

## Decision Summary LA25034

This document summarizes my reasons for issuing Approval LA25034 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25034. 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 29, 2025, Kampert Farms Ltd. (Kampert Farms), operated by Vita Farms Ltd. (Vita Farms), submitted a Part 1 application to the NRCB to expand an existing swine CFO.

The Part 2 application was submitted on May 6, 2025. On May 13, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing swine farrow to finish numbers from 200 to 400
- Constructing a finishing barn – 74 m x 25 m x 1.3 m deep
- Constructing a new earthen liquid manure storage (EMS) – 64 m x 45 m x 7 m deep
- Decommissioning the existing earthen manure storage (EMS) – 45 m x 20 m x 6 m deep

#### a. Location

The existing CFO is located at SW 35-8-19 W4M in Lethbridge County, roughly nine km southeast of Coaldale, AB. The terrain is flat with a gentle slope to the north. The nearest common body of water is an ephemeral drain 900 m to the east.

#### b. Existing permits

As the CFO existed on January 1, 2002, the CFO is grandfathered with a deemed registration under section 18.1 of AOPA. That deemed permit includes Lethbridge County Development Permits 90-86 and 91-82. This deemed registration allows for the construction and operation of a 200 sow farrow to finish CFO. The determination of the CFO's deemed permit status under section 18.1 of AOPA is explained in Appendix D, attached. The deemed facilities are listed in the appendix to the Approval LA25034.

### 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 one 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 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 News newspaper in circulation in the community affected by the application on May 13, 2025, and
- sending 32 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 St. Mary River Irrigation District (SMRID).

I also sent a copy of the application to Atco Gas & Pipelines Ltd. as they are utility right of way holders at the subject land.

In their response, a water administration technologist with EPA confirmed that there is no water wells or water licenses associated with the subject land. Additionally, they stated that approximately 10.76 acre-feet of additional water is required for the proposed expansion, depending on management practices, for which there is an open application with SMRID for the conveyance.

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 will not be required.

In their response, a land administrator with SMRID stated that an estimated additional 11 acre-feet of water conveyance will be required for the proposed expansion which can be purchased from them.

No other responses were received.

Approval LA25034 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 Lethbridge County's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.) There is no applicable intermunicipal development plan.

#### **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 one exception (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS). The owner of that residence has 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, liners, 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." Lethbridge County is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Hannah Laberge, planning intern with Lethbridge County, provided a written response on behalf of Lethbridge County. Ms. Laberge stated that the application is consistent with Lethbridge County's land use provisions of the municipal development plan (MDP). The

application's consistency with Lethbridge County's land use planning 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). Poldale Dairy Farm Ltd. provided an MDS waiver and is a directly affected party.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received four responses.

All of the four parties who submitted responses own or reside on land within the one 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 increased odors, lack of information in the application, enjoyment of personal property and the community association, increased manure spreading, flies, and increased 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. The information on this file supports the presumption that risks to groundwater and surface water are low.

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).)

I assessed the CFO's existing earthen manure storage, sow barn/nursery, farrowing barn, and the farrowing/grower barn using the ERST. The assessment found that these facilities pose a low potential risk to groundwater and surface water. From a review of other information gathered in the course of this application, I am satisfied that the screening provided by the ERST is adequate.

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

I have also 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 13, 2025).

Finally, I considered the effects of the proposed CFO 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, responses from Lethbridge County and referral agencies, and responses from other directly affected parties, 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 expansion is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted and the directly affected party's concerns have been addressed (see discussion of the MDP in Appendix A, and the discussion on odour and flies, manure spreading, and traffic in Appendix B).

I also presumed that the proposed CFO 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 addition, the land the CFO is located on is zoned 'rural agricultural.' In my view, this presumption is not rebutted.

## **10. Terms and conditions**

Approval LA25034 specifies the cumulative permitted livestock capacity as 400 swine farrow to finish and permits the construction of the new earthen liquid manure storage and finishing barn.

Approval LA25034 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 LA25034 includes conditions that generally address construction deadline, 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 deemed permit (including Lethbridge County municipal development permit 91-82 and permit 90-86) with Approval LA25034 (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. Appendix C discusses which conditions from the historical permits are or are not carried forward into the new approval.

