

Decision Summary LA24037

This document summarizes my reasons for issuing Approval LA24037 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA24037. 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 August 27, 2024, Favour Holsteins Ltd. (Favour) submitted a Part 1 application to the NRCB to expand an existing CFO and convert the existing dairy CFO into a beef CFO.

The Part 2 application was submitted on August 27, 2024. On September 10, 2024, I deemed the application complete.

The proposed expansion involves:

- Converting livestock numbers from 200 milking cows (plus associated dries and replacements) to 2,700 beef feeders
- Constructing new feedlot pens – Pens 1 & 2 – 68 m x 91 m (together)
- Constructing new feedlot pens – Pens 3 & 4 – 80 m x 213 m (together)

Favour also proposed to convert the following existing facilities:

- existing dairy barn into a beef barn:
The conversion does not involve any changes to the barn's existing concrete liner, so it does not require a permit.
- existing liquid earthen manure storage (EMS) into a catch basin:
The EMS was grandfathered and can be used as a catch basin. The conversion will not involve changing the existing liner in the EMS and the potential impact of catch basins is less than from liquid manure storages. Therefore, this change of use does not require a permit.

The conversion from dairy to beef feedlot is a conversion outside category and therefore requires a permit. The 200 dairy cows (plus associated dries and replacements) is equal to 1,450 beef feeders in respect to the required minimum distance separation (MDS) but will produce less manure than currently at this CFO.

a. Location

The CFO is located at NW 36-10-22 W4M in Lethbridge County, roughly two kilometers northwest of the Village of Shaughnessy, Alberta. The topography at the site is flat. The closest common body of water is an LNID drainage canal that meanders along the west side of the CFO towards the northeast and flows into the Piyami Drain. The closest part of this canal is 114 m away from the CFO.

b. Existing permits

The 200 dairy cows (plus associated dries and replacements) CFO is currently permitted under Approval LA17003 and Authorization LA20049. A list of the facilities is included in the appendix of this approval.

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 1.5 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 boundaries of a neighbouring municipality is within the notification distance.

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 September 10, 2024, and
- sending 237 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 at the NRCB’s Lethbridge office 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 Lethbridge North County Potable Water Co-op Ltd. because they are right of way holders on this land.

The NRCB received written responses from Leah Olson, a development /planning technologist with TEC; Mr. Bradley Calder, a water administration technologist with EPA; and Janet Beck, an administration and land manager with the LNID.

- Ms. Olson stated that a permit from TEC is not required.
- Mr. Calder stated in his response that the CFO is located within the LNID, and that Favour Holstein should provide EPA with proof that sufficient water allocation agreements are in place for the CFO. He also requested a copy of the water conveyance agreement which was forwarded to him. Favour is reminded that it is their responsibility to acquire all necessary licenses, permits, and agreements.
- Ms. Beck stated that the conversion would necessitate additional water conveyance agreements for 14 acre-feet of water. These can be obtained through conversion of use (Type 3 to Type 2). Because water conveyance agreements are outside the jurisdiction of the NRCB, I will not discuss this topic any further. Favour received a copy of the LNID's response for their information and action and is reminded that it is their responsibility to acquire all necessary agreements.

No other responses were received.

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.

Municipal Development Plan (MDP) consistency

I have determined that the proposed livestock category conversion and expansion 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.)

5. 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 one exception (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS). The owner of that residence has signed a written waiver of the MDS requirement to their residence
- 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

6. 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, a supervisor 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. The application's consistency with the land use provisions of Lethbridge County's municipal development plan is addressed in Appendix A, attached.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received responses from 48 individuals. Forty of these people submitted a joint response.

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). Mitchell deKok provided an MDS waiver and is a directly affected party.

