

Decision Summary LA25005

This document summarizes my reasons for issuing Approval LA25005 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25005. 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 15, 2025, Slingerland Feeders Ltd. (Slingerland Feeders) submitted a Part 1 application to the NRCB to expand an existing beef CFO.

The Part 2 application was submitted on April 23, 2025. During my review of the Part 2 application, I noticed a few occurrences of unauthorized construction and notified an NRCB inspector. Slingerland Feeders was issued compliance directive CD 25-10 directing them to obtain a permit for the unauthorized facilities or return the facilities to their prior state, as they existed on January 1, 2002. On May 6, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing beef finisher numbers from 5,000 to 6,000
- Constructing pens E1-E7 – total dimensions: 238 m x 57 m
- Constructing north catch basin - 15 m x 40 m x 2.5 m deep
- Constructing south catch basin - 24 m x 56 m x 3.5 m deep
- Expanding catch basin 2 - 18 m x 8 m x 4 m deep (final total dimensions: 53.5 m x 32.5 m x 4 m deep)
- Permitting already constructed pen 27 - 56 m x 29 m
- Permitting already constructed pens 28 & 29 - total dimensions 29 m x 120 m
- Permitting already constructed pen 8b - 29 m x 29 m
- Permitting already constructed catch basin 1 - 56 m x 24 m x 3.5 m deep
- Permitting already constructed catch basin 3 - 31 m x 28 m x 3.35 m deep

a. Location

The existing CFO is located at SW 28-9-19 W4M in Lethbridge County, roughly 5.5 km northeast of Coaldale, AB. The terrain is flat with a gentle slope to the south. The nearest common body of water is an irrigation canal 1.7 km to the south.

b. Existing permits

As the CFO existed on January 1, 2002, the CFO is grandfathered with a deemed approval under section 18.1 of AOPA. That deemed permit includes Lethbridge County MD Permits 2000-55, 97-74, and 94-14. This deemed approval allows for the construction and operation of a 5,000 beef finisher CFO. The determination of the CFO's deemed permit status under section

18.1 of AOPA is explained in Appendix C. The deemed facilities are listed in the appendix to the Approval LA25005.

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 two miles. (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 newspaper in circulation in the community affected by the application on May 6, 2025, and
- sending 63 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 the County of Lethbridge Rural Water Association Ltd. as they are a right of way holder on the subject land.

In their response, a water administration technologist with EPA stated that additional water licensing is required for the proposed expansion. They requested that any conveyance

agreements are shared with them. The applicant sent me confirmation from SMRID that Slingerland Feeders is in compliance with their conveyance agreement. I forwarded this to EPA on their behalf.

In their response, a land administrator with SMRID stated that the property currently holds a water conveyance agreement and an additional 13.5 acre-feet will be required for the proposed expansion. They also noted that there is a SMRID pipeline with a 20 m easement in close vicinity to the area for the proposed expansion. No heavy equipment is permitted on the easement.

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

All responses were shared with the applicant for their information and action.

Approval LA25005 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. 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 detailed discussion of the county's planning requirements.) There is no applicable IDP.

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 five exceptions (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS). The owners of those residences have signed written waivers of the MDS requirement to their residences
- 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 protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 10 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 expansion is located within its boundaries.

Ms. Hilary Janzen, former manager of planning and development with Lethbridge County, provided a written response on behalf of Lethbridge County. Ms. Janzen stated that the application is consistent with Lethbridge County's land use provisions of the municipal development plan (MDP). The application's consistency with the land use provisions of Lethbridge County's MDP is addressed in Appendix A, attached.

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

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 a directly affected (See NRCB Operational Policy 2016-7: Approvals, part 7.2.1). Ite and Jane Veurink, Dave Van Pelt Farms Inc., John Willms, Peter and Greta Hamm, and James (Jim) and Esther provided MDS waivers and are directly affected parties.

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 assumption 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.)

For the sake of efficiency, I first assessed the CFO's existing catch basin 2 using the ERST. This appears to be the CFO's highest risk facility because it is constructed below grade and contains manure contaminated run off. The assessment found that this facility 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. A further assessment of the risks posed by these other facilities, using the ERST, is not necessary.

