

Decision Summary LA24011A

This document summarizes my reasons for issuing Approval LA24011A, an amended version of Approval LA24011, under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA24011A. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at www.nrcb.ca under Confined Feeding Operations (CFO)/CFO Search. My decision is based on the Act and its regulations, the policies of the NRCB, the information contained in the application, and all other materials in the application file.

Under AOPA this type of application requires an amendment of an approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On April 9, 2025, an NRCB inspector and I conducted a post construction inspection of Anthony Trowers and Heidi Coutures, operating as Trower Calf Ranch (Trower), calf hutch area and catch basin permitted by Approval LA24011. I noticed that the catch basin was not constructed as permitted. Instead of a 40 m x 12 m x 2 m deep catch basin constructed as proposed and permitted by Approval LA22001, a triangular prism shaped catch basin with the dimensions of 33 m x 38 m x 50 m x 3 m deep was constructed.

On April 22, 2025, Trower submitted an application for amendment to amend the approval previously issued at the existing beef CFO.

On May 1, 2025, compliance directive CD 25-09 was issued to Anthony and Heidi Couture directing them to restore the catch basin to the original permitted dimensions if a permit for the constructed catch basin is not obtained.

On May 6, 2025, I deemed the application complete.

The proposed modification involves:

- Permitting the as built triangular prism shaped catch basin (33 m x 38 m x 50 m x 3 m deep)

a. Location

The existing CFO is located at NW 20-11-20 W4M in Lethbridge County, roughly one kilometer west of the Village of Iron Springs. The terrain is relatively flat, and the nearest body of water is the Lethbridge Northern Irrigation District's canal located 25 m south of the hutch area.

b. Existing permits

To date, the CFO has been permitted under NRCB Approval LA24011. That permit allows the construction and operation of a 4,000 beef calf feeder CFO. The CFO's existing permitted facilities are listed in the appendix to Approval LA24011A.

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”).

Due to the proximity to the LNID irrigation canal, the district was notified of this application (see section 3 below).

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 newspaper in circulation in the community affected by the application on May 6, 2025, and
- sending 70 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 at NRCB’s Lethbridge office.

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 and Lethbridge North County Potable Water Co-op Ltd. who have utility right of ways on this land.

In their response, a development and planning tech with TEC stated that they do not have any concerns with the application and a permit from TEC is not required.

In their response, a water administration technologist with EPA stated that additional water licensing is not required and that they do not have any concerns with the application.

No other responses were received.

Approval LA24011A 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

Approval LA24011 determined that the application, including the original proposed catch basin, was consistent with the land use provisions of Lethbridge County's municipal development plan. The change in dimensions of the constructed catch basin does not affect this determination.

In their response to this amendment application, Lethbridge County stated that the operation was not within a CFO exclusion zone as illustrated in the MDP. They nonetheless referred to policy 3.7, which characterizes a minimum 80-acre parcel size for CFOs, as an 'exclusion area'. The County made the same references in their response to LA24011. Under section 20(1.1) of AOPA, policies stipulating a minimum parcel size is considered a test or condition for the site of a CFO and not a valid land use provision. This explanation appeared in Appendix A of Decision Summary LA24011. In my view, this policy is still a test or condition for the site of a CFO, regardless of what the MDP calls it.

6. AOPA requirements

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

- 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 groundwater protection requirements for the design of protective layers of manure storage facilities

With the terms summarized in part 10, 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 facility 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 not consistent with Lethbridge County's land use provisions of the municipal development plan because of a minimum parcel size policy. However, Approval LA24011 determined this policy to be a test or condition related to the site of a CFO which section 20(1.1) of AOPA directs approval officers not to consider. This explanation appeared in Appendix A of Decision Summary LA24011. In my view, this policy is still a test or condition for the site of a CFO, regardless of what the MDP calls it.

Ms. Janzen also noted that the land on which the CFO is located is zoned Rural Agricultural, that it is not subject to an intermunicipal development plan or an area structure plan, and that the catch basin meets the setbacks required by Lethbridge County.

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

8. Environmental risk of CFO facilities

Approval LA24011 determined the proposed catch basin to be low risk to surface water and groundwater. The catch basin was constructed one meter deeper than proposed, but still meets AOPAs technical requirements. Therefore, the constructed catch basin poses a low risk to surface water and groundwater.

When reviewing a new approval application for an existing CFO, NRCB approval officers assess the CFO's existing buildings, structures, and other facilities. In doing so, the approval officer considers information related to the site and the facilities, as well as results from the NRCB's environmental risk screening tool (ERST). The assessment of environmental risk focuses on surface water and groundwater. The ERST provides for a numeric scoring of risks, which can fall within either a low, moderate, or high risk range. (A complete description of this tool is available under CFO/Groundwater and Surface Water Protection on the NRCB website at www.nrcb.ca.) However, if those risks have previously been assessed, the approval officer will not conduct a new assessment unless site changes are identified that require a new assessment, or the assessment was supported with a previous version of the risk screening tool and requires updating. See NRCB Operational Policy 2016-7: *Approvals*, part 9.17.

In this case, the risks posed by Trower's existing CFO facilities were assessed in 2021 and 2024 using the ERST. According to those assessments, 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. Hilary Janzen listed the setbacks required by Lethbridge County's land use bylaw (LUB) and noted that the application meets these setbacks. She also stated that the CFO is not within an intermunicipal development plan or area structure plan area.

I have also considered the effects the proposed modification 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 June 6, 2025).

Finally, I considered the effects of the proposed modification 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 and referral agencies, 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. 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 modification 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 modification 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

Approval LA24011A specifies the cumulative permitted livestock capacity as 4,000 beef feeder calves and permits the as-built catch basin.

Approval LA24011A 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.

For clarity, and pursuant to NRCB policy, I consolidated the following permit with Approval LA24011A: Approval LA24011 (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.

11. Conclusion

Approval LA24011A is issued for the reasons provided above, in the attached appendices, and in Technical Document LA24011A.

Trower's NRCB-issued Approval LA24011 is therefore superseded, and its content consolidated into this Approval LA24011A, unless Approval LA24011A is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA24011 will remain in effect.

June 17, 2025

(Original signed)
Kailee Davis
Approval Officer