All of the 48 people who submitted responses own or reside on land within the 1.5 mile notification distance for affected persons. Because of their location within this distance, and because they submitted a response, they qualify for directly affected party status. (See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1)

The directly affected parties raised concerns regarding:

- Surface water contamination
- Negative impact on health
- Effect on the community
- Cumulative effect
- Negative impact on enjoyment of property/life
- Property value
- Traffic

These concerns are addressed in Appendix B.

7. 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, including proof that the operation has sufficient runoff control and that all liner requirements are met, supports the assumption that risks to groundwater and surface water are low. Groundwater monitoring is therefore not required.

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, 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.) 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 Favour's existing CFO facilities were assessed in 2017 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

There have been no changes related to groundwater or surface water protection, water wells, or CFO facilities 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. 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. Janzen listed the setbacks required by Lethbridge County's land use bylaw (LUB) and noted that the application seems to meet these setbacks.

I have considered the effects the proposed CFO expansion may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concern submitted under section 73 of the *Environmental Protection and Enhancement Act* or section 109 of the *Water Act* or section 109 of the *Water Act* in respect of the subject of the application.

In their response EPA stated that Favour's CFO is within the LNID and has therefore the option to meet their water needs through water conveyance agreements with the LNID but requested proof that sufficient water is available for the expansion. Favour was made aware to send a copy of their water conveyance agreements with the LNID to EPA.

I am not aware of any written decision of the Environmental Appeals Board / the Director under the *Water Act* in respect of the subject of this application.

Finally, I considered the effects of the proposed 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, views from Lethbridge County, and my own observations on site.

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, and I have not received any information on the contrary. See Appendix B for a discussion of surface water quality and nutrient input on manure spreading lands.

Appendix A explains how the application is consistent with the land use provisions of Lethbridge County's MDP. 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 and the directly affected parties' concerns have been addressed. See Appendix B for a discussion of nuisance impacts, health concerns, property values, traffic impacts, and other general concerns.

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. The land where the CFO is located is zoned Rural Agriculture.

9. Terms and conditions

Approval LA24037 specifies the cumulative permitted livestock capacity as 2,700 beef feeders and permits the conversion of the existing earthen liquid manure storage into a catch basin, the conversion of the dairy barn into a beef housing barn, and the construction of four new pens.

Approval LA24037 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 LA24037 includes conditions that generally address construction deadlines and construction inspection. For an explanation of the reasons for these conditions, see Appendix C.

For clarity, and pursuant to NRCB policy, I consolidated the following permits with Approval LA24037: Approval LA17003 and Authorization LA20049 (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. All conditions of these permits are carried forward and listed in the appendix of this new approval.

10. Conclusion

Approval LA24037 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA24037.

Favour's NRCB-issued Approval LA17003 and Authorization LA20049 are therefore superseded, and their content consolidated into this Approval LA24037, unless Approval LA24037 is held invalid following a review and decision by the NRCB's board members or by a court, in which case Approval LA17003 and Authorization LA20049 will remain in effect.

November 20, 2024

(Original signed)
Carina Weisbach
Approval Officer

Appendices:

- A. Consistency with the municipal development plan
- B. Determining directly affected party status and concerns raised
- C. Explanation of conditions in Approval LA24037

APPENDIX A: Consistency with the municipal development plan

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).

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.)

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

The relevant sections in the MDP can be found in section 3 – Intensive livestock/confined feeding operations.

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

I do not consider this section as a land use provision because it is rather subjective in respect of what can be supported by municipal infrastructure in addition to the fact that such an assessment is not under the jurisdiction of the NRCB.

Section 3.1 and 3.2: These sections state that new CFOs are not permitted in areas zoned as CFO exclusion areas (as illustrated on Map 2 (2A & 2B), in particular areas with higher density residential growth centers, or within areas designated as CFO exclusion areas in any of the intermunicipal development plans.

This CFO is not located within a CFO exclusion area shown in Maps 2A and 2B of Lethbridge County’s MDP. Therefore, this section does not apply.

Section 3.3 continues to state that established CFOs located within an urban fringe district may be permitted to expand or make improvements to the operations in consideration of any IDP policy that allow for such.

