



Decision Summary LA23050

This document summarizes my reasons for issuing Approval LA23050 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA23050. 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 December 19, 2023, Hutterian Brethren of Ivy Ridge (Ivy Ridge Colony) submitted a Part 1 application to the NRCB to construct a new multi species CFO.

The Part 2 application was submitted on May 10, 2024. On May 22, 2024, I deemed the application complete.

The proposed CFO involves:

- Permitting the following livestock numbers:
 - 150 milking cows (plus associated dries and replacements),
 - 18,000 chicken layers,
 - 34,000 chicken pullets/broilers,
 - 1,000 ducks, and
 - 100 geese
- Constructing a chicken layer & pullet barn – 111.56 m x 30.48 m
- Constructing a dairy barn – 111.56 m x 36.58 m (with two manure collection pits 30.6 m x 1 m x 1.6 m deep and 3.7 m x 3.3 m x 3.7 m deep, each)
- Constructing a calf and dry cow shed – 111.56 m x 45.72 m
- Constructing a broiler barn – 111.56 m x 36.58 m
- Constructing a mixed poultry barn – 76.20 m x 18.29 m
- Constructing an above ground manure storage tank – 46.3 m internal diameter x 4.8 m tall (internal height)
- Constructing a solid manure storage pad – 40 m x 60 m

The application also notified the NRCB of the proposed construction of a feed mill and hay shed. These facilities are “ancillary structures”, under section 1(1)(a.1) of the *Agricultural Operations, Part 2 Matters Regulation*, because they will not be used to store or collect manure or to confine livestock. Therefore, under section 4.1 of that regulation, these structures are part of the CFO but do not need to be permitted under the Act.

On June 11, 2024, Ivy Ridge Colony submitted an amended site plan to the NRCB based on discussions with neighbours who had concerns about the location of the above ground manure storage tank and solid manure storage pad in relation to their residences. The amended site plan changed the location of these facilities though did not change the facilities’ dimensions. Because the change in location of these facilities would put these facilities closer to other

neighbours, the public was re-notified (including new notification letters). In addition, the amended Part 2 application was recirculated to the MD of Willow Creek and referral agencies for any additional input they might have, and was added to the application materials available on the NRCB's website.

In the original application, the applicant proposed to construct a catch basin to collect run-off from the solid manure storage pad. In an email from the applicant on December 3, 2024, they informed me that they are no longer proposing a catch basin to collect run-off from the solid manure storage pad and instead, would construct berms surrounding the solid manure storage pad to contain run-off. The removal of the catch basin did not change the overall footprint of the CFO, nor increase risk to the environment. Therefore, re-notifying the public and recirculating the application to the MD of Willow Creek and referral agencies was not considered necessary.

a. Location

The proposed CFO is located at Sec. 31-14-26 W4M in the Municipal District (M.D.) of Willow Creek, roughly 5 miles North-East of the town of Stavely. The terrain is relatively flat with some low-lying, wetland areas in the West half of the section, with a general slope to the South-East. There is a registered marsh in the NE quarter close to Hwy 529 and two riparian areas in the SE quarter along the edge of Range Road 265. The closest CFO facility to the marsh in the NE quarter is the solid manure storage pad, which is proposed to be located approximately 170 m away. The closest CFO facility to the riparian areas in the SE quarter along the edge of Range Road 265 is the mixed poultry barn, which is proposed to be located approximately 285 m away. The closest residence is located approximately 505 m North-East of the proposed manure storage facilities.

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 0.5 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.

A copy of the application was sent to the M.D. of Willow Creek, which is the municipality where the CFO is to be located. There are no other municipalities with a boundary within 0.5 miles of the proposed CFO.

The NRCB gave notice of the application by:

- posting it on the NRCB website,
- public advertisement in Claresholm Local Press and online Nanton News in circulation in the community affected by the application on May 22, 2024, and again on June 19, 2024, to reflect a change that was made to the layout of facilities at the site, and
- sending 12 notification letters to people identified by the M.D. of Willow Creek as owning or residing on land within the notification distance, with re-notification letters sent on June 11, 2024.

