

Decision Summary LA25043

This document summarizes my reasons for issuing Authorization LA25043 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25043. 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 authorization. For additional information on NRCB permits please refer to www.nrcb.ca.

1. Background

On May 29, 2025, 1717868 AB Inc., operating as Anchor J. Ranches (Anchor J), submitted a Part 1 application to the NRCB to expand an existing catch basin at an existing beef CFO.

The CFO does not have a development permit or an NRCB issued permit. However, it was determined on August 28, 2019 as part of an inquiry of the permit status of this CFO that the CFO existed on January 2, 2002. The determination was based on aerial imagery. A subsequent investigation by myself confirmed that the CFO footprint has not changed since that picture (dated 1999), has been taken. It is also apparent, that the size of the existing feedlot pens would have triggered a permit under AOPA. However, a grandfather determination which includes a capacity determination of the CFO, will not be done in conjunction with this permit other than establishing the fact, as stated above, that it existed prior to January 1, 2002, has no unauthorized construction and would have triggered a permit under AOPA.

The Part 2 application was submitted on September 12, 2025, and I deemed the application complete the same day.

The proposed modification involves:

- Enlarging (deepening) an existing catch basin (north) – irregular dimensions with a final capacity of 37,376 m³

The overall footprint of the catch basin will not change due to the deepening.

a. Location

The CFO is located at Sec. 28-20-17 W4M in the County of Newell, roughly 11 km east of the town of Bassano. The terrain is undulating. The closest body of water is Lathom Lake which is 18 m to south of the closest feedlot pen. However, Lathom Lake is not a common body of water because it is completely surrounded by lands owned by Anchor J and there is no outflow to irrigation canals or other surface water bodies in the area.

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 has not been determined but presumed to be three miles (4.83 km) from the CFO

The CFO is located within 100 m of a canal owned by the Eastern Irrigation District (EID). The EID and the County of Newell were both notified of the application. No other municipality is within a three mile radius.

A copy of the application was sent to the County of Newell, which is the municipality where the CFO is located.

3. Notice to other persons or organizations

Under NRCB policy, the NRCB may also notify persons and organizations the approval officer considers appropriate. This includes sending applications to referral agencies which have a potential regulatory interest under their respective legislation.

Referral letters and a copy of the complete application were emailed to Alberta Environment and Protected Areas (EPA), Alberta Transportation and Economic Corridors (TEC), and the Eastern Irrigation District (EID).

I also sent a copy of the application to Pioneer Gas Coop Ltd., FortisAlberta Inc., and Torxen Energy Ltd. because they are right of way holders on this land.

Ms. Leah Olson, a planning technologist with TEC stated that there is no permit required. A land administrator with the EID also stated in a verbal statement, that the EID has no concerns with this application.

No other responses were received.

Authorization LA25043 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 consistency

I have determined that the proposed modification is consistent with the land use provisions of the County of Newell’s municipal development plan (See Appendix A for a more detailed discussion of the county’s planning requirements.). No IDP applies to this area.

5. AOPA requirements

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

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the “minimum distance separation” requirements, or MDS). The distance to any neighbouring residences does not change due to the modification of the catch basin.
- 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 liners 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 municipality

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 County of Newell is an affected party (and directly affected) because the CFO is located within its boundaries.

Ms. Maria Jackson, supervisor of planning and development with the County of Newell, provided a written response on behalf of the County of Newell. Ms. Jackson stated that the application is consistent with the County of Newell’s land use provisions of the municipal development plan (MDP). The application’s consistency with the land use provisions of the County of Newell’s MDP is addressed in Appendix A, attached.

Ms. Jackson also listed the setbacks required by the County of Newell’s land use bylaw (LUB) but did not comment if these setbacks have been met. However, the location and size of the existing catch basin will not change due to the proposed modification and all setbacks continue to be met.

7. Environmental risk of facilities

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.)

I assessed the CFO’s existing feedlot pens and catch basins using the ERST. The assessment found that these facilities pose a low potential risk to groundwater and surface water. The modification of the catch basin does not change its potential risk to groundwater or surface water.

8. Terms and conditions

Authorization LA25043 permits the modification of the catch basin.

Authorization LA25043 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 LA25043 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 LA25043 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25043.

Authorization LA25043 must be read in conjunction with Anchor J.'s deemed permit, which remains in effect.

September 22, 2025

(original signed)
Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Explanation of conditions in Authorization LA25043

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). No IDP applies to this area.