This section does not apply because the CFO is in proximity but not within an urban fringe district.

Section 3.4 talks about consistency of planning documents, including reviewing CFO exclusion areas in IDPs and changing the MDP.

This provision is directed at the County itself and is not a land use provision, and I therefore cannot consider it.

Section 3.5 states that CFOs shall not be supported to establish or expand within environmentally sensitive areas as shown in the *Cotton Wood Report: County of Lethbridge: Environmentally Significant Areas in the Oldman River Region (1987)*.

The CFO is not close to any areas identified in that report.

Section 3.6 speaks on required setbacks of manure storage and collection areas to property lines and public roadways.

The CFO meets all of these setbacks.

Section 3.7 discusses the land zoning, stating that CFOs are only allowed to be established in areas zoned Rural Agriculture in which they are a discretionary use. The minimum parcel size for CFOs is 80 acres.

Apart from the fact that this is not a new CFO, the stipulation of a minimum parcel size to establish a new CFO would appear to fall under section 20(1.1) AOPA that states that approval officers shall not consider any tests or conditions related to the site for a CFO. Therefore, I am not able to consider this provision.

Section 3.8 states that the county supports existing CFOs located within the MDP area.

Because this is not a land use provision, I will not discuss this topic any further.

Section 3.9 expresses the county's expectation in respect to manure spreading within the CFO exclusion zones and that manure spreading occurs according to AOPA and its regulations.

Because this is not a land use provision, I will not discuss this topic any further. In addition, section 20(1.1) AOPA applies, stating that approval officers are not to consider any MDP provision respecting the application of manure.

Section 3.10 discusses the application of a reciprocal MDS.

Because this is procedural in nature directed at the County, and not a land use provision, I will not discuss this topic any further.

Section 3.11 states that the county will continue to consult with the NRCB on CFO matters.

Because this is not a land use provision, I will not discuss this topic any further.

For the reasons provided above, I conclude that the application is consistent with the land use provisions of Lethbridge County's MDP that I may consider.

APPENDIX B: Determining directly affected party status and concerns raised

The following individual qualifies for directly affected party status because he owns a residence within the minimum distance separation (MDS) and waived the MDS requirement in writing: Mitchell deKok. See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1.

The following individuals qualify for directly affected party status because they submitted a response to the application and they own or reside on land within the “notification distance,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation (See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1.):

Terra-Lee Venema, Picture Butte
Gary and Gillion Capewell, NW 30-10-21-W4M
Blake Olson and Leslie Martin, Deer Run Estates
William Raats NW 36-10-22 W4M
Kurt and Gerrie-Mae Zillman, LSD 12, Block 2 Section 30-10-21 W4M (Mr. Kurt Zillmann also submitted a response on behalf of Bridge Vault and Dominion Precast and Ms. Zillmann, treasurer of the Shaughnessy Community Association, submitted a response on behalf of that organization)

A petition signed by residents in Deer Run Estates includes the following residents:

Sharon and Leon Barendregt
Katelyn and Richard Stoutjesdyk
Tomasz Hulisz
Maureen and Sid Janssens
Sarah and Travis Marshall
Elizabeta Zawalska and Andrew Waskiewicz
Sandra and Mario Gulin
Logan and Amy Wehlage
Danielle Ross
B. Munichtsetseg and Ejner Sommer
Wilma Lubberts
John and Tina Wiebe
Andy Koster
Jim and Linda Vance
Jack and Mary Vandenberg
Sarah and Joe Pietras
Peter Braun
Albert and Susana Wiebe
Blake Olson
Allan and Erna Karsten
Rolf and Grace Kostka
Willempje and Leland Mullen
Marianne Klok
Jennifer Broad

Although Leon Barendregt, Sarah and Travis Marshall, B. Munichtsetseg, Sarah and Joe Pietras, and Marianne Klok were not listed on the list of property owners in Deer Run Estates as provided by Lethbridge County, they provided a physical address in contrast to a PO Box that

indicates that they reside in Deer Run Estates. I did not visit these people in person to confirm if they live at these residences, but for the above reason, I determined that it is appropriate under these circumstances to consider these people as directly affected parties.