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 Agriculture and Irrigation (AGI), and Alberta Transportation & Economic Corridors (TEC). A copy of the application and responses expressing health concerns were sent to Alberta Health Services (AHS) for their comment.

I also sent a copy of the application to Campus Energy Partners Operations Inc., ATCO Gas and Pipelines, Rampart Oil Inc., and Long Term Asset Management Inc., as they are utility right-of-way (ROW) holders on the subject land, and Exxonmobil Resources Ltd. as they have mineral rights on the subject land.

I received written responses from Leah Olsen, a development/planning technologist with TEC, Jason Cheng, a water administration engineer with EPA, and Cortney Hlady, on behalf of AHS.

In her first response, which was received before the amended site plan was provided, Leah Olsen stated that a permit will not be required from Transportation and Economic Corridors for the proposed development. One response to the application had mentioned that TEC requires permits for roadside development within 800 m and the applicant had made a change to the site layout that would have some facilities within 600 m of the intersection of Hwy 529 and Range Road 265. I sent an email to Ms. Olsen to clarify whether a permit is required or not for the proposed development. In her second response, Ms. Olsen stated that the applicant can apply for a permit for the entire colony. In a follow-up phone call with Ms. Olsen to discuss if a roadside development permit would be required, she stated that Hwy 529 is considered a minor two-lane highway, and developments are to be setback 30 metres from the property line or 50 metres from the centre of the highway, whichever distance is greater. However, Ms. Olsen said that the applicant should still inquire with TEC about obtaining a permit for their entire development. Ms. Olsen sent a follow-up email with the development setbacks. This information was relayed to the applicant for their information and action.

Jason Cheng (a water administration engineer with EPA) stated that at present, the Hutterian Brethren of Ivy Ridge has submitted two groundwater license amendments to address their water needs required for the proposed development. Mr. Cheng said that in the application, the two license amendments would transfer 39 ac-ft (48,106 cubic metres) and 21 ac-ft (25,903 cubic metres) of water for a combined total of 60 ac-ft (70,009 cubic metres). Mr. Cheng also

said that the estimated water use for the proposed livestock is 13,950 cubic metres per year.

Mr. Cheng further mentioned that there are no water well logs nor groundwater or surface water diversion authorizations for Sec 31-14-26 W4. Mr. Cheng stated that the subject land is not located within any irrigation districts and therefore, there is no potential for the applicant to obtain water from an irrigation district for the proposed development.

Mr. Cheng stated that the Hutterian Brethren of Ivy Ridge must assess their total water requirements for people and livestock, as this is a new colony, and indicate where the legal source of water will be obtained for their operations. Mr. Cheng said that should it be determined that additional water is required, options for obtaining a legal water source for additional diversions can be discussed with EPA.

Cortney Hlady provided a response on behalf of AHS. In her response, she stated that when industry best management practices and NRCB operating requirements are used appropriately, concerns noted in response to the application should be prevented.

I did not receive a response from AGI, from any ROW holders, or from mineral rights holders.

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. Municipal Development Plan (MDP) consistency

I have determined that the proposed CFO is consistent with the land use provisions of the M.D. of Willow Creek's municipal development plan. (See Appendix A for a more detailed discussion of the county's planning requirements.)

6. AOPA requirements

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

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the "minimum distance separation" requirements, or MDS)
- Meets the required AOPA setbacks from water wells, springs, and common bodies of water
- Has sufficient means to control surface runoff of manure
- Meets AOPA's nutrient management requirements regarding the land application of manure
- Meets AOPA groundwater protection requirements for the design of floors and liners of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 10 and in Appendix E, the application meets all relevant AOPA requirements.

