

## Decision Summary LA25063

This document summarizes my reasons for issuing Authorization LA25063 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25063. 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 authorization. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On August 6, 2025, Hutterian Brethren of Thompson (Thomspon Colony) submitted a Part 1 application to the NRCB to expand three existing catch basins at an existing multi species CFO.

The Part 2 application was submitted on August 7, 2025, and was deemed complete the same day.

The proposed construction involves:

- Expanding catch basin west (122 m x 24 m x 3 m deep) to 150 m x 24 m x 3 m deep
- Expanding catch basin center (122 m x 24 m x 3 m deep) to 140 m x 24 m x 3 m deep
- Expanding catch basin east (122 m x 24 m x 3 m deep) to 126 m x 24 m x 3 m deep

#### a. Location

The existing CFO is located at N½ 34, SE 34, NW 26, NE 27-5-27 W4M in the Municipal District (M.D.) of Willow Creek, roughly 31 km southwest of the Town of Fort Macleod, Alberta. The CFO is approximately one km from the Waterton River and 600 m away from the Scotts Creek coulee system. The site slopes gently to the south-southwest.

#### b. Existing permits

The CFO is currently permitted under NRCB Approval LA23009.

### 2. Notices to affected parties

Under section 21 of AOPA, the NRCB notifies all parties that are “affected” by an authorization application. Section 5 of AOPA’s Part 2 Matters Regulation defines “affected parties” as:

- the municipality where the CFO is located or is to be located
- 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
- any other municipality whose boundary is within a notification distance. In this case, the notification distance is 0.5 miles (804 m) from the CFO

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 the MD of Willow Creek, which is the municipality where the CFO is located, and to Cardston County, and the MD of Pincher Creek which have a boundary within the notification distance for the CFO.

### **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) and Alberta Transportation and Economic Corridors (TEC).

I also sent a copy of the application to Atco Gas because they are a right of way holder on this land.

A response was received from Mr. Evan Neilsen, development/planning technologist with TEC. In his response, Mr. Neilsen stated that a permit from TEC is required. A copy of the response was forwarded to Thompson Colony for their information and action.

A response was also received from Bradley Calder, a water administration technologist with EPA. In his response, Mr. Calder stated that EPA has no concerns with this application.

Authorization LA25063 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. MDP, IDP consistency**

I have determined that the proposed construction is consistent with the land use provisions of the MD of Willow Creek's municipal development plan, and of the IDP between the MD of Willow Creek and the MD of Pincher Creek, as well as the IDP between the MD of Willow Creek and Cardston County (See Appendix A for a more detailed discussion of the county's planning requirements.)

### **5. AOPA requirements**

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

- 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 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 8 and Appendix B, the application meets all relevant AOPA requirements.

## 6. Responses from municipalities

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.

Municipalities that are affected parties are identified by the Act as "directly affected." The MD of Willow Creek is an affected party (and directly affected) because the proposed facilities expansion is located within its boundaries.

Ms. Cindy Chisholm, a development officer with the MD of Willow Creek, provided a written response on behalf of the MD. Ms. Chisholm stated that the application is consistent with the MD of Willow Creek's land use provisions of the municipal development plan (MDP). The application's consistency with the land use provisions of the MD of Willow Creek's MDP and the two applicable IDPs is addressed in Appendix A, attached.

Ms. Chisholm also listed the setbacks required by the MD of Willow Creek's land use bylaw (LUB) and noted that the catch basin east does not meet the required setbacks to the property line.

Cardston County and the MD of Pincher Creek are also a directly affected parties because the CFO is located in an area covered by intermunicipal development plans (IDP) Bylaw No. 1731 MD of Willow Creek Bylaw and No 675.2015 Cardston County, November 2015; and Bylaw No. 1310-19 of the MD of Pincher Creek and Bylaw No. 1842 MD of Willow Creek).

## 7. Environmental risk of facilities

When reviewing a new authorization application for an existing CFO, NRCB approval officers assess the CFO's existing buildings, structures, and other facilities. In doing so, the approval officer considers information related to the site and the facilities, as well as results from the NRCB's environmental risk screening tool (ERST). The assessment of environmental risk focuses on surface water and groundwater. The ERST provides for a numeric scoring of risks, which can fall within either a low, moderate, or high risk range. (A complete description of this tool is available under CFO/Groundwater and Surface Water Protection on the NRCB website at [www.nrcb.ca](http://www.nrcb.ca).) However, if those risks have previously been assessed, the approval officer will not conduct a new assessment unless site changes are identified that require a new assessment, or the assessment was supported with a previous version of the risk screening tool and requires updating. See NRCB Operational Policy 2016-7: *Approvals*, part 9.17.