Concerns from directly affected parties

Contamination of surface water from the CFO and manure spreading lands

Several of the respondents were concerned about runoff they observed entering the Pyiami drain, running through the area of Deer Run Estates and into the Old Man River.

Approval officer analysis

AOPA and its regulations contain several requirements to minimize runoff and thus manure reaching surface bodies. One of these requirements is adequate runoff control in form of positive drainage from all manure collection and storage areas (MCA/MSF) into catch basins as well as a minimum distance of 30 m of any facilities away from any common body of water.

The existing liquid earthen manure storage is proposed to be converted into a catch basin and has sufficient volume to hold more than a one in 30 year rainfall event as required under AOPA and its regulations (sections 6 and 19, Standards and Administration Regulation, AOPA). The lay of the land will ensure positive drainage towards the catch basin. Using the catch basin calculator with rain fall data from Picture Butte (closest area to the CFO available in the catch basin volume calculator), the pen area requires a runoff storage volume of 1,635 m³. The total storage volume is calculated to be 10,819 m³. This is in excess to the required 1,635 m³ and will help to alleviate the possibility of an overflow. Because the runoff control catch basin exceeds the AOPA runoff storage requirements, the risk of surface water contamination is presumed to be low.

All proposed and existing facilities meet the 30 m setback from common bodies of water (7(1) Standards and Administration Regulation, AOPA). In addition, the operator is aware that all short term manure storage sites will also have to meet a minimum setback of 30 m.

The spreading of manure, as laid out in sections 24 -27 Standards and Administration Regulation, is restricted and must observe setbacks from common bodies of water. The setback distance is determined by the slope of the land towards the water body. Any infractions and concerns in respect to manure application practices can be reported to the NRCB's 24-hour reporting line (1-866-383-6722) and an inspector will follow up on the concern.

The observed contamination of Piyami drain may have several reasons. Apart from several different CFOs and manure spreading fields in that area, there are also seasonal feeding and bedding sites and grazing fields along this drain which have the potential to impact surface water quality.

Odor and other nuisance impacts increase due to the conversion to a feedlot

Many affected parties are concerned about an increase in odor, flies, noise, and other nuisance impacts arising from the conversion of a dairy into a feedlot and stated that this was unknown to them when settling in this area, particularly Deer Run Estates.

Approval officer analysis

There are several parameters that must be considered before applications are approved. One of them is consistency with the MDP (see discussion in Appendix A). The lands on which the CFO is located are zoned Rural Agriculture and CFOs are a discretionary use under this zoning category. This determination has also been confirmed by the development officer of Lethbridge County. Although the use is generalized as CFO and does not distinguish between different kinds of CFOs (dairy versus cattle feedlot), the MDS requirements in AOPA account for this. The calculation of AOPA's MDS takes the differences of nuisance impacts into consideration and is a proxy for minimizing nuisance impacts on neighbouring residences. Favour meets the MDS to all surrounding residences other than the residence to the north. Favour has acquired a waiver from the owner of this residence. Because the distance is very close to two residences to the east, zoned Country Group Residential (GCR), a survey will be required to ensure that the MDS has been met.

Some of the parties outside of the MDS may experience nuisance impacts and these impacts may not be trivial to those parties, however, the frequency of these exposures will likely be limited and of short duration.

Consulting weather data from several websites including 'weatherspark', it seems that the predominant wind direction in the area of Picture Butte is from the west and west-southwest direction for most of the year. Therefore, some odor impacts may be experienced downwind, including in the area of Deer Run Estates. However, nuisance and other impacts outside the MDS of a CFO are not typically considered when an application is being processed unless there is a direct and adverse impact greater than what may be normally considered, which can be directly linked to the application.

