

## Decision Summary LA25040

This document summarizes my reasons for issuing Approval LA25040 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25040. 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 May 20, 2025, Marty and Jonathan Vandenberg, operating as Sunnyview Farms Ltd. (Sunnyview), submitted a Part 1 application to the NRCB to construct a new beef CFO.

The Part 2 application was submitted on May 25, 2025. On June 3, 2025, I deemed the application complete.

The proposed CFO involves:

- Increasing beef feeder numbers from 0 to 1,120
- Increasing beef calf feeder numbers from 0 to 180
- Constructing pen 1 - 45.7 m x 42.7 m
- Constructing pen 2 - 30.5 x 33.5 m
- Constructing pens 3, 4, & 5 - 30.5 m x 42.7 m each
- Constructing pens 6, 7, 8, & 9 - 33.5 m x 19.8 m each
- Constructing 2 shelters - 24.4 m x 9 m each
- Constructing a catch basin - 35 m x 20 m x 3.3 m deep

#### a. Location

The proposed CFO is located at SW 26-11-23 W4M in Lethbridge County, roughly five km north of Nobleford, AB. The terrain is relatively flat, sloping to the northeast. The nearest common body of water is Keho Lake, approximately 1 km northeast of the proposed CFO.

### 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 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 June 3, 2025, and
- sending 13 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 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 Alberta Transportation & Economic Corridors (TEC).

I also sent a copy of the application to Lethbridge North County Potable Water Coop Ltd., FortisAlberta Ltd., and Little Bow Gas Coop Ltd as they are right of way holders on the subject land.

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

In their response, a land coordinator with FortisAlberta stated that they do not have any concerns with the application. They included contact information if electrical services are required.

These responses were passed on to the applicant for their information.

Approval LA25040 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 CFO 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 IDP.

## **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 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 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 consistent with Lethbridge County's land use provisions of the municipal development plan (MDP). The application's consistency with the land use provisions of the Lethbridge County's MDP is addressed in Appendix A, attached.

Lethbridge County also noted that the proposed CFO is near Keho Lake which is identified as being an environmentally sensitive area in the *Cotton Wood Report: Environmentally Sensitive Areas in the Old Man River Region (1988)*. This concern is addressed in Appendix A under policy 3.5.

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

## 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 monitoring. The information on this file supports the assumption that risks to groundwater and surface water are low and monitoring 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. Hannah Laberge 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 CFO 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 10, 2025).

Finally, I considered the effects of the proposed CFO 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 CFO 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 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). The land the proposed CFO is located on is zoned Rural Agricultural. In my view, this presumption is not rebutted.

## **10. Terms and conditions**

Approval LA25040 specifies the cumulative permitted livestock capacity as 1,120 beef feeders and 180 beef feeder calves, and permits the construction of feedlot pens 1-9, two shelters, and a catch basin.

Approval LA25040 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 LA25040 includes conditions that generally address construction deadlines, document submission and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

## **11. Conclusion**

Approval LA25040 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25040.

July 30, 2025

*(original signed)*  
Kailee Davis  
Approval Officer

## **Appendices:**

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Approval LA25040

## **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). 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.)

Sunnyview’s proposed CFO is to be 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.

This proposed CFO is not an existing operation; therefore, this policy does not apply. Nevertheless, it is not located in an urban fringe district.

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.

However, the proposed CFO is near an environmentally sensitive area (Keho Lake), as noted in Lethbridge County's response. Lethbridge County asked that the sensitive nature of these lands be considered during the decision process. As detailed in Technical Document LA25040 and Section 6 of this Decision Summary, Sunnyview's proposed CFO meets AOPA requirements designed to protect ground and surface water. It is therefore presumed that the proposed facilities pose a low risk to surface water and ground water. During my site visit and in conversations with the applicant, it was noted that the general slope of the site is to the northeast towards Keho Lake, but that there is a small hill that prevents runoff from the site from entering the lake. Additionally, all manure contaminated runoff will be sloped toward the catch basin, which has sufficient capacity to contain runoff from a 1-in-30 year rainfall.

Additionally, Section 24 of AOPA's Standards and Administration Regulation outlines requirements for manure spreading. This includes application limits, incorporation practices, and setback distances to common bodies of water. These requirements are designed to prevent or minimize nutrient overloading and the potential of manure contaminated runoff and subsequent contamination of surface water (and groundwater). Operators must adhere to these regulations.

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 land use provision that I can consider. 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 is within a land use district zoned as Rural Agricultural.

The minimum parcel size stipulation is a condition for the site of a CFO and is not a land use provision. Section 20(1.1) of AOPA states that Approval Officers shall not consider provisions respecting tests of conditions related to the site of a CFO. Nevertheless, 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: Explanation of conditions in Approval LA25040**

Approval LA25040 includes several conditions, discussed below:

### **a. Construction deadline**

Sunnyview proposes to complete construction of the proposed CFO in stages. They have proposed to complete construction of pens 6-9 and the catch basin in two years and to complete the remainder of the facilities (pens 1-5 and the two shelters) in an additional two years. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of July 31, 2027, to complete construction of pens 6, 7, 8, 9 and the catch basin is included as a condition in Approval LA25040. The deadline of July 31, 2029, to complete construction of pens 1, 2, 3, 4, 5, and the two shelters is also included as a condition in Approval LA25040.

### **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 LA25040 includes a condition requiring the permit holder to provide written confirmation from a qualified third party confirming the final constructed dimensions of the catch basin and that any sand lenses encountered during excavation were over excavated and repacked using the materials suggested in the JLECS report included in Technical Document LA25040.

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 LA25040 includes conditions stating that Sunnyview shall not place livestock or manure in the manure storage or collection portions of the new nine feedlot pens or two shelters, or allow manure contaminated runoff to enter the new catch basin until NRCB personnel have inspected the facilities and confirmed in writing that they meet the approval requirements. Livestock or manure cannot be placed in the pens until the catch basin has been constructed.