

Decision Summary LA25057

This document summarizes my reasons for issuing Approval LA25057 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25057. 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 July 15, 2025, Henk Vanderberg and Case Brobbel (on behalf of Foothill Farms (Foothill Farms)), submitted a Part 1 application to the NRCB to expand an existing beef CFO.

The Part 2 application was submitted on July 21, 2025. On July 30, 2025, I deemed the application complete.

The proposed expansion involves:

- Increasing beef finisher (or bison or a combination of both) numbers from 5,000 to 11,000 beef finishers
- Constructing feedlot pens
 - west row (288 m x 77 m)
 - middle row (292 m x 76.2 m)
 - east row (292 m x 76.2 m)
- Constructing a catch basin (100 m x 53 m x 5 m deep)
- Constructing a solid manure storage pad (100 m x 70 m (irregular shape))

The proposed feedlot pens are located on the footprint of the vegetative filter strip that functioned as runoff control. This method is replaced by the new catch basin. The vegetative filter strip is not considered a CFO facility. Therefore a decommissioning prior to constructing the new feedlot pens is not required.

a. Location

The existing CFO is approximately six km northeast of Fort Macleod, Alberta in the Municipal District (MD) of Willow Creek. The topography at the feedlot site is mostly flat, sloping gently to the east toward the Oldman River which is over 800 m away. The closest ephemeral creek that is part of the Oldman River coulee system is 100 m to the southeast of the feedlot pens.

b. Existing permits

To date, the CFO has been permitted under NRCB Approval LA10063. That permit allowed the construction and operation of a 5,000 head beef finisher (or bison or a combination of both) CFO. The CFO's existing permitted facilities are listed in the appendix to the Approval LA25057.

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 and no municipality shares a boundary with the MD of Willow Creek within the notification radius.

A copy of the application was sent to the MD of Willow Creek, 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 Macleod Gazette newspaper in circulation in the community affected by the application on July 30, 2025, and
- sending 35 notification letters to people identified by the MD of Willow Creek as owning or residing on land within the notification distance.

The full application was made available for viewing at the NRCB office in Lethbridge 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), Alberta Transportation & Economic Corridors (TEC), and the Lethbridge Northern Irrigation District (LNID).

I also sent a copy of the application to Atco Gas & Pipelines Ltd., and South Alta Rural Electrification Association Ltd. which are right of way holders on this land.

I received responses from Ms. Leah Olson, a development/planning technologist with TEC; Mr. Gary Burke, corporate services manager with the LNID; and Mr. Bradley Calder, a water administration technologist with EPA.

TEC: In her response Ms. Olson stated that TEC has no concern or requirements with respect to this application.

LNID: In his response Mr. Burke stated that the LNID does not oppose the application but pointed out that Foothill Farms does not have a water conveyance agreement with the LNID and listed the costs associated with entering into an agreement with the LNID to cover the water needs. He also pointed out the setback requirement of a minimum of 15 m to all LNID irrigation works for all construction.

EPA: Mr. Calder stated that an additional 44.36 acre-feet of water is required to cover the increase in water needs. The current water supply is covered by an existing water license. He continued to state that Mr. Brobbel is in contact with EPA and the LNID to cover the needed water and to discuss option of water transfers if necessary.

No other responses were received

Approval LA25057 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 the MD of Willow Creek's municipal development plan (See Appendix A for a more detailed discussion of the county's planning requirements.) There is no applicable intermunicipal development plan.

6. AOPA requirements

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

- Meets the required AOPA setbacks from 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

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." The MD of Willow Creek is an affected party (and directly affected) because the proposed expansion is located within its boundaries.

Ms. Cindy Chisholm, director of planning & development with the MD of Willow Creek, provided a written response on behalf of the MD of Willow Creek. Ms. Chisholm stated that the application is not consistent with the MD of Willow Creek's land use provisions of the municipal development plan (MDP) because it might not meet the required setbacks. The application's consistency with the land use provisions of the MD of Willow Creek's MDP is addressed in Appendix A, attached.

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. The information on this file supports the assumption that risks to groundwater and surface water are low.

When reviewing a new approval 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, 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.) 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 Foothill Farms existing CFO facilities were assessed in 2010. The assessment indicated that the potential risks to surface water and groundwater were low.

Since the 2010 risk assessment, an updated version of the ERST was developed. For this reason, I reassessed the risks posed by the CFO's existing facilities. My reassessment found that the feedlot pens pose a low potential risk to groundwater and surface water.

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. Chisholm listed the setbacks required by the MD of Willow Creek's land use bylaw (LUB) and noted that the application does not meet these setbacks. A discussion of setback requirements can be found in Appendix A.