In this case, the risks posed by Thompson Colony's existing CFO facilities were assessed in 2017, 2022, and 2023 as part of Approvals LA17028, 22027, and LA23009 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater. This includes the three catch basins that are proposed to be expanded. The risk to groundwater and surface water does not change due to the proposed expansion and remains low.

The circumstances have not changed since that assessment was done. As a result, a new assessment of the risks posed by the CFO's existing facilities is not required.

## 8. Terms and conditions

Authorization LA25063 permits the expansion of the three catch basins (catch basin east, center, and west located at the feedlot).

Authorization LA25063 contains terms that the NRCB generally includes in all AOPA authorizations, 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, Authorization LA25063 includes conditions that generally address a construction deadline, document submission, and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

## 9. Conclusion

Authorization LA25063 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25063.

Authorization LA25063 must be read in conjunction with Thompson Colony's Approval LA23009 which remains in effect.

September 8, 2025

*(original signed)*  
Carina Weisbach  
Approval Officer

## Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Authorization LA25063

## APPENDIX A: Consistency with municipal land use planning

Under section 22 of AOPA, an approval officer may only approve an application for an authorization or amendment of an authorization 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 or IDP. In general, “land use provisions” cover 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 or IDP 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 provisions are commonly referred to as “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.)

### Municipal Development Plan (MDP)

Thompson Colony’s CFO is located in the MD of Willow Creek and is therefore subject to that county’s MDP. The MD of Willow Creek adopted the latest revision to this plan on August 2019, under Bylaw #1841. The parts and policies of the MP relevant to this application are discussed below.

Part 2 states that agriculture is a predominant land use in the MD, though it also notes that it is important to balance other interests. One of the objectives in Section 2 states that one of the main objectives of the MDP is to mitigate the siting of a CFO to minimize conflicts with adjacent land uses. Policy 2.3 states that the MD shall establish guidelines with regards to the NRCB for the regulation and approval of CFOs within the MD. These guidelines are found in section 9.

This part and policy likely aren’t a relevant “land use provision”. Rather, I consider this to be a source of insight for the interpretation of the remaining portions of the MDP.

Policy 9.2 of the MDP directs the NRCB to consider six matters. These are quoted below (*in italics*); each one is followed by my discussion of how the provision is related to this application. The requested matters to consider are:

#### *(a) The cumulative effect of a new approval on any area near other existing CFO’s/ILO’s*

This policy is likely not a “land use provision” as it calls for project-specific, discretionary judgements about the types of cumulative effects that should be considered, and the acceptable maximum levels of each of these effects.

In a 2011 decision, the NRCB Board stated that consideration of cumulative effects is “not within the Board’s regulatory mandate. As a statutory decision maker, the Board takes its direction from the authorization legislation. AOPA does not provide for cumulative effects assessment” (Zealand Farms, RFR 2011-02 at 5).

For these reasons, I do not consider this MDP provision to be relevant to my MDP consistency determination. At any rate, this is not a new CFO and no increase in manure production is proposed.

*(b) Environmentally significant areas contained in the Municipal District of Willow Creek:  
Environmentally Significant Areas in the Oldman River Region report [the report]*

Thompson Colony's CFO is not within any of the areas designated as of regional, provincial or national significance in the referenced report (Map 1 of the report). However, areas of local significance are not represented in the report.

The report also assessed the planning area for major physical constraints such as flood plains, unstable slope potential and areas of artesian flow. The map shows that the CFO is not located in any of these areas. I am of the opinion that the application is consistent with this provision; I have not been privy to information with refutes this.

*(c) Providing notice to adjacent landowners including applications for registration or authorizations*

This is likely not a "land use provision" because of its procedural focus and thus I do not consider it to be relevant to my MDP consistency determination. Because this is an authorization, public notification is not required and the notification requirements of AOPA have been met (see also Operational Policy 2016-7: Approvals, part 8.7)

*(d) Applying minimum distance separation calculations to all country residential development*

I interpret "minimum distance separation" as referring to the minimum distance separation (MDS) requirements in section 2 and Schedule 1 of the Standards and Administration Regulation under AOPA. There is no county residential development located within the category 2 MDS for Thompson Colony's CFO and the application meets AOPA's MDS requirements.

