

## Decision Summary LA25035

This document summarizes my reasons for issuing Authorization LA25035 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25035. 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 authorization. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On May 1, 2025, AVE Farms Ltd. (AVE Farms) submitted a Part 1 application to the NRCB to construct a new manure collection area (MCA) at an existing multi-species CFO.

The Part 2 application was submitted on May 5, 2025, and I deemed the application complete the same day.

The proposed construction involves:

- Decommissioning barns 1 & 3
- Constructing a nursery barn – 76.5 m x 17.8 m x 1.8 m deep

#### a. Location

The proposed MCA is located at SE 9-12-21 W4M in Lethbridge County, roughly 10 km north of Picture Butte, Alberta. The terrain is flat. The closest common body of water is an ephemeral drain 290 m to the southeast.

#### b. Existing permits

The CFO is already permitted under Approval LA24008. This permit allows the operation of a 500 sow farrow-to-wean and 8,000 beef finisher CFO.

## 2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies all parties that are “affected” by an authorization application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- the municipality where the CFO is located or is to be located
- 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 municipality entitled to divert water from that body within 10 miles downstream
- any other municipality whose boundary is within a notification distance. In this case, the notification distance is two miles (3,219 m) from the CFO

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. No other municipality has a boundary within the notification distance.

### **3. Notice to other persons or organizations**

Under NRCB policy, 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 (LNID).

I also sent a copy of the application to ATCO Gas & Pipelines and the North County Potable Water Users Coop as they are right-of-way holders at the subject land.

In their response, a water administration technologist with EPA stated that no additional water licensing is required and that they do not have any concerns with the application.

The LNID provided a response and stated that they do not have any objections to the application.

No other responses were received.

Authorization LA25035 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. Municipal Development Plan (MDP) consistency**

I have determined that the proposed construction 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.)

### **5. AOPA requirements**

With respect to the technical requirements set out in the regulations, the proposed construction:

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS) with an exemption under the Standards and Administration Regulation 3(5)(c)(i)), as the proposed MCA is within the footprint of the existing CFO and there is no proposed increase to the annual amount of manure produced.
- 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 groundwater protection requirements for the design of floors and liners of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 8 and Appendix B, the application meets all relevant AOPA requirements.

## 6. Responses from municipality

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.

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 nursery barn is located within its boundaries.

Ms. Hilary Janzen, 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. The application's consistency with Lethbridge County's municipal development plan is addressed in Appendix A, attached.

Ms. Janzen also listed the setbacks required by Lethbridge County's land use bylaw (LUB) and noted that the application meets these setbacks. Additionally, she noted that the subject and surrounding land is zoned Rural Agricultural and is not within an intermunicipal development plan or an area structure plan.

## 7. Environmental risk of facilities

New MCA which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. There may be circumstances where, because of the proximity of a shallow aquifer, porous subsurface materials, or surface water systems an approval officer may require monitoring for the facility. A determination was made that monitoring is not required.

When reviewing a new authorization 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 AVE Farms' existing CFO facilities were assessed in 2024, 2018, and 2015 using the ERST. According to those assessments, the facilities posed a low potential risk to surface water and groundwater.

The circumstances have not changed since those assessments were done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

## **8. Terms and conditions**

Authorization LA25035 permits the construction of the nursery barn.

Authorization LA25035 contains terms that the NRCB generally includes in all AOPA authorizations, 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, Authorization LA25035 includes conditions that generally address decommissioning, construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

## **9. Conclusion**

Authorization LA25035 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25035.

Authorization LA25035 must be read in conjunction with AVE Farms' NRCB previously issued Approval LA24008 which remains in effect.

June 11, 2025

(Original signed)  
Kailee Davis  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization LA25035

## **APPENDIX A: Consistency with the municipal development plan**

Under section 22 of AOPA, an approval officer may only approve an application for an authorization or amendment of an authorization 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 22(2.1) 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.)

AVE Farms’ 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 pertains to an existing CFO, not a new CFO. Therefore, this policy does not apply. However, the existing CFO is not in any exclusion areas identified in these policies.

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 existing CFO is not located in 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 CFO 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.”

In my view, this is a site-specific test and is not a land use provision. However, the application meets the setbacks outlined in Lethbridge County’s Land Use Bylaw and is therefore consistent with this policy. The response received from Lethbridge County supports this finding.

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 proposed CFO is within a land use district zoned as Rural Agricultural. The application is consistent with this part of the policy.

I consider the minimum parcel size a test or condition that I am unable to consider as section 22(2.1) of AOPA states that approval officers shall not consider provisions respecting tests or conditions related to the site for a CFO. However, 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 in CFO exclusion areas, 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 Authorization LA25035**

Authorization LA25035 includes several conditions, discussed below:

### **a. Decommissioning of facilities**

As proposed by AVE Farms, a condition will be included in the authorization requiring the permit holder to decommission barns 1 and 3 according to Technical Guideline Agdex 096-90 "Closure of Manure Storage Facilities and Manure Collection Areas". Barn 3 must be decommissioned prior to the construction of the nursery barn. Barn 1 must be decommissioned within one year of the nursery barn being constructed.

### **b. Construction Deadline**

AVE Farms proposes to complete construction of the proposed new nursery barn by May 1, 2026. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of May 1, 2026, is included as a condition in Authorization LA25035.

### **c. Post-construction inspection and review delete the plural if only one condition applies**

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, Authorization LA25035 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the nursery barn 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," including the use of type 50 cement.
- b. AVE Farms to provide evidence or written confirmation from a qualified third party that the concrete used for the manure collection and storage area meets the required specifications.

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. Authorization LA25035 includes a condition stating that AVE Farms shall not place livestock or manure in the manure storage or collection portions of the new nursery barn until NRCB personnel have inspected the nursery barn and confirmed in writing that it meets the authorization requirements.