

## Decision Summary LA25019

This document summarizes my reasons for issuing Approval LA25019 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25019. 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 February 27, 2025, Hutterian Brethren Church of Jumbo Valley (Jumbo Valley Colony) submitted a Part 1 application to the NRCB to expand an existing multi species CFO.

The Part 2 application was submitted on March 3, 2025. On March 12, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing milking cow numbers from 250 to 475 milking cows (plus associated dries and replacements)
- constructing a dairy barn (pt. 1 – 87.0 m x 64.0 m) (pt 2 – 79.2 m x 33.5 m)
- constructing a sand lain/sand storage building (78.3 m x 21.3 m) that includes 4 in-barn pits (lift stations): 4.3 m x 4.3 m x 3.6 m deep (each)
- constructing an earthen liquid manure storage (EMS) (124 m x 153 m x 3.3 m deep) (see comment below)
- decommissioning the existing EMS

Jumbo Valley also proposed to convert the existing, old dairy barn into a dry cow barn. Because the existing liner does not change, this conversion does not require a permit.

The proposed EMS has already been excavated. The original purpose was different from the current proposal to use the excavated area as a liquid manure storage. I would therefore not consider this unauthorized construction, and I did not notify the NRCB's compliance division.

#### a. Location

The existing CFO is located at Section 28-10-25 W4M in the Municipal District (MD) of Willow Creek, roughly 12 km east of the Town of Granum, Alberta. The CFO is on relatively flat terrain, approximately 32 metres to the east of an irrigation canal.

#### b. Existing permits

The CFO is currently permitted under NRCB Approval LA18022 and Authorization LA21013. These NRCB permits allow the construction and operation of a multi-species CFO with a permitted capacity of 42,000 chicken broilers, 36,000 turkey hens, 700 ducks, 600 chicken layers, 300 geese, and 250 milking cows (plus associated dries and replacements). The CFO's existing permitted facilities are listed in the appendix to Approval LA25019.

## **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”.)

The poultry barns are located within 100 m of a Lethbridge Northern Irrigation District (LNID) irrigation canal. The LNID and the county were both notified of this application.

A copy of the application was sent to MD of Willow Creek, 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 Macleod Gazette newspaper in circulation in the community affected by the application on March 12, 2025, and
- sending 41 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 office in Lethbridge 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 Agriculture and Irrigation (AGI), and the Lethbridge Northern Irrigation District.

I also sent a copy of the application to Atco Gas & Pipelines, Equus Rea Ltd, and South Alta Rural Electrification Association Ltd. that are right of way holders on these lands.

Responses were received from Janet Beck, administration and land manager with the LNID, Adriane Gomes Preissler, water administration technologist with EPA, and a representative from AGI.

- Ms. Beck stated that an additional water conveyance agreement is required for the increase in water needs for the expansion. No other comments were made.
- Ms. Gomes Preissler stated that there are no groundwater or surface water diversion authorizations for the land location. She continued to state that the land is located within the LNID, and that the applicant must make sure that sufficient water is available and to send a copy of the agreements to EPA for their file. The applicant was made aware to send a copy of said agreement to EPA.
- AGI stated that the responsible inspector will be Brent Kriwokon. No other comments were received.

No other comments were received from any of the agencies and right of way holders notified of this application.

Approval LA25019 does not relieve the permit holder from complying with other applicable laws, such as safety codes, other municipal bylaws, provincial legislation (e.g. Historical Resources Act), and federal legislation (e.g. Migratory Birds Convention Act).

#### **4. Alberta Land Stewardship Act (ALSA) regional plan**

Section 20(10) of AOPA requires that an approval officer must ensure the application complies with any applicable ALSA regional plan.

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 liners/protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 10 and in Appendix C, the application meets all relevant AOPA requirements.

## 7. Responses from municipality and other directly affected parties

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application and are entitled to request an NRCB Board review of the approval officer's decision. Not all affected parties are "directly affected" under AOPA.

Municipalities that are affected parties are identified by the Act as "directly affected." The MD of Willow Creek is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Cindy Chisholm, director of planning and development with the MD of Willow Creek, provided a written response on behalf of the MD of Willow Creek. Ms. Chisholm stated that the application may not be consistent with the MD of Willow Creek's land use provisions of the municipal development plan if it does not meet the required setbacks. Ms. Chisholm provided an updated response that states that the MD would like to remind the NRCB to request the consolidation of the NE and SE quarters of this section as there are existing facilities that do not meet the setback to a property line. 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.