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.

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 July 15, 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 my own observations 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.

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 (see discussion of the MDP in Appendix A).

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 my view, this presumption is not rebutted.

10. Terms and conditions

Approval LA25005 specifies the cumulative permitted livestock capacity as 6,000 beef finishers and permits the construction of pens E1-E7, the north catch basin, south catch basin, and the expansion of catch basin 2. The approval also permits the already constructed pens 27-29, pen 8b, catch basin 1, and catch basin 3.

Approval LA25005 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 LA25005 includes conditions that generally address construction deadline, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

For clarity, and pursuant to NRCB policy, I consolidated the following permits with Approval LA25005: municipal development permits 2000-55, 97-74, and 94-14 (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 B discusses which conditions from the historical permits are or are not carried forward into the new approval.

11. Conclusion

Approval LA25005 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25005.

Slingerland Feeders' deemed approval, including municipal development permits 2000-55, 97-74, and 94-14 are therefore superseded, and their content consolidated into this Approval LA25005, unless Approval LA25005 is held invalid following a review and decision by the NRCB's board members or by a court, in which case municipal development permits 2000-55, 97-74, and 94-14 will remain in effect.

July 28, 2025

(original signed)
Kailee Davis
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Approval LA25005
- C. 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).

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.)

Slingerland Feeders’ CFO is located in Lethbridge County and is therefore subject to that county’s MDP. Lethbridge County adopted the latest revision to this plan on March 10, 2022, under Bylaw #22-001.

The policies pertaining to CFOs are in part 4, section 3 “Intensive Livestock/Confined Feeding Operations.”

Section 3.0 states that the county is supportive of CFOs in areas that are less prone to conflict and where municipal infrastructure can support such developments.

This is likely not a land use provision as it is subjective what can or cannot be supported by municipal infrastructure and that is not within NRCB’s discretion.

Section 3.1 and 3.2 states that new CFOs are not permitted in the MDP CFO exclusion areas (Maps 2A and 2B), IDP CFO exclusions areas, or in CFO exclusion zones of high density residential growth centres.

This application is for the expansion of an existing CFO, not a new CFO. Therefore, this policy does not apply. However, the CFO is not in any exclusion areas identified in these policies.

Section 3.3 states that existing operations within an urban fringe district may be permitted to expand or make improvements with consideration to any IDP that allows for such.

The CFO is not located in 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.”

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

Section 3.7 states that CFOs are discretionary uses only in areas zoned as Rural Agriculture with a minimum parcel size of 80 acres.

As noted in Lethbridge County’s response, the proposed CFO expansion is within a land use district zoned as Rural Agricultural. The application is consistent with this part of the policy.

I consider the minimum parcel size a test or condition that I am unable to consider as section 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 stated in Lethbridge County’s response, the application is consistent with this part of the policy as well.

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. There is no applicable IDP.

APPENDIX B: Explanation of conditions in Approval LA25005

Approval LA25005 includes several conditions, discussed below, and carries forward a number of conditions from historical permits (see sections 2 and 3 of this appendix). Construction conditions from historical permits that have been met are identified in the appendix to Approval LA25005.

1. New conditions in Approval LA25005

a. Construction deadline

Slingerland Feeders proposes to complete construction of all the proposed pens and catch basins in three years. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of August 1, 2028, is included as a condition in Approval LA25005.

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 LA25005 includes conditions requiring the permit holder to provide written confirmation from a qualified third party confirming the final constructed dimensions of the north catch basin, south catch basin, and catch basin 2.

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 LA25005 includes conditions stating that Slingerland Feeders shall not place livestock or manure in the manure storage or collection portions of the new feedlot pens or allow manure contaminated runoff to enter the new catch basins until NRCB personnel have inspected the facilities and confirmed in writing that they meet the approval requirements.

2. Conditions carried forward and modified from 94-14, 97-74, and 2000-55

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that condition 4 from MD permit 94-14, conditions 6 and 8 from MD permit 97-74, and conditions 3 and 4 from MD permit 2000-55 should be carried forward and modified.