## **11. Conclusion**

Approval LA25034 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25034.

Kampert Farms' deemed registration (including Lethbridge County municipal development permits 91-82 and 90-86), is therefore superseded, and its content consolidated into this Approval LA25034, unless Approval LA25034 is held invalid following a review and decision by the NRCB's board members or by a court, in which case the deemed permit will remain in effect.

July 9, 2025

*(original signed)*

Kailee Davis  
Approval Officer

## **Appendices:**

- A. Consistency with municipal land use planning
- B. Concerns raised by directly affected parties
- C. Explanation of conditions in Approval LA25034
- D. Determination of deemed permit status

## **APPENDIX A: Consistency with municipal land use planning**

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), and any applicable intermunicipal development plan (IDP). In this case, there is no applicable IDP.

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.)

Kampert 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.

The application is for an expansion of an existing CFO, not a new CFO. Regardless, the existing CFO is not within any exclusion area.

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 CFO is not within an urban fringe district, therefore this policy does not apply to the application.

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.”

This policy is a test or condition related to the site of a CFO and is not a valid land use provision. However, the proposed expansion meets the setbacks described in this policy. This is supported by Lethbridge County’s and TEC’s response to the application.

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 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 requirement a test or condition that I am unable to consider as section 20(1.1) of AOPA states that approval officers shall not consider provisions respecting tests or conditions related to the site for a CFO. However, as noted in Lethbridge County’s response, 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: Concerns raised by directly affected parties

The following parties qualify for directly affected party status because they own a residence within the minimum distance separation (MDS) and waived the MDS requirement in writing: Poldale Dairy Farm Ltd. See NRCB Operational Policy 2016-7: Approvals, part 7.2.1.

The following parties qualify for directly affected party status because they submitted a response to the application and they own or reside on land within the notification distance, 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.)

- Brian and Lisa Ober, 85038 Range Road 19-1
- Clarence and Rita Halma (2337046 Alberta Ltd.), SW 3-9-19 W4M
- Emily Croy-Ober (on behalf of residents), 84066 Range Road 19-1
- Readymade Community Association, SW 2-9-19 W4M

The directly affected parties raised the following concerns:

**Increased odors and flies and their effect on the enjoyment of personal property and the local community association** – it is a common sentiment among the responses that very little nuisance is currently experienced from the CFO. However, there is concern that a strong and persistent odour will arise from the expansion, particularly from the new earthen liquid manure storage. The respondents are worried that this will affect the enjoyment of their property and the use of the Readymade Community Association's local facility (hall).

Approval officer's response: Minimum distance separation (MDS) is an AOPA requirement that is designed to minimize nuisances such as smell, noise, and dust from CFOs based on land zoning. MDS is measured from the nearest manure collection or storage area to the outside walls of neighboring residences. According to Lethbridge County's land use bylaw and the response they provided, the land within one mile of SW 35-8-19 W4M is zoned 'rural agricultural'. The MDS required for 400 sows farrow to finish, as proposed in the application, is 602 m for land zoned agricultural (category 1). As noted in section 6 of the decision summary, the proposed expansion meets the MDS requirements from nearby residences, with one exemption. The owner of that residence provided a MDS waiver. It is presumed that nuisance effects from a CFO will be acceptable if the MDS has been met.

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. Complaints regarding smell and other nuisances can be reported to the NRCB's 24-hour reporting line (1-866-383-6722) and will be followed up on by an NRCB inspector.

**Lack of information in the application regarding the proposed facilities** – some respondents stated that there was not enough information available in the application regarding the proposed facilities, specifically location, design, and odour mitigation strategies.

Approval officer's response: The application was made available for viewing on the NRCB's website from May 13, 2025 to June 11, 2025. The applicant did not include blueprints of the proposed finishing barn, which is not required. The application included dimensions of the proposed finishing barn and the earthen manure storage and the site map showed the existing facilities and the locations of these proposed facilities. The proposed finishing barn is proposed

to be built east of the existing barns (over the decommissioned earthen manure storage) and the proposed new earthen manure storage to be constructed east of the finishing barn. Overall, the footprint of the CFO would expand to the east.