7. Responses from municipality and other directly affected parties

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application and are entitled to request an NRCB Board review of the approval officer's decision. Not all affected parties are "directly affected" under AOPA.

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

Ms. Cindy Chisholm, a director of planning and development, with the M.D. of Willow Creek, provided two written responses on behalf of the M.D. of Willow Creek. In the first response (dated June 20, 2024), Ms. Chisholm stated that the application is not consistent with the M.D. of Willow Creek's land use provisions of the municipal development plan, specifically Section 1 General Policies, Section 2 Agriculture, Section 6 Transportation, Section 9 Confined Feed Operations/Intensive Livestock Operations, and Section 15 Development Criteria. The application's consistency with the land use provisions of the M.D. of Willow Creek's municipal development plan is addressed in Appendix A, attached. Other concerns raised in the first response are addressed in Appendix D.

In the second written response (dated July 18, 2024), Ms. Chisholm provided several comments regarding the distances between proposed developments, distances from proposed developments to neighbouring residences and property lines, proposed developments that require municipal development permits, and the volume of the sanitary discharge pond. These comments are further discussed in Appendix D.

Apart from municipalities, any member of the public may request to be considered "directly affected." The NRCB received a total of 427 responses from 440 people, including the Town of Stavelly.

Of the 440 people who submitted responses, 16 own or reside on land within the 0.5 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 other 424 respondents, including the Town of Stavelly, do not own or reside on land within the 0.5 mile notification distance, and I do not consider any of them to be directly affected by the approval application. Appendix B sets out my reasons for determining which respondents are directly affected.

The directly affected parties raised concerns regarding source of water for the proposed CFO and use of water, contamination of water, minimum distance separation (MDS), odour, noise, and other nuisances, environmental impacts, effects on the community, effects on the economy, location of the proposed CFO, property values, road use, health concerns, commercial farming, NRCB policies and process, AOPA legislation, future expansion of the CFO, cumulative effects, actions of the approval officer, and applicant engagement with the community. These concerns are addressed in Appendix C.

8. Environmental risk of CFO facilities

New CFO facilities which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. There may be circumstances where, because of the proximity of a shallow aquifer, or coarse subsurface materials, and surface water systems an approval officer may require groundwater monitoring for a facility. In the case of this application, the proposed facilities were assessed using the 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/Water Protection on the NRCB website at www.nrcb.ca.) Based on this assessment, it was concluded that all of the CFO's proposed facilities pose a low potential risk to both surface water and groundwater.

When determining if groundwater monitoring would be required at the CFO site, I had before me the ERST assessment and information regarding an assessment of potential artesian flow conditions from Dr. Greg Piorkowski, NRCB Environmental Specialist and Science and Technology manager. Dr. Piorkowski's information is available in the "Artesian Flow Conditions at Ivy Ridge Colony" report and is further discussed in Appendix A. Based on the ERST assessment, the information gathered on this file, information from Dr. Piorkowski, and from site visits, I did not identify a shallow groundwater resource, coarse subsurface materials, or other surface water systems. Therefore, groundwater monitoring is not required.

9. Other factors

Because the approval application is consistent with the Municipal Development Plan (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 M.D. of Willow Creek's land use bylaw (LUB) and noted that the site plan provided with the application did not provide the setback distances for all proposed developments from adjacent property boundaries, municipal road right of ways, provincial highway, and topographic features (wetlands) on the lands. It was also noted proposed developments are encroaching and/or straddling the NE/SE quarter section boundaries, and the MD recommended the applicant re-locate proposed developments or consolidate the lands to ensure MD setback requirements are met.

Under the current LUB, the subject land is currently zoned as Rural General (RG). CFOs are not listed as prohibited, permitted, or discretionary land use 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 RG. Therefore, I interpret the omission of CFOs from the lists 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 thresholds.