*(e) Restricting development in any wetland or riparian area*

The proposed expansion of the existing catch basins are not located in a wetland or riparian area and meet AOPA's setbacks to common bodies of water. This provision is therefore met by the application.

For these reasons, I conclude that the application is consistent with the land use provision of the MD of Willow Creeks MDP.

In my view, the Land Use Bylaw is clearly incorporated in the MDP in several sections, especially in Policy 15.5 which states:

*"The development authority shall require the NRCB to take into consideration the policies adopted in this plan and the Land Use Bylaw, when issuing an approval."*

Therefore, I also considered the application's consistency with this document. Under the MD of Willow Creeks' Land use Bylaw (#1826 consolidated to Bylaw No 383/2020), the subject land is currently zoned as Rural General. CFOs are not listed as prohibited, permitted or discretionary land uses under this zoning. Ordinarily, a land use bylaw intends to preclude land uses that are not listed as permitted or discretionary (and that do not meet any other relevant criteria). However, the land use bylaw lists "intensive livestock operations" (ILOS), defined essentially as CFOs below AOPA's permit thresholds, as a discretionary use within areas zoned Rural

General. Therefore, I interpret the omission of CFOs from the list of permitted and discretionary land uses as simply the municipality's recognition that, since AOPA came into effect in 2002, the NRCB is responsible for permitting CFOs above AOPA's thresholds.

As for the lot size restriction in section 2(4) of the Rural General part of the bylaw, which states that the "parcel size shall remain the same size for which the development approval was originally issued", the lot size does not change due to this development. However, since CFOs are not listed in the LUB, it is my interpretation that the lot restrictions are intended to apply to ILOs that are permitted by the municipality and are not intended to apply to CFOs above AOPA's permit thresholds.

Section 3 of the Rural General part of the bylaw lists several setbacks. The three catch basins continue to meet the 22.9 m road and 6.1 m property line setback requirements.

For these reasons, I conclude that the proposed expansion of the catch basins are consistent with the land use bylaw.

#### Intermunicipal development plans (IDP)

Thompson Colony is also located within the area governed by the IDPs between the MD of Willow Creek and Cardston County, and the IDP between the MD of Willow Creek and the MD of Pincher Creek.

The IDP between the MD of Willow Creek and Cardston County, with the latest version adopted in November 2015 under Bylaw No. 1731 & Bylaw No. 675.2015, states in section 4.3 Confined Feeding Operations, policy 4.3.1 that existing CFOs will be allowed to continue to operate within the requirements of the AOPA.

Thompson Colony's latest NRCB issued approval, Approval LA23009, consolidated all existing CFO related permits and no unauthorized construction has been identified. Therefore, Thompson Colony is in compliance with AOPA and its regulations.

Section 4.3.2 states that the counties shall notify each other about applications received from the NRCB. Because I do not consider this a land use provision, I will not consider this policy in my consistency determination. At any rate, Cardston County received the application for comments.

The relevant sections in the IDP between the MD of Willow Creek and the MD of Pincher Creek, adopted in September 2019 under Bylaw No. 1310-19 and Bylaw No. 1842, state in section 3.2.3 that existing CFOs will be allowed to continue to operate within the requirements of the AOPA. As explained in the previous section, Thompson colony's CFO is permitted under AOPA.

Section 3.2.5 states that the counties shall notify each other about applications received from the NRCB. I do not consider this a land use provision and subsequently will not consider this policy in my consistency determination.

Section 3.2.6 speaks on consultation in case either of the municipalities suggests amendments to existing CFO exclusion zones. Because this is not a land use provision, I will not consider this policy in my MDP/IDP consistency determination.

For these reasons, I determined that this application is consistent with both IDPs.

## **APPENDIX B: Explanation of conditions in Authorization LA25063**

### **a. Construction deadline**

Thompson Colony proposes to complete expansion of the existing catch basins by the end of this year (2025). This time-frame is considered to be reasonable for the proposed scope of work. The deadline of December 31, 2025, is included as a condition in Authorization LA25063.

### **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, Authorization LA25063 includes conditions requiring:

- a. Thompson Colony to provide evidence or written confirmation from a qualified third party that the distance to the highway has not changed and that the dimensions of the expanded catch basins are as specified in this permit.

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. Authorization LA25063 includes a condition stating that Thompson Colony shall not let manure contaminated runoff to enter the catch basins until NRCB personnel have inspected the catch basins and confirmed in writing that they meet the authorization requirements.