

Decision Summary LA25013

This document summarizes my reasons for issuing Approval LA25013 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25013. 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 approval. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On January 28, 2025, Kody Traxel (Traxel) submitted a Part 1 application to the NRCB to expand an existing beef CFO.

The Part 2 application was submitted on March 25, 2025. On April 8, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing beef feeder numbers from 1,000 to 1,800
- Constructing feedlot pens (irregular shape)
 - north - area 13,555.51 m²
 - south #1 - area 4401.63 m²
 - south #2 - area 2,177.43 m²
- Constructing a catch basin #2 - 34 m x 22 m x 2.7 m deep
- Expanding existing catch basin #1 – from 82 m x 15.5 m x 2.5 m deep to 82 m x 15.8 m x 2.5 m deep (final dimensions)

a. Location

The existing portion of the CFO is located on the northeast corner of NW 6-11-7 W4M, with the proposed expansion to be located on the northwest corner of NE 6-11-7 W4M, in Cypress County, roughly 2.8 km northwest of the Hamlet of Seven Persons. The general slope of the terrain is to the southeast and southwest. The closest common body of water is a drain running approximately one km from the northwest of the CFO to the southeast, draining into Seven Persons Lake.

b. Existing permits

To date, the CFO has been permitted under NRCB Approval LA24001. That permit allowed the construction and operation of a 1,000 beef feeder CFO. The CFO's existing permitted facilities are listed in the appendix to the Approval LA25013.

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 mile. (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 Cypress 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 Cypress Courier newspaper in circulation in the community affected by the application on April 8, 2025, and
- sending 41 notification letters to people identified by Cypress County 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), and the St. Mary River Irrigation District (SMRID).

I also sent a copy of the application to South Alta Rural Electrification Association Ltd. and Apex Utilities Inc., as they are utility right-of-way (ROW) holders on the subject land.

I received responses from Bradley Calder, a water administration technologist with EPA, and Micaela Azzarello, a land administrator with SMRID.

In his response, Mr. Calder stated that the applicant has a water conveyance agreement with SMRID for 4 acre-feet, and the proposed expansion requires a total of approximately 8.36 acre-feet. He stated that in a phone call with the applicant on April 23, 2025, the applicant had

indicated they are in the process of obtaining the additional 4.36 acre-feet from the SMRID as part of their existing conveyance agreement. He stated that confirmation of the increased allotment under the existing conveyance agreement is recommended to ensure adequate water is available to support this expansion.

Mr. Calder stated there is one well in the Alberta Water Well Information Database for NW 06-11-07 W4 with GIC Well ID# 203542, with the proposed use being domestic, and no records found for NE 06-11-07 W4. He stated there are no licenses associated with this well and noted the diversion of water from any unlicensed well for any purpose other than those that are exempt require a license. He also stated that options for obtaining a legal water source for the additional requirements can be discussed with EPA. The response from EPA was forwarded to the applicant for their information and action.

In her response, Ms. Azzarello stated the district has no concerns with the proposed increase of beef feeders and construction of pens. She said that it is estimated that the applicant will need 7.0 acre-feet of an agriculture conveyance agreement which needs to be purchase from SMRID and the applicant must maintain 10 m away from the SMRID pipeline. The proposed facilities meet the 10 m setback to the SMRID pipeline. The response from SMRID was forward to the applicant for their information and action.

Approval LA25013 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*).

I did not receive any other responses.

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 Cypress 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 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 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." Cypress County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Kaylene Brown, a planning supervisor with Cypress County, provided a written response on behalf of Cypress County. Ms. Brown stated that the application is consistent with Cypress County's land use provisions of the municipal development plan (MDP) and is not subjected to any intermunicipal development plan (IDP) or area structure plan. Ms. Brown also stated the site is designated as Agricultural District 2 and the lands within the 1.5 mile notification distance are primarily zoned Agricultural District 2. The application's consistency with the land use provisions of Cypress County's MDP 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 2 individuals.