Additionally, the NRCB does not require applicants to submit odour mitigation strategies, however operators must follow best management practices.

**Increased manure spreading** – the respondents expressed concern about the increased manure spreading and odour that would occur due to the proposed expansion. In turn, this odour would decrease quality of life and affect the use of the community association's facilities for events.

Approval officer's response: Applicants are required to have a minimum of nine months of manure storage. This should limit the frequency of manure spreading. Additionally, applicants must provide sufficient land for spreading manure and must abide by land spreading regulations in AOPA, such as setbacks, incorporation after spreading, and not spreading on frozen or snow-covered ground.

Manure spreading may result in odour and other nuisances, and these nuisance impacts may not be trivial to those parties, however, the frequency of these exposures will likely be limited and of short duration. Complaints regarding manure related issues can be reported to the NRCB's 24-hour reporting line (1-866-383-6722) which will be followed up on by an NRCB inspector.

**Increased traffic and safety near the CFO** – there is concern about the increased heavy traffic entering and exiting the CFO and the safety of other road users.

Approval officer's response: 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)

## **APPENDIX C: Explanation of conditions in Approval LA25034**

Approval LA25034 includes several conditions, discussed below, and removes a number of conditions from Lethbridge County municipal development permits 91-82 and 90-86 (see section 2 of this appendix).

### **1. New conditions in Approval LA25034**

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

Kampert Farms proposes to complete construction of the proposed new earthen liquid manure storage and finishing barn by June 2026. In my opinion, a longer time-frame would be more suitable for the proposed scope of work to account for unexpected delays. The deadline of June 30, 2027 for the finishing barn is included as a condition in Approval LA25034. Additionally, I am including a condition that the EMS must be constructed and inspected by NRCB personnel prior to commencing construction of the finishing barn to ensure sufficient manure storage.

#### **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 LA25034 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the finishing 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."
- b. Kampert 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.
- c. Kampert Farms to provide a completion report from a qualified third party certifying that the EMS was constructed according to the design 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. Approval LA25034 includes conditions stating that Kampert Farms shall not place livestock or manure in the manure storage or collection portions of the new finishing barn, nor shall manure be placed in the EMS, until NRCB personnel have inspected the finishing barn and EMS and confirmed in writing that they meet the approval requirements.

#### **c. Decommissioning of facilities**

As proposed, a condition will be included in the approval requiring Kampert Farms to decommission the existing earthen liquid manure storage according to Technical Guideline Agdex 096-90 "Closure of Manure Storage Facilities and Manure Collection Areas" for low risk facilities. The earthen manure storage must be decommissioned prior to commencing the construction of the finishing barn and be inspected by NRCB personnel.

## **2. Conditions not carried forward from municipal development permits 91-82**

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that conditions #1-4 from municipal development permit 90-86 and conditions #1-3 from municipal development permit 91-82 should be deleted and therefore are not carried forward to Approval LA25034. My reasons for deleting these conditions is as follows:

### Municipal development permit 90-86 (Sept. 18, 1990)

1. The expansion is to be located and sized as per submitted sketch.

Although this is listed as a 'condition', it is not a condition and is a term of the permit, which was for renovation and expansion to an existing hog barn. Therefore it will not be carried forward.

2. The maximum number of animals allowed by this permit is 180 sows and 630 feeder hogs in total.

Similar to condition 1 above, this is not a condition and is a term of the old permit that is being superseded in Approval LA25034. Therefore it will not be carried forward.

3. The applicant is to contact Alberta Environment and apply for a "Certificate of Compliance".

This condition is impossible to enforce due to the passage of time. This condition will not be carried forward as Certificates of Compliance are no longer issued by Alberta Agriculture.

4. The applicant is to meet all requirements of the Barons Eureka Warner Health Unit.

This condition is impossible to enforce due to the passage of time. This condition will not be carried forward as the Barons Eureka Warner Health Unit no longer exists.

### Municipal development permit 91-82 (Oct. 29, 1991)

1. The addition is to be limited to 180' x 50' in size to accommodate a 200 sow, farrow to finish operation.

Although this is listed as a condition in the municipal development permit, it relates to the hog barn, and the permit is being superseded in Approval LA25034. Therefore, it will not be carried forward.

