

Decision Summary LA25022

This document summarizes my reasons for issuing Registration LA25022 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25022. 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 a registration. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On March 11, 2025, J-Bar Farms Ltd. (J-Bar Farms) submitted a Part 1 application to the NRCB to construct a new multi-species CFO. The site is currently operated as a cow-calf operation.

The Part 2 application was submitted on May 14, 2025. On May 27, 2025, I deemed the application complete.

The proposed CFO involves:

- Increasing beef feeder numbers from 0 to 300
- Increasing sheep (ewes with lambs) numbers from 0 to 250
- Constructing a lambing barn – 15 m x 18 m
- Constructing pen 1 – 37 m x 37 m
- Constructing pen 2 – 24 m x 55 m
- Constructing pen 3 (triangular) – 37 m x 37 m x 52 m
- Constructing pen 4 (with a shelter) – 55 m x 30.5 m (and 49 m x 18 m)
- Constructing a catch basin – 30 m x 30 m x 2 m deep

a. Location

The proposed CFO is located at the E½ of NE 8-11-21 W4M in Lethbridge County, roughly four km northwest of Picture Butte, AB. The terrain is flat sloping gently to the south. The nearest common body of water is an irrigation canal two km to the east.

2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies (or directs the applicant to notify) all parties that are “affected” by a registration 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 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 ½ mile (805 m) from the CFO
- all persons who own or reside on land within the greater of ½ mile (805 m) or the minimum distance separation for the land on which the CFO is located

The land zoning on which the CFO is located would require a minimum distance separation of 220 metres. Therefore, the notification distance is ½ mile (805 m).

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 to be 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 27, 2025, and
- sending 14 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.

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), Alberta Transportation and Economic Corridors (TEC), and the Lethbridge Northern Irrigation District (LNID).

I also sent a copy of the application to Atco Gas & Pipelines Ltd. and Lethbridge North County Potable Water Users as they are right of way holders on the subject land.

In their response, a water administration technologist with EPA stated that there are no water wells at the land location. Additionally, they noted that approximately 3.98 acre-feet of water would be required for the proposed livestock (depending on management practices) and confirmed that the applicant has submitted an application with the LNID.

In their response, the LNID stated that 3 acre-feet of water conveyance will be required for the proposed expansion, which will be invoiced to the applicant upon the NRCB's decision. Additionally, they noted that all construction must be at least 15 m from the outside boundary of all LNID right of ways and that it appears that the [triangular] pen and catch basin are within the setback. The applicant has been notified of this and is working with the LNID to address the issue. In my conversations with the LNID, only minor adjustments are required and will not significantly affect the dimensions or locations of the proposed facilities. If any changes to the layout and/or dimensions are required, the applicant needs to contact the NRCB prior to construction.

No other responses were received.

Registration LA25022 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 22(9) 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 CFO is consistent with the land use provisions of Lethbridge County's municipal development plan. (See Appendix A for a detailed discussion of the county's planning requirements.)

6. AOPA requirements

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

- 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 9 and in Appendix B, 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 CFO is located within its boundaries.

Ms. Hannah Laberge, a planning intern with Lethbridge County, provided a written response on behalf of Lethbridge County. Ms. Laberge stated that the application is not consistent with Lethbridge County's land use provisions of the municipal development plan (MDP) because it does not meet the public roadway setback. The application's consistency with the land use provisions of Lethbridge County's MDP is addressed in Appendix A, attached.

Ms. Laberge also stated that the application is not within any intermunicipal development plan or area structure plan areas.

No other responses were received.

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. In this case, it is not clear whether the catch basin, proposed to be 2 m deep, will meet the water table requirement at the time of construction. As part of my review of this application, I assessed the risk to the environment posed by the CFO's proposed 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.)

For the sake of efficiency, I first assessed the proposed catch basin using the ERST. This appears to be the CFO's highest risk facility as it will be below grade and will store manure contaminated run-off. The assessment found that the catch basin poses a low potential risk to groundwater and surface water. Because this is the CFO's highest risk facility, I presume that the CFO's other existing facilities also pose a low potential risk to both 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 and that the presumption is not rebutted. Nevertheless, I have included conditions requiring that the construction of the catch basin be supervised by an engineer and to cease construction immediately if the water table is encountered during construction. These conditions are explained in Appendix B.