The 2 individuals who submitted a 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 increase in nuisances impacting quality of being able to enjoy property and increase in heavy truck traffic. 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. There may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, and surface water systems an approval officer may require groundwater monitoring for the facility. Based on the information in the application, as well as the information I gathered from a site visit, I did not identify any reasons to implement a groundwater monitoring condition for the new facilities.

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 Kody Traxel's existing CFO facilities were assessed in 2024 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

The increased depth of catch basin #1 continues to meet AOPA requirements for the protection of groundwater and surface water. Therefore, it may be assumed catch basin #1 continues to pose a low potential risk to surface water and groundwater. There have been no other 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. Brown listed the setbacks required by Cypress County's land use bylaw (LUB). She did not say whether the application meets these setbacks but noted that these setbacks are imposed. One of the feedlot pens in the area of the feed pens south #1 is proposed to be constructed across the property line between the northeast and northwest quarters and would therefore, not meet the property line setback. I recognize that setbacks are an important tool for municipalities and are listed in Cypress County's LUB, though not referenced in the MDP.

I contacted Ms. Brown to ask if Cypress County had any concerns with this feedlot pen not meeting the property line setback. I asked, if the County were processing a municipal development permit, whether they would require consolidation of the parcels or the applicant to move the fence line to meet the setback. Ms. Brown indicated that as they do not consider a fence to be a permanent structure, they are not concerned with the proposed pen crossing over the property line and would not require the consolidation of the northeast and northwest quarters. The remaining proposed facilities meet the applicable setbacks.

I have 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 June 25, 2025.

Finally, I considered the effects of the proposed expansion 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, a response from Cypress County, a submission from directly affected parties, and my own observation from a site visit.

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 and the directly affected parties' concerns have been addressed.

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 and the directly affected parties' concerns about enjoyment of their property have been addressed.

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, as the land the CFO is located on is zoned Agricultural District 2 (See NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9). In my view, this presumption is not rebutted.

10. Terms and conditions

Approval LA25013 specifies the cumulative permitted livestock capacity as 1,800 beef feeders and permits the construction of the odd shaped feed pens: north - NE (area 13,555.51 m², south - NE (area 4401.63 m²), south - NW (area 2,177.43 m²); a catch basin (34 m x 22 m x 2.7 m); and the expansion of the existing catch basin from 725 m³ to 1,017 m³ (92 m x 15.8 m x 2.5 m).

Approval LA25013 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 LA25013 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 permit with Approval LA25013: LA24001 (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 Approval LA24001 have been carried forward (see Appendix of Approval LA25013).

11. Conclusion

Approval LA25013 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25013.

Kody Traxel's NRCB-issued Approval LA24001 is therefore superseded, and its content consolidated into this Approval LA25013, unless Approval LA25013 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA24001 will remain in effect.

July 2, 2025

(Original signed)
Kelsey Peddle
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Determining directly affected party status and concerns raised by directly affected parties
- C. Explanation of conditions in Approval LA25013

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.)

Kody Traxel’s CFO is located in Cypress County and is therefore subject to that county’s MDP. Cypress County adopted the latest revision to this plan under Bylaw #2023/15.

The relevant sections to this application in Cypress County’s MDP are sections 4.1.20 and 4.1.21 – Expansion of Existing Confined Operations.

Section 4.1.20 states “[t]he County shall not support confined feeding operations to expand within the Tri-Area Intermunicipal Plan boundary.

Kody Traxel’s CFO is not located within the Tri-Area Intermunicipal Plan boundary. Therefore, it is consistent with this section of the MDP.

Section 4.1.21 states “[t]he County shall use Map 8: Confined Feeding Operation Exclusion Areas when providing its recommendation to the Natural Resources Conservation Board on proposed expansions of existing confined feeding operations.”

This is likely not a land use provision, as it is directed at the County and guides how they will provide comments to the NRCB for expansion applications. Therefore, I do not find this section relevant to my MDP consistency determination. Regardless, the CFO is not located in the CFO exclusion areas identified in Map 8 of the MDP.

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

APPENDIX B: Determining directly affected party status and concerns raised by directly affected parties

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:

- Darcy and Agnes English – SE 12-11-07 W4

(See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1.)