2. The applicant is required to obtain a "Certificate of Compliance" as issued by Alberta Agriculture. Contact Mr. Gregg Dill, Regional Engineer at 381-5113.

This condition is impossible to enforce due to the passage of time. This condition will not be carried forward as Certificates of Compliance are no longer issued by Alberta Agriculture.

3. The applicant must submit a letter from an adjacent neighbor allowing the disposal of manure. A total of 160 acres of manure is required for this operation.

This condition consists of two parts. The first part will not be carried forward as it is too vague to enforce as written. It is unclear exactly what 'adjacent' means and the NRCB does not have records indicating which neighbour this referred to. As for the second part, 400 sows farrow to finish requires 330 acres of land for spreading manure, so the 160 acres is less stringent than AOPA requirements. Therefore, this will not be carried forward.

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

Kampert Farms 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 facilities/footprint is grandfathered and, therefore, 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. I also determined the capacity of the CFO that was constructed pursuant to a municipal development permit before January 1, 2002.

In this case, the operator bears the onus of providing sufficient evidence to support their claim (See NRCB Operational Policy 2023-1: Grandfathering (Deemed Permit), part 2.3).

The CFO was permitted by Lethbridge County on September 18, 1990 under development permit #90-86, and received an additional development permit (91-82) on October 29, 1991. Collectively, these development permits allowed the construction and operation of a swine CFO with 200 sows farrow to finish and a hog barn with addition. This is the same capacity that Kampert Farms claims they have a deemed permit for. These development permits are deemed (i.e. grandfathered) permits under section 18.1(1)(b) of AOPA.

### Notice:

Under section 11 of the Administrative Procedures Regulation, notice of a deemed permit determination is not required if the CFO was constructed pursuant to a development permit issued before January 1, 2002. See also Operational Policy 2023-1: Grandfathering (Deemed Permit), part 5.2.1., clarifying that notice is not required if the development permit specifies capacity and livestock type (here, 200 sows farrow to finish)

### Findings:

Under section 18.1(2)(b), the CFO’s deemed capacity is the capacity stated in the CFO’s development permit. Therefore, the CFO has a deemed capacity of 200 sows farrow to finish. MD permit 90-86 permits an “expansion” but does not include details regarding facility type or size. MD permit 91-82 permits an “addition” that is to be 180’ x 50’. This is part of the sow barn/nursery.

After conversations with the operator, reviewing aerial imagery from 2002 to present, and conducting a site visit, I am satisfied that all existing facilities (with three barns and an EMS) are deemed as they existed on January 1, 2002.

The CFO’s deemed facilities are listed in Appendix A of Approval LA25034. Approval LA25034 includes decommissioning the deemed EMS.

### Validity today:

Finally, Operational Policy 2023-1: Grandfathering (Deemed Permit), part 9.0 suggests that field services staff assess the validity of a deemed permit today.

Under Operational Policy 2023-1: Grandfathering (Deemed Permit), part 9.1, I considered whether the CFO has been abandoned since January 1, 2002. I considered factors relevant to abandonment, as identified in Operational Policy 2016-3: Permit Cancellations under AOPA Section 29. In my conversations with the applicant, he explained that the CFO was operational from prior to 2001 through to 2009. The barns were empty until operations resumed in 2019. However, it appears that all facilities were maintained in good, usable condition and both the previous owner and the current owner have always had the intent to resume operations at some point. The MD permits were issued to Willem Kampert and a land transfer occurred in 2016 to Kampert Farms, three years before operations resumed. Although ownership has changed, the CFO is still owned by Kamperts. Therefore, I conclude this CFO has not been abandoned.

Under Operational Policy 2023-1: Grandfathering (Deemed Permit), part 9.2, I considered if any of the liners have been disturbed, or any facilities changed in a way that constitutes “construction,” since January 1, 2002. After reviewing aerial imagery, conducting a site visit, and discussions with the applicant, my conclusion is that the facilities (barns and EMS) and their liners have not been disturbed or changed since they were constructed.