It is true that there will be odors resulting from the land application of manure. These odors are normally of short duration and typically occur once or twice per year. In order to limit the nuisance impact of manure application on direct seeded or tame forage land, section 24 of the Standards and Administration Regulation precludes manure spreading without incorporation within 150 m of residences. Manure that is spread on conventionally tilled land must be incorporated within 48 hours. Setbacks and incorporation can help to minimize normal odors from manure spreading. Incidences of non-compliance can be reported to the NRCB's 24 hour a day reporting line (1-866-383-6722).

Fly infestations were also a concern voiced by several respondents. As per section 20(1) Standards and Administration Regulation, an owner or operator of a CFO may be required to employ reasonable measures to control the level of infestation of flies at a location occupied by the operation. Incidences of unreasonable fly infestations can be reported to the NRCB's 24 hour a day reporting line (1-866-383-6722).

Manure spreading and oversaturation of manure spreading lands

One of the respondents voiced concerns about the continued overapplication of manure and saturation of lands with nutrients.

Approval officer analysis

The spreading of manure, as laid out in sections 24 -27 Standards and Administration Regulation, is very specific in respect to soil testing and nutrient limits to avoid oversaturation of manure spreading lands with Nitrogen (nitrates). As discussed in Technical Document LA24037,

Favour has a sufficient large land base available and meets the AOPA requirements in this respect.

Health concerns

Some of the directly affected parties were concerned about pathogens transmitted to humans through manure contaminated snow and surface water (Pyiami drain) after manure spreading.

Approval officer analysis

The lands used by Favour for manure spreading will not change due to the conversion from dairy to beef cattle other than additional land further north and away from the Pyiami drain. In total, the available land base meets the requirements.

Generally, Favour is only one of several operators that own manure spreading lands in this area. As mentioned previously, all of these operators have to observe all applicable setbacks to surface water bodies as set out in AOPA and its regulations. Any infractions and concerns in respect to manure application practices can be reported to the NRCB's 24-hour reporting line (1-866-383-6722) and an inspector will follow up on the concern.

As well, I sent a copy of this response to Alberta Health Services (see section 9.12 of NRCB Operational Policy 2016-7: *Approvals*). In their response, AHS stated that when industry best management practices and NRCB operating requirements are used appropriately, concerns noted about the application should be preventable.

Favour is encouraged to diligently observe all setbacks to common bodies of water during manure spreading to ensure no manure contaminated runoff leaves the fields.

Cumulative effect of CFOs in the area, impact on the community, and enjoyment of life

Several of the respondents were concerned about an increase in nuisance impacts on a growing community through the conversion from dairy to feedlot and the cumulative effects of CFOs in this area. In addition, many were concerned about the loss of enjoyment of living in this area.

Approval officer analysis

As I understand it, the concern is that the proposed development might exacerbate the current nuisance impacts experienced by the residents in the area from existing feedlots and other CFOs. However, it is difficult to assess the degree of incremental effect that the conversion of a dairy CFO with outside pens to a feedlot of this size, in this area, would have. Perhaps due to the difficulty of this assessment, the submissions were only speculative on how much more pronounced the nuisance impacts would be from what they are right now. There is no objective threshold to determine the level of acceptable nuisance impacts arising from multiple (but separate) CFOs. Although I don't want to under-value this concern, it is impossible with the information I have to predict the degree to which the conversion of this CFO would impact these individuals more than it does now.

That said, an approval officer must also consider the effects on the community in their decision. Although the concerns raised in respect to nuisance impacts are unlikely trivial in nature, this is not a new CFO, and the proposed conversion and expansion is an acceptable use of land under this zoning category. Although CFOs must maintain a specified distance to neighbouring residences (MDS), AOPA does not prevent residential developments including larger

subdivisions from being established adjacent to CFOs, which are under the jurisdiction of the municipality that have their own requirements and regulations dictating their approval.