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

Both of the two people who submitted the 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 an expected increase in traffic and deterioration of road conditions, property value and nuisance impacts. 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 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](http://www.nrcb.ca).) However, if those risks have previously been assessed, the approval officer will not conduct a new assessment unless site changes are identified that require a new assessment, or the assessment was supported with a previous version of the risk screening tool and requires updating. See NRCB Operational Policy 2016-7: *Approvals*, part 9.17.

In this case, the risks posed by Jumbo Valley Colony's existing CFO facilities were assessed in 2018 and 2021 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

There have been no changes related to groundwater or surface water protection, water wells, or CFO facilities since that assessment was done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

## 9. Other factors

Because the approval application is consistent with the MDP land use provisions, and meets the requirements of AOPA and its regulations, I also considered other factors.

AOPA requires me to consider matters that would normally be considered if a development permit were being issued. The NRCB interprets this to include aspects such as property line and road setbacks related to the site of the CFO. (Grow North, RFR 2011-01 at page 2). Approval officers are limited to what matters they can consider though as their regulatory authority is limited.

Ms. Chisholm also listed the setbacks from property lines required by the MD of Willow Creek's land use bylaw (LUB) and noted that the application might not meet these setbacks.

The proposed dairy barn is more than 30 m north of the centerline of the county road (property/section line between the SE and NE 28-10-25 W4 and entry road to the colony) and the proposed EMS is more than 100 m away from the north, west and south of the quarter section line and 9 m from the neighbouring quarter section NE 28-10-25 W4. Therefore, the 6.1 m setback from property lines has been met by both facilities. Ms. Chisholm also stated that some of the existing facilities do not meet the setback to a property line and requested that these adjacent quarter sections should be consolidated. However, because these facilities are grandfathered, I cannot consider this request and no conditions in this respect will be included. However, I notified Jumbo Valley of this request and encouraged Jumbo Valley to contact the MD of Willow Creek to discuss the consolidation.

I have considered the effects the proposed CFO expansion 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 May 1, 2025, 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 in 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.

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 LA25019 specifies the cumulative permitted livestock capacity as 475 milking cows (plus associated dries and replacements), 42,000 chicken broilers, 36,000 turkey hens, 600 chicken layers, 700 ducks, and 300 geese, permits the construction of the dairy barn (Part 1 and 2, including the sand lain/sand storage building with the 4 pits), and allows the use of the excavated pit as an earthen liquid manure storage.

Approval LA25019 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 LA25019 includes conditions that generally address construction deadlines, document submission, construction inspection, and decommissioning. 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 LA25019: Authorization LA21013 and Approval LA18022 (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 from the historical permits are carried forward into the new approval.

## **11. Conclusion**

Approval LA25019 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25019.

Jumbo Valley Colony's NRCB-issued Approval LA18022 and Authorization LA21013 are therefore superseded, and their content consolidated into this Approval LA25019, unless Approval LA25019 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA18022 and Authorization LA21013 will remain in effect.

May 20, 2025

(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 LA25019

## 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.)

Jumbo Valley Colony’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 on June 14, 2017, under Bylaw #1765, consolidated in August 2019 into Bylaw No. 1841.

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.*

Because this CFO is more than 2 km south of a secondary highway controlled by TEC, I did not send this application for TEC's review.

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*

Jumbo Valley's CFO is not within an area designated as of natural significance in the referenced report (Map 1 of the report) or any other areas identified as environmentally sensitive.

- (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*

Jumbo Valley'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 LA25019, 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*

Jumbo Valley'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 (See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1):

Kenton and Beverly Sinnema  
Box 156, Nobleford, AB T0L 1S0

The directly affected parties raised the following concerns:

- expected increase in traffic and deterioration of road conditions,
- negative impact on property value
- nuisance impacts.

### **Traffic (volume, safety, and maintenance cost)**

The respondents were concerned about deterioration of the roads resulting in unsafe road conditions and increased needs for car repair. There is also concern about an intensification of traffic on TWP road 104, Range Road 252 as a consequence of the expansion.