I have considered the effects the proposed MSFs 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* / section 109 of the *Water Act* in respect of the subject of this application. Furthermore, the application meets AOPAs technical requirements, and the applicant has been reminded that it is their responsibility to ensure they receive the appropriate water licensing for the proposed increase in animals.

I am not aware of any written decision of the Environmental Appeals Board for this location (<https://eab.gov.ab.ca>), accessed September 9, 2025.

Finally, I considered the effects of the proposed expansion on the environment, the economy, and the community, and the appropriate use of land.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, I presumed that the effects in the environment are acceptable because the application meets all of AOPA's technical requirements. In my view, this presumption is not rebutted and I have not received any information of the contrary.

Consistent with NRCB Operational Policy 2016-7: Approvals, part 9.10.9, if the application is consistent with the MDP, then the proposed development is presumed to have an acceptable effect on the economy and community. In my view, this presumption is not rebutted. The land where the CFO is located is zoned Rural General. CFOs (listed as "Intensive livestock operations") are a discretionary use in this zoning category.

I also presumed that the proposed 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 LA25057 specifies the cumulative permitted livestock capacity as 11,000 beef finishers and permits the construction of the feedlot pens, catch basin, and solid manure pad.

Approval LA25057 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 LA25057 includes conditions that generally address construction deadlines, 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 permit with Approval LA25057: Approval LA10063 (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.

11. Conclusion

Approval LA25057 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25057.

Foothill Farms' NRCB-issued Approval LA10063 is therefore superseded, and its content consolidated into this Approval LA25057, unless Approval LA25057 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA10063 will remain in effect.

September 17, 2025

(original signed)
Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Approval LA25057

APPENDIX A: Consistency with municipal land use planning

Under section 20 of AOPA, an approval officer may only approve an application for an approval or amendment of an approval if the approval officer holds the opinion that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP), and any applicable intermunicipal development plan (IDP). In this case, no IDP applies.

This does not mean consistency with the entire MDP. 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 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 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)

Foothill Farms’ 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 in August 2019, under Bylaw #1841. The parts and policies of the MDP 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.

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

Foothill Farms' CFO is immediately adjacent to an area listed as nationally significant, and due to its proximity to the Oldman River also close to areas with unstable slope potential (Map 1 of the report).

The proposed feedlot pen area is approximately 40 m away from the coulee system and their potentially unstable slopes. The proposed catch basin and berm around the southeast edge of the feedlot pens will help to protect the coulee banks from destabilization and sloughing by capturing surface water runoff from the pen area.

Based on this, I am of the opinion that the application is consistent with this provision.

(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 approval, public notification was given and notification letters were sent to any landowners identified by the MD of Willow Creek within two miles. With that, 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 country residential development located within the category 2 MDS for Foothill Farms' CFO and the application meets AOPA's MDS requirements.

(e) Restricting development in any wetland or riparian area

The proposed feedlot pens and catch basin 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, however intensive livestock operations are. 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. Typically, municipal roads are one mile apart on range lines (east -west) and two miles apart on township lines (north-south). There is no applicable road setback between quarter section lines. The NW 4-10-25 is owned by the applicant and is consolidated with the SW quarter. The property line setback therefore does not apply. However, the SE 4-10-25 W4M is under different ownership. Therefore, the proposed solid manure storage pad has to meet the 6.1 m setback to the property line to the SE 4-10-25 W4M. A condition will be included to ensure the property line setback has been met.

For these reasons, I conclude that the proposed feedlot pens, solid manure storage pad, and catch basin are consistent with the land use bylaw.

APPENDIX B: Explanation of conditions in Approval LA25057

Approval LA25057 includes several conditions, discussed below, and carries forward all conditions from Approval LA10063 (there are no construction conditions to be carried forward).

1. New conditions in Approval LA25057

a. Construction deadline

Foothill Farms proposes to complete construction of the proposed new feedlot pens, catch basin and solid manure storage pad by December 30, 2027. This time-frame is considered to be reasonable for the proposed scope of work. The deadline of December 30, 2027, is included as a condition in Approval LA25057.

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 LA25057 includes conditions requiring:

- a. Foothill Farms to provide documentation to confirm the catch basin, the feedlot pens and the berms (as shown on Technical Document LA25057) have been constructed according to this permit and meet the 6.1 m property line setbacks.

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 LA25057 includes a condition stating that Foothill Farms shall not place livestock or manure in the manure storage or collection portions of the new feedlot pens and manure storage pad and does not allow manure contaminated runoff to enter the catch basin until NRCB personnel have inspected the feedlot pens, catch basin and solid manure storage pad and confirmed in writing that they meet the approval requirements.