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 22(2.1) of the Act precludes approval officers from considering MDP provisions “respecting tests or conditions related to the construction of or the site” of a CFO or manure storage facility, or regarding the land application of manure. (These types of 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)

Anchor J’s CFO is located in the County of Newell and is therefore subject to that county’s MDP. The County of Newell adopted the latest revision to this plan in May 2023, under Bylaw #2057-23.

The relevant section in the MDP is 3.5 Protecting Farmland and Stewarding Intensive Development.

Section 3.5 (a) states that “all lands in the County are agricultural unless otherwise designated by the MDP, an approved statutory or non-statutory plan, the LUB or provincial legislation”.

The land on which the CFO is located is zoned agricultural.

Sections 3.5 (b and c) are not directly related to CFO development and speak about the general nature of land use in the County.

Section 3.5 (d) is a statement recognizing that agricultural operations create dust, noise, odor and additional traffic related to their operation and is a normal and acceptable practice in an agricultural community.

I do not consider this to be a land use provision but rather as a recognition of effects of agricultural operations, not specifically CFOs, on surrounding lands. Therefore, I cannot consider this section in my analysis.

Sections 3.5 (e, f, and g) also do not relate to CFOs and are therefore irrelevant to my consistency determination.

Section 3.5 (h) states that new or expanding CFOs shall not be permitted within the CFO Restricted Areas as shown on the CFO Exclusion Area Maps in Section 6. This section also notes that the CFO Exclusion areas are based on the rational of safe-guarding growth in and

around urban and residential areas and protecting areas of environmental and cultural significance.

The CFO is not in the CFO Exclusion Area. This application therefore meets this section.

Section 3.5 (i) speaks about existing CFOs within the CFO exclusion areas.

This CFO is not within any of the CFO exclusion areas identified in the MDP.

Section 3.5 (j) encourages the NRCB to consider:

i: the firm enforcement of AOPA to protect open bodies of water, irrigation canals, water wells, and drinking water supplies from contamination and

ii: The inclusion of conditions in their decisions requiring applicants of new CFOs to enter into municipal road use agreements with the County, where applicable, to mitigate wear and tear on County roads.

The proposed modification of the existing catch basin does not change the outer dimensions of the existing catch basin and therefore does not change the distance to any roads or surface water bodies. I therefore determined that this provision has been met. The modification meets the liner requirements as laid out in AOPA and its regulations.

The NRCB has no jurisdiction over road use and road maintenance which is solely the responsibility of the county as stated in a 2020 decision, where the Board clearly stated that “municipalities own the roads within their jurisdictions...” (Hutterian Brethren of Murray Lake, RFR 2020-09, p. 4). Therefore, I do not consider this section to be a land use provision that should be considered in my consistency determination.

Section 3.5 (k) is not related to CFOs.

For these reasons, I conclude that the application is consistent with the land use provisions of the County of Newell’s MDP that I may consider.

APPENDIX B: Explanation of conditions in Authorization LA25043

a. Construction above the water table

Section 9(3) of the Standards and Administration Regulation under the *Agricultural Operation Practices Act* (AOPA) requires the bottom of the liner of a manure storage facility or manure collection area to be not less than one metre above the water table of the site “at the time of construction.”

Based on this information, the catch basin does not meet the one metre requirement of section 9(3). However, because the height of the water table can vary over time, the lack of adequate depth to water table indicated in Anchor J.'s report does not mean that there will be an inadequate depth at the time of construction. To address this variability and ensure that the depth requirement is met at the time of construction, a condition is included requiring Anchor J. to cease construction and notify the NRCB immediately if the water table is encountered during construction.

b. Construction deadline

Anchor J. did not propose a construction completion deadline but is planning to start and complete construction in 2025. To allow for unforeseen circumstances, I determined that an additional year to complete construction is reasonable. The deadline of December 31, 2026, is included as a condition in Authorization LA25043.

c. 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 LA25043 includes conditions requiring:

- a. Anchor J. to provide an engineer's completion report certifying that the catch basin was constructed with the same liner material as that used for hydraulic conductivity testing and that the catch basin was constructed according to the proposed procedures and design specifications.

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 LA25043 includes a condition stating that Anchor J. shall not allow manure contaminated runoff to enter the modified catch basin until NRCB personnel have inspected the modified catch basin and confirmed in writing that it meets the authorization requirements.