Municipal development permit 94-14

4. A fly control program is to be instituted.

AOPA does not require operators to have a fly control program, therefore this condition is more stringent than AOPA. This condition will be renumbered and carried forward to Approval LA25005 as an operating condition.

Municipal development permit 97-74

6. Manure is to be land spread and incorporated within 24 hours.

Section 24(1) of the Standards and Administration Regulation states that manure shall be incorporated within 48 hours of spreading. This condition is more stringent than AOPA and will be renumbered and carried forward as an operating condition.

8. *No spreading of manure on frozen ground or on weekends.*

Section 24(6) of the Standards and Administration Regulation prohibits the spreading of manure on frozen ground, therefore this part of the condition is equivalent to AOPA and will not be carried forward. However, AOPA does not prohibit the spreading of manure on weekends. This part of the condition is more stringent than AOPA, and as such will be renumbered, rewritten, and carried forward as an operating condition.

3. Conditions not carried forward from 94-14, 97-74, and 2000-55

Approval LA25005 includes the terms and conditions in municipal development permits 2000-55, 97-74, and 94-14, except those noted below.

Pursuant to section 23 of AOPA (approval officer amendments), I have determined that conditions 1-3, 5-6 from 94-14, conditions 1-5,7,9 from 97-74, and conditions 1-2,5-9,11-12 from 2000-55 should be deleted and therefore are not carried forward to Approval LA25005. My reasons for deleting these conditions are as follows:

Municipal development permit 94-14

1. *The location of the feedlot is to conform to the submitted site plan.*

This is not a condition and is a term of the old permit that is being superseded in Approval LA25005. Therefore it will not be carried forward.

2. *All surface drainage from the feedlot is to be contained in an adequately sized catch basin/lagoon.*

This condition will not be carried forward as it is equivalent to AOPA requirements. AOPA requires that CFOs have a catch basin(s) that has the sufficient capacity to collect manure contaminated run-off from a 1-in-30 year rainfall.

3. *All water courses traversing this property are to be protected from contamination from runoff and/or spreading of manure.*

This condition will not be carried forward as it is equivalent to AOPA requirements. CFO facilities must meet setbacks to common bodies of water and have adequate runoff control. Additionally, operators are responsible for adhering to setbacks when spreading manure.

5. *All deads are to be disposed of in a prompt and acceptable manner.*

This condition relates to the disposal of dead animals which is regulated by Alberta Agriculture and Irrigation. All livestock owners are required to dispose of livestock mortalities in accordance with the Animal Health Act. Given Alberta Agriculture and Irrigation's direct oversight for the disposal of dead animals and the regulatory requirements, this condition will not be carried forward to Approval LA25005.

6. *The applicant should contact Alberta Agriculture with respect to 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.

Municipal Development permit 97-74

1. *The existing sow operation will be reduced to a maximum of 30 sows farrow to finish.*
2. *The maximum number of cattle to be fed at this location is to be 4,000 head.*
3. *The southernly most pen and lagoon of the expansion will be moved to the north approximately 150 feet. This area can be utilized for straw storage, etc.*

This condition will not be carried forward as it is too vague to be enforced. It is unclear what "southernly most pen and lagoon" was required to be moved, if that occurred, and what area was considered appropriate for straw storage.

4. *Approximately 555 acres are to be maintained for land spreading of manure.*

This condition will not be carried forward as it is less stringent than AOPA. This application proposes an expansion to 6,000 beef finishers. For that size of CFO, 919 ac of irrigated land is required for spreading manure.

5. *All surface drainage must be contained in adequately sized catch basins. (see Alberta Agriculture for Assistance)*

This condition will not be carried forward as it is equivalent to AOPA requirements. AOPA requires that CFOs have a catch basin(s) that has the capacity to collect manure contaminated run-off from a 1-in-30 year rainfall.

7. *Protection of the irrigation canal to the North from spreading and runoff is to be maintained.*

This condition will not be carried forward as it is an equivalent of AOPA requirements. AOPA contains setbacks from common bodies of water during spreading. These regulations are designed to protect water quality. Furthermore, the canal to the north referenced in this condition is likely the irrigation canal that ran along the north quarter boundary up until 2021. This canal no longer exists.

