confirm any such restrictions. In addition, Westview Feeders also obtained a permit from TEC, allowing development within the applicable setbacks from the provincial highway system. Because the waiver has been issued and the county did not reiterate or comment on this restriction, I will not carry this condition forward into the new approval.

Condition 5 states:” Deads should be disposed of in a prompt an acceptable manner

The disposal of deads is regulated by Alberta Agriculture and Irrigation under the *Animal Health Act* and outside NRCB jurisdiction. The *Animal Health Act* lays out the time period and manner in which dead animals should be disposed of today. These instructions are more prescriptive than the rather vague term ‘acceptable manner’. Therefore, I will not carry this condition forward and would like to remind the operator to adhere to the regulations in the *Animal Health Act*.

Condition 6 states:” manure should not be stockpiled for extensive periods of time, rather, pens cleaned, land spread and incorporated.”

This condition is rather vague in respect to siting of such manure piles and the time frame that these sites can be used. In comparison, Section 5 – Short term manure storage, Standards and Administration Regulation, AOPA details how manure can be stored in areas that are not permitted as long-term manure storage sites. Therefore, this condition will be replaced with the terms stated in the opening paragraph in this permit that states that the permit holder must adhere to AOPA and its regulations.

Condition 7: All surface drainage from feedlot should be contained on the owners land, in the immediate area of the feedlot.

The Westview Feeders proposed the construction of a runoff control catch basin. This catch basin is sized to capture all runoff generated by this CFO as required under the regulations. This condition is therefore redundant. Furthermore, the release of manure contaminated runoff poses several problems, one of them being the accumulation of nutrients in specific areas of the field. These levels may exceed the nutrient limits stated in section 24 – Manure application limits, Standards and Administration Regulation, AOPA and would be in contravention with this regulation.

### **Municipal development permit # 99-69**

Condition 6 states: "A specific site must be selected and maintained for dead animal storage. It must have good drainage, be easily accessible and out of view by the general public. Disposal is to be done by rendering truck."

Although this condition is quite specific, dead animal disposal is not regulated by the NRCB under AOPA but directly by Alberta Agriculture and Irrigation under the Animal Health Act. For that reason, I believe that concurrent oversight would lead to unnecessary confusion. Therefore, this condition will be deleted and not carried forward into the new approval.

Condition 7 states: "The B.M.P. Agreement submitted in support of the application shall be adhered to."

This condition is redundant and is replaced by the terms and conditions in the opening paragraph of this permit that states that the permit holder shall adhere to AOPA and its regulations.