Consistent with the NRCB's Operational Policy 2016-7: *Approvals*, part 9.10.9, if the application is consistent with the land use provision of the MDP, then the proposed development is presumed to have an acceptable effect on the community.

Impact on property value

Several of the respondents voiced concerns about a decline of property value, particularly in Deer Run Estates.

Approval officer comments and conclusions:

In previous board decisions the NRCB's board members have consistently stated that concerns regarding effects on land or property values are "not a subject for [the board's] review under AOPA or for approval officers' consideration." According to the board, impacts on property values are a land use issue, which is a "planning matter dealt with by municipalities in municipal development plans and land use bylaws." (See, Pigs R Us Inc., RFR2017-11/BA17002 at 6).

Traffic (volume, safety, and maintenance cost)

Several directly affected parties are concerned about unsafe road conditions on the highway through mud and other matters left on the road by agricultural machinery. There is also concern about an intensification of traffic along the 'Nobelford'-highway (Hwy 519) through the conversion of the CFO from dairy to feedlot.

Approval officer comments and conclusions:

The NRCB does not have direct responsibility for regulating road use. Section 18 of the *Municipal Government Act* gives counties "direction, control and management" of all roads within their borders. Because of this, it would be impractical and inefficient for the NRCB to attempt to manage road use through AOPA permits. (See Operational Policy 2016-7: *Approvals*, part 9.13). The NRCB's Board has stated "field staff do not have the requisite expertise to develop, mediate or enforce road use conditions" whereas "municipalities own the roads within their jurisdiction, have the knowledge and expertise to determine what is required in road use agreements, and have the jurisdiction to implement and enforce road use agreements" (Hutterian Brethren of Murray Lake, RFR 2020-09. P.4). In addition, secondary highways such as Hwy 519 are provincial, and a copy of the application was sent to TEC for their review and comments (see section 3 above).

General concerns

One of the directly parties suggested a different location that has less impact on the community. There were also concerns about future expansions.

Approval officer comments and conclusions:

AOPA does not require an applicant to justify a selected site for a proposed development relative to other possible sites, but rather that the proposed site is able to meet all requirements of the legislation. I therefore only looked at the proposal before me.

Every application, whether a new CFO or an expansion, is evaluated on its own merit. Should Favour decide to expand in the future, a new application will have to be submitted and is required to meet all AOPA provisions including MDS, manure spreading lands, and MDP consistency. This also includes the opportunity for residents and land owners within the notification distance to voice their concerns.

APPENDIX C: Explanation of conditions in Approval LA24037

Approval LA24037 includes several conditions, discussed below, and carries forward all conditions from Approval LA17003 and Authorization LA20049. Conditions from historical Approval LA17003 and Authorization LA20049 that have been met are listed in the appendix to Approval LA24037.

1. New conditions in Approval LA24037

a. Construction deadline

Favour Holsteins proposes to complete the conversion the existing facilities and the construction of the proposed four new feedlot pens by December 31, 2027. This timeframe is considered to be reasonable for the proposed scope of work. The deadline of December 31, 2027, is included as a condition in Approval LA24037.

b. Survey

The proposed feedlot pens located to the east are outside of, but close, to the required MDS to some of the neighbouring residences to the east (encircled in red on page 10 of Technical Document LA24037). Favour shall provide confirmation, from a professional surveyor, that the distance between the new feedlot pens is a minimum of 586 m or greater to the residence on the section line between NE 36-10-22 and SE6-11-21 W4 and 1,171 m to the residence located on the west side of Deer Run Estates.

c. Post-construction inspection and review

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 LA24037 includes a condition stating that Favour Holsteins shall not place livestock or manure in the manure storage or collection portions of the new feedlot pens until NRCB personnel have inspected the feedlot pens and confirmed in writing that they meet the approval requirements.