9. *Deads are to be disposed of in a prompt and acceptable manner.*

This condition relates to the disposal of dead animals which is regulated by Alberta Agriculture and Irrigation. All livestock owners are required to dispose of livestock mortalities in accordance with the Animal Health Act. Given Alberta Agriculture and Irrigation's direct oversight for the disposal of dead animals and the regulatory requirements, this condition will not be carried forward to Approval LA25005.

Municipal Development permit 2000-55

1. *A minimum separation distance of 1,200' is to be maintained from the existing operation to the nearest neighboring residence. (A 5% variance is hereby granted for the construction of a windbreak fence on the west and south of the lot to serve as a visual buffer.)*

This condition will not be carried forward as it is less stringent than AOPA. This application proposes an expansion to a 6,000 beef finisher CFO which requires an MDS of 731 m (2,398 ft).

2. *A minimum of 700 irrigated acres and cultivated acres if to be maintained as an adequate land base for manure utilization.*

This condition will not be carried forward as it is less stringent than AOPA. This application proposes an expansion to 6,000 beef finishers. For that size of CFO, 919 ac of irrigated land is required for spreading manure.

5. *A specific site is to be selected and maintained as interim storage of dead animals. The area must include runoff control and not be visible by the general public. Deads would best be handled by rendering pick up.*

This condition relates to the disposal of dead animals which is regulated by Alberta Agriculture and Irrigation. All livestock owners are required to dispose of livestock mortalities in accordance with the Animal Health Act. Given Alberta Agriculture and Irrigation's direct oversight for the disposal of dead animals and the regulatory requirements, this condition will not be carried forward to Approval LA25005.

6. *Stockpiling of solid manure is not to be done next to roadways and/or water courses. All runoff from stockpiles must be contained in the immediate area of the stockpile.*

This condition will not be carried forward as "not to be done next to" and "in the immediate area" is too vague to be enforced as written. However, AOPA regulates stockpiling of manure and operators must adhere to setbacks to common bodies of water and residences.

7. *Consideration of neighboring residences must be included in land application of manure. This includes allowing for an adequate separation distance from neighbors and incorporation within 48 hours of spreading.*

This condition will not be carried forward as it is equivalent to AOPA regulations regarding the land application of manure. Sections 24(5) and 24(1) stipulate that spreading cannot occur within 150 m of neighboring residences and that manure must be incorporated within 48 hours of spreading, respectively.

8. *Spreading of manure is not to occur on frozen ground, near canals or ditches and on weekends.*

This condition will not be carried forward as it is too vague to be enforced. It is not clear exactly what "near" means. However, AOPA regulates the land spreading of manure, including setbacks to common bodies of water and prohibiting spreading on frozen ground.

9. *A fly control program is to be initiated and maintained.*

This condition will not be carried forward as I am already carrying forward a condition that a fly program needs to be instituted at the CFO.

APPENDIX C: Determination of deemed permit status

Slingerland Feeders 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 to determine which facilities are 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 originally permitted by Lethbridge County on April 5, 1994, under development permit #94-14, and received additional development permits on July 1, 1997, and June 20, 2000. Collectively, these development permits allow the construction and operation of a beef CFO with 5,000 finishers. These development permits are deemed (i.e. grandfathered) permits under section 18.1(1)(b) of AOPA. The CFO’s deemed facilities are listed in the appendix Approval LA25005.

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.

Findings:

Under section 18.1(2)(c), the CFO’s deemed capacity is the capacity stated in the CFO’s development permit. Therefore, the CFO has a deemed capacity of 5,000 beef finishers.

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. During my discussions with the operator, he explained that the feedlot has been operational since its inception. The MD permits were issued to John Slingerland and ownership of the land transferred from father to sons. 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. Compliance directive CD 25-10 found a few occurrences of unauthorized construction, including pens 27-29, pen 8b, and catch basins 1 and 3. Application LA25005 sought to permit these facilities. I conclude that all other existing facilities have their original liner. A review of aerial imagery supports this conclusion.