#### Approval officer comments and conclusions:

The NRCB does not have direct responsibility for regulating road use. Section 18 of the *Municipal Government Act* gives counties “direction, control and management” of all roads within their borders. Because of this, it would be impractical and inefficient for the NRCB to attempt to manage road use through AOPA permits. (See Operational Policy 2016-7: *Approvals*, part 9.13). The NRCB’s Board has stated “field staff do not have the requisite expertise to develop, mediate or enforce road use conditions” whereas “municipalities own the roads within their jurisdiction, have the knowledge and expertise to determine what is required in road use agreements, and have the jurisdiction to implement and enforce road use agreements” (Hutterian Brethren of Murray Lake, RFR 2020-09. P.4).

### **Impact on property value**

The respondents were concerned that together with the two other dairies and other operations in the area, the odor will increase, and property values will decrease.

#### Approval officer comments and conclusions:

In previous board decisions the NRCB’s board members have consistently stated that concerns regarding effects on land or property values are “not a subject for [the board’s] review under AOPA or for approval officers’ consideration.” According to the board, impacts on property values are a land use issue, which is a “planning matter dealt with by municipalities in municipal development plans and land use bylaws.” (See, Pigs R Us Inc., RFR2017-11/BA17002 at 6).

## **Nuisance impacts**

The respondents were concerned about an increase in dust and odor.

### Approval officer comments and conclusions:

There are several parameters that must be considered before applications are approved. One of them is consistency with the MDP (see discussion in Appendix A). The lands on which the CFO is located are zoned Rural General and CFOs are a discretionary use under this zoning category. This determination has also been confirmed by the development officer of the MD of Willow Creek.

In addition, to minimize nuisance impacts, CFOs shall meet setbacks to neighbouring residences, the minimum distance separation (MDS). The calculation of AOPA's MDS takes the differences of nuisance impacts into consideration. Jumbo Valley's CFO meets the MDS to all surrounding residences.

Some of the parties outside of the MDS may experience nuisance impacts and these impacts may not be trivial to those parties, however, the frequency of these exposures will likely be limited and of short duration.

It is true that there will be odors resulting from the land application of manure. These odors are normally of short duration and typically occur once or twice per year. In order to limit the nuisance impact of manure application on direct seeded or tame forage land, section 24 of the Standards and Administration Regulation precludes manure spreading without incorporation within 150 m of residences. Manure that is spread on conventionally tilled land must be incorporated within 48 hours. Setbacks and incorporation can help to minimize normal odors from manure spreading. Incidences of non-compliance can be reported to the NRCB's 24 hour a day reporting line (1-866-383-6722).

## **APPENDIX C: Explanation of conditions in Approval LA25019**

Approval LA25019 includes several conditions, discussed below, and carries forward all conditions from Approval LA18022 and Authorization LA21013. Construction conditions from historical permits that have been met are identified in the appendix to Approval LA25019.

### **1. New conditions in Approval LA25019**

#### **a. Construction deadline**

Jumbo Valley Colony proposes to complete construction of the proposed new dairy barn (including the sand lain/sand storage building), 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 LA25019.

#### **b. Post-construction inspection and review**

The NRCB's general practice is to include conditions in new or amended permits to ensure that the new or expanded facilities are constructed according to the required design specifications. Accordingly, Approval LA25019 includes conditions requiring:

- the concrete used to construct the liner of the manure collection and storage portion of the dairy barn (including the sand lain/sand storage building) to meet the specification for category B (liquid manure shallow pits); in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas."
- Jumbo Valley Colony to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the dairy barn (Part 1 and 2) and the sand lain/ storage with pits.

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 LA25019 includes a condition stating that Jumbo Valley Colony shall not place livestock or manure in the manure storage or collection portions of the new dairy barn (including the sand lain/sand storage building) until NRCB personnel have inspected the dairy barn, sand lain/sand storage building, and EMS and confirmed in writing that they meet the approval requirements.

#### **c. Decommissioning of the old EMS**

The applicant proposed to decommission the old dairy EMS. The decommissioning shall be done according to Agdex 096-90 for liquid manure storage facilities posing a low risk to groundwater and surface water within one year of commencement of use of the new EMS.