Section 3 of the RG section of the bylaw lists several setbacks. The proposed facilities meet the 22.86 m road setbacks and 6.1 m adjacent property line setbacks required by the MD of Willow Creek's LUB. Additionally, the proposed facilities meet the distances required by TEC for roads designated as highways.

I have considered the effects the proposed CFO may have on natural resources administered by provincial departments. EPA has not made me aware of statements of concerns submitted under section 73 of the *Environmental Protection and Enhancement Act* or under section 109 of the *Water Act* in respect of the subject of this application. I also did not receive any responses from any utility right-of-way holders.

I am not aware of any written decision of the Environmental Appeals Board for this location (<http://www.eab.gov.ab.ca/status.htm>), accessed January 20, 2025.

Finally, I considered the effects of the proposed CFO on the environment, the economy, and the community, and the appropriate use of land. In doing so, I had before me information in the application, information from Dr. Piorkowski, NRCB Environmental Specialist, responses from the MD of Willow Creek, submissions from directly affected parties, and my own observations from three site visits.

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, having considered the relevant information, this presumption is not rebutted and the directly affected parties' concerns have been addressed.

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 from the information I have before me. Discussion of the directly affected parties' concerns relating to economy and community is in Appendix C of this decision summary.

I also presumed that the proposed CFO is an appropriate use of land because the application is consistent with the land use provisions of the municipal development plan (See NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9). The application is also consistent with the zoning of the land, which is Rural General. In my view, this presumption is not rebutted, although the MD of Willow Creek stated in their response that the application is not consistent with the MDP. I have determined that the sections of the MDP that the MD stated the application is not consistent with are not valid land use provisions under AOPA, and therefore, I cannot consider these sections. See Appendix A of this decision summary for a more detailed discussion of the MD's planning requirements.

10. Terms and conditions

Approval LA23050 specifies the cumulative permitted livestock capacity as 150 milking cows (plus associated dries and replacements), 18,000 chicken layers, 34,000 chicken pullets/broilers, 1,000 ducks, and 100 geese. Approval LA23050 permits the construction of a chicken layer and pullet barn, dairy barn, calf and dry cow shed, broiler barn, mixed poultry barn, manure storage tank, solid manure storage pad, and ancillary facilities.

Approval LA23050 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 LA23050 includes conditions that generally address construction deadlines, documents submission and construction inspections. For an explanation of the reasons for these conditions, see Appendix E.

11. Conclusion

Approval LA23050 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA23050.

January 28, 2025

(Original signed)
Kelsey Peddle
Approval Officer

Appendices:

- A. Consistency with municipal land use planning
- B. Determining directly affected party status
- C. Concerns raised by directly affected parties
- D. Responses from municipality
- E. Explanation of conditions in Approval LA23050

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).

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” for 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.)

Ivy Ridge Colony’s proposed CFO does not fall within the boundary of the IDP between the MD of Willow Creek and the Town of Stavely.

Ivy Ridge Colony’s CFO is to be located in the M.D. of Willow Creek and is therefore subject to that district’s MDP. The M.D. of Willow Creek adopted the latest revision to this plan in August 2019, under Bylaw #1841. I considered section 9 of the MDP most relevant. The M.D. of Willow Creek also mentioned sections 1, 2, 6, and 15.

MDP Section 2

Section 2 of the MD of Willow Creek’s MDP states that agriculture is a predominant land use in the MD though it also notes that it is important to balance other interests. Section 2 states that one of the main objectives of the MDP is to mitigate the siting of any CFOs 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.

I do not consider Section 2 and policy 2.3 to be “land use provisions.” Rather, I consider them to be a source of insight for the interpretation of the remaining portions of the MDP.

MDP Section 9

The MDP provisions relating to CFOs are in Section 9 Confined Feeding Operations / Intensive Livestock Operations.

The objectives of Section 9 of the MDP are as follows:

- *To provide the NRCB with development and siting requirements that the MD wish to have considered when applications for CFOs/ILOs are considered for approval;*

I do not consider this to be a “land use provision”. Rather, I consider this to be a source of insight for the interpretation of the remaining portions of this section of the MDP.