9. Terms and conditions

Registration LA25022 specifies the cumulative permitted livestock capacity as 300 beef feeders and 250 sheep (ewes with lambs) and permits the construction of the lambing barn, four pens, and a catch basin.

Registration LA25022 contains terms that the NRCB generally includes in all AOPA registrations, 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, Registration LA25022 includes conditions that generally address construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

10. Conclusion

Registration LA25022 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25022.

July 28, 2025

(original signed)
Kailee Davis
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Registration LA25022

APPENDIX A: Consistency with municipal land use planning

Under section 22 of AOPA, an approval officer may only approve an application for a registration or amendment of a registration 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).

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.)

J-Bar 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 proposed CFO is not in any exclusion areas identified in these policies and is therefore consistent with this policy.

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 proposed CFO is not within 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 proposed 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.”

The response provided on behalf of Lethbridge County states that the proposed pen 2 is within the public roadway setback to township road 11-2.

In my view, Section 3.6 is a granular, site-specific setback, is a “test or condition,” and is not a land use provision relevant to MDP consistency according to Section 21(1.1) of AOPA. Section 22(1)(b) of AOPA requires me to consider matters that would normally be considered if a development permit were being issued, and a road setback is one of those matters. I am authorized to impose terms and conditions that a municipality could impose if the municipality were issuing a development permit. Therefore, I have included a condition that the proposed pen 2 must meet the 38.1 m setback to township road 11-2 or be waived by the County.

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 parcel is zoned Rural Agricultural and is therefore consistent with this part of the policy.

The minimum parcel size stipulation is a condition for the site of a CFO and is not a land use provision. Section 21(1.1) of AOPA states that Approval Officers shall not consider provisions respecting tests of conditions related to the site of a CFO. Nevertheless, as supported by 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, 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. There is no applicable intermunicipal development plan.

APPENDIX B: Explanation of conditions in Registration LA25022

Registration LA25022 includes several conditions, discussed below:

a. Construction above the water table

Sections 9(2) of the *Standards and Administration Regulation* under the *Agricultural Operation Practices Act* (AOPA) requires the bottom of the manure storage facility or manure collection area to be not less than one metre above the water table of the site “at the time of construction.”

It is noted in the subsoil investigation report included with the application that minor perched groundwater was encountered in two of the boreholes, but that it is not a groundwater resource. This is likely the water table approximately 1 m below grade. The bottom of the catch basin is proposed to be 2 m below grade.

Based on this information, the proposed catch basin may not meet the one metre requirement of section 9(2). However, because the height of the water table can vary over time, the lack of adequate depth to water table indicated in J-Bar Farms’ report does not mean that there will be an inadequate depth at the time of construction. To address this variability and ensure that the depth requirement is met at the time of construction, conditions are included requiring J-Bar Farms to cease construction and notify the NRCB immediately if the water table is encountered during construction, in addition to a construction completion report certifying that the catch basin was constructed at the proposed location and with the proposed dimensions and confirmation that the water table was not observed at the time of construction.

b. Construction deadline

J-Bar Farms proposes to complete construction of the proposed lambing barn, pens, and catch basin by December 2025. This time-frame may be too short for the proposed scope of work due to contractor and supply availability. The deadline of December 1, 2026 is included as a condition in Registration LA25022.

c. County road setback

The development setback to a county road right-of-way, for lands zoned Rural Agriculture in Lethbridge County’s Land Use Bylaw, is 38.1m. As mentioned in Appendix A under discussion of Section 3.6 of the MDP, I am adding a condition requiring J-Bar Farms to provide proof from a professional surveyor or other qualified third party, that pen 2 is located at least 38.1 m from the centre of Township Road 11-2. Alternatively, J-Bar Farms may provide a setback waiver from Lethbridge County stating that the pen can encroach on the development setback to the road.

d. Post-construction inspection and review

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. Registration LA25022 includes conditions stating that J-Bar Farms shall not place livestock or manure in the lambing barn or pens and shall not allow manure contaminated run off to enter the catch basin until NRCB personnel have inspected the facilities and confirmed in writing that they meet the registration requirements.