In their response, Darcy and Agnes English raised the following concerns:

- Increase in nuisances impacting quality of life and being able to enjoy property
- Increase in heavy truck traffic

Increase in nuisances impacting quality of life and being able to enjoy property

In their response, Darcy and Agnes English stated that to double the capacity of the feedlot would exacerbate the issues they face with loud machinery noise, lights, and grinding dust. They also stated that the concentrated manure smell and excessive flies have greatly impacted their quality of being able to enjoy their property and many times, not being able to sit outside. They did mention, however, the applicant has made some efforts to alleviate some of the nuisances and it is appreciated, but they do not support the application.

Response from applicant

Traxel stated in a response that dust from feed processing comes from their brother’s operation, which they have been very diligent to keep the product on site, but it will never be perfect. The applicant stated that there is no effort left behind in aiding this issue. The applicant also noted that in addition to the efforts to control dust, the primary wind direction is from the West, and the directly affected parties’ residence is North-West of the feed processing areas. Traxel also mentioned that dust control is present on Range Road 80, along the directly affected parties’ residence and the access to a scale site the applicant uses. They stated that for 750 ft. prior to the intersection of Range Road 80 and Township Road 111, it is paved.

Regarding the concern about flies, Traxel stated they suspect the flies may be from other sources. The applicant stated that their current operation did not become active until October 24th, 2024, with cattle arriving in November 2024 and leaving April 2025. The applicant stated they cleaned their pens the following week after the cattle left and spread on approved land. Traxel stated that they experienced no flies when cleaning as it was still too cold for fly activity. They further mentioned that their home is located directly beside the already constructed pens and they have no concerns about flies. They also stated that they will always make an effort to control flies, and other irritants cause by their operation.

Approval officer’s conclusions

AOPA’s MDS requirements are a proxy for minimizing odours, flies, and other nuisance effects from CFOs. Traxel’s proposed expansion of the CFO meets the MDS to all neighbouring residences. Some of the parties outside of the MDS may experience

odours and other 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.

Often, any issues that arise relating to the operation of a CFO can be resolved through good communication between neighbours and the CFO operator. However, if a member of the public has concerns regarding a CFO, including whether or not the operation is complying with AOPA, they may contact the NRCB through its 24-hour reporting line (1-866-383-6722). A NRCB inspector will follow up on the concern.

Increase in heavy truck traffic

In their response, Darcy and Agnes English stated there will be a two-fold increase in heavy truck and trailer traffic at all hours from the expansion.

Response from applicant

Traxel stated in a response they try to respect their neighbours as best as possible along the routes that bring livestock in and out of their CFO. The applicant stated they advise all truck drivers to drive under the posted speed limits when entering and exiting their area. They also mentioned that there are three grain moving sites North of them and the directly affected parties' residence. Traxel stated a strong majority of the traffic on Range Road 80 is from these grain operations and they are required to use that route as per Cypress County guidelines.

Approval officer's 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. It would be impractical and inefficient for the NRCB to attempt to manage road use or upgrades 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 agreements/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)

APPENDIX C: Explanation of conditions in Approval LA25013

Approval LA25013 includes several conditions, discussed below, and carries forward all conditions from Approval LA24001. Construction conditions that have been met from historical permits are identified in the appendix to Approval LA25013.

a. Construction deadline

Kody Traxel proposes to complete construction of the proposed new pens, catch basin, and catch basin expansion by December 31, 2026. To account for unforeseen delays, it is my opinion that a longer timeframe is appropriate for the proposed construction. Therefore, the deadline of December 31, 2027, is included as a condition in Approval LA25013.

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 LA25013 includes conditions requiring:

- a. Kody Traxel to provide construction report from a qualified third party that the feedlot pens and catch basins:
 - Were constructed at their proposed locations
 - Were constructed to the proposed size
 - The catch basins' final dimensions, including depth and slope

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 LA25013 includes conditions stating that Kody Traxel shall not place livestock or manure in the manure storage or collection portions of the new pens, nor allow manure impacted run-off to enter catch basin #2 until NRCB personnel have inspected the new pens and catch basins and confirmed in writing that they meet the approval requirements.