- *To provide guidelines for the MD when providing comments to the NRCB regarding applications for CFOs/ILOs;*

This is not a “land use provision”, as it is directed at the MD and speaks to how the MD will provide comments to the NRCB for applications for CFOs.

- *To provide the MD with development and siting guidelines for operations that do not meet the threshold numbers established by the Agricultural Operations Practices Act (AOPA) and its regulation, but require municipal approval as established in the Land Use Bylaw.*

This is not a “land use provision”, as it is directed at the MD and provides guidance for the permitting of below AOPA threshold operations.

Policy 9.1 of the MDP provides development setbacks that are to be applied:

- (a) the appropriate setbacks from the right-of-way of any public roadway which is not designated as a primary highway as established in the municipal Land Use Bylaw;*
- (b) as required by Alberta Transportation for roads designated in the Memorandum of Agreement with the MD.*

As stated previously in this document, the application meets all setbacks to roadways.

Policy 9.2 of the MDP directs the NRCB to consider six matters. These are quoted below, followed by my interpretation of how the provision is related to this application.

- (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 those 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 authorizing legislation. AOPA does not provide for cumulative effects assessment.” (*Zealand Farms*, RFR 2011-02 at page 5).

For these reasons, I do not consider this MDP provision to be relevant to my MDP consistency determination.

- (b) environmentally significant areas contained in the “Municipal District of Willow Creek: Environmentally Significant Areas in the Oldman River Region” report*

Ivy Ridge Colony’s proposed CFO is not located within any areas designated as of regional, provincial, or national significance in the referenced report (Map 1 of the report). Areas of local significance are not presented 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 proposed CFO is located in an area of artesian flow in the referenced report (Map 2 of the report). The MDP, however, does not exclude the siting of CFOs in these areas. I requested that Dr. Greg Piorkowski, NRCB Environmental Specialist and Science and Technology Manager, assist me in determining if the proposed CFO is located in an area of artesian flow and if it is, could it pose a risk with the proposed development. Dr. Greg Piorkowski’s assessment confirmed that the proposed site of the CFO is located in a region where artesian flow conditions are found, but the proposed CFO does not appear to be in an area where local artesian flow conditions are

expected to occur within the surficial geological deposits or bedrock geological formation. However, he did advise that the operation should not excavate beyond any confining surficial bedrock layer and into the sandstone aquifer. I have reviewed his assessment, as well as visited the site, and agree with this assessment. Therefore, I am of the opinion that the application meets this policy of the MDP.

(c) providing notice to adjacent landowners including applications for registrations or authorization

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. Nevertheless, as explained above, the NRCB sent out notification letters to people identified by the MD of Willow Creek as owning or residing on land within the notification distance of 0.5 miles and gave notice in the Nanton News and Claresholm Local Press. Therefore, the application met the notification requirements of AOPA (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 3 and Schedule 1 of the *Standards and Administration Regulation* under AOPA. There is no country residential development nearby or located within the MDS for Ivy Ridge Colony’s proposed CFO. Regardless, the application meets MDS requirements under AOPA.

(e) restricting development in the flood plain, floodway, the flood way fringe and flood prone, or hazard lands within or adjacent to any watercourse within the MD; and

Ivy Ridge Colony’s proposed CFO is not located within a known flood plain, floodway, the floodway fringe and flood prone, or hazard lands as identified in the Alberta Environment and Protected Areas flood hazard website. As assessed in Technical Document LA23050, the CFO meets AOPA setbacks to common bodies of water. Based on this information, the application is consistent with this provision.

(f) restricting development in any wetland or riparian area

Ivy Ridge Colony’s proposed CFO is not located in a wetland or riparian area, and it meets the AOPA setbacks to common bodies of water. Therefore, the application is consistent with this provision.

Policy 9.3 is quoted below, followed by my interpretation of how this policy relates to this application.

The Council or development authority shall consider the results of a minimum distance separation calculation using the AOPA Standards and Administration Regulation when considering:

- (a) the re-designation of a parcel to a non-agricultural district that allows a use that may directly affect a CFOs/ILOs;*
- (b) any development; and*
- (c) any subdivision application allowed for in this Plan.*

This is likely not a “land use provision” given it speaks to how the MD should consider a reciprocal MDS from a development to a CFO. Therefore, I do not consider this policy to be relevant to my MDP consistency determination.

MDP Section 1

In their response, the MD of Willow Creek stated the application does not comply with Section 1 General Policies. The policies of this section are quoted below, followed by my discussion.

- 1.1 The subdivision of land to create two or more contiguous country residential lots shall require a land use re-designation prior to any decision being rendered by the municipal subdivision authority.*
- 1.2 The appropriate referral agencies shall be contacted and their comments shall be considered by the Council or the MPC prior to a land use decision being rendered.*
- 1.3 Input shall be sought from adjacent municipalities prior to a decision being rendered on matters of mutual concern or interest pursuant to the referrals established in any IDP.*
- 1.4 This plan shall be consistent with and complement the demonstrated future growth strategies of adjacent municipalities, wherever possible.*
- 1.5 The MD shall continue to prohibit certain land uses which are deemed to be detrimental to a specific land use district in the Land Use Bylaw.*
- 1.6 To ensure consistency exists between this long-range plan, the Land Use Bylaw and any other adopted statutory plans.*
- 1.7 To mitigate, to the best of the MD’s ability, ESAs, wetland and riparian areas so they are not compromised by developments.*
- 1.8 The MDP shall contain policies which prescribe criteria to be used for making subdivision and development decisions.*
- 1.9 The MD, through its statutory plans and Land Use Bylaw, shall address hazard lands with the intention of reducing or eliminating risks to health, public safety and property.*

Policies 1.5 – 1.9 are directed at the MD, and policies 1.1 – 1.4 speak to topics that are the responsibility of the municipality and are procedural in nature. Therefore, I do not consider these policies to be “land use provisions” and this section of the MDP is not relevant to my MDP consistency determination.

MDP Section 6

In their response, the MD of Willow Creek stated the application does not comply with Section 6 Transportation of the MDP. The policies of this section are quoted below, followed by my discussion.

- 6.1 The MD shall maintain a road network that provides for the safe and efficient movement of people, goods and services.*

- 6.2 *Development adjacent to local roads and provincial highways should occur in a manner which allows for the safe operation and the future upgrading of existing corridors.*
- 6.3 *Identified transportation corridors should be protected from inappropriate subdivision and development.*
- 6.4 *The MD shall make every effort to coordinate land use planning and development with Alberta Transportation in order to reduce land use conflicts along provincial transportation corridors.*
- 6.5 *The MD shall provide regulations in the Land Use Bylaw to control development in areas adjacent to the airport.*
- 6.6 *The MD shall ensure the function, safety and construction standards of the MD road system are not compromised by subdivision and development proposals.*

Policies 6.1, 6.4, 6.5, and 6.6 are directed at the MD and policies 6.2 and 6.3 speak to topics that are the responsibility of the municipality. In particular, 6.2 is not specific and relates to the safe operation and upgrades of corridors, which the NRCB has no expertise in and little authority to control. Further, in a 2020 decision, the Board has stated “municipalities own the roads within their jurisdictions...” (Hutterian Brethren of Murray Lake, RFR 2020-09, p. 4). Therefore, I do not consider these policies to be “land use provisions” and this section of the MDP is not relevant to my MDP consistency determination. Appendix D includes further discussion on the MD’s comments on this part.

MDP Section 15

In their response, the MD of Willow Creek stated the application does not comply with Section 15 Development Criteria. This section of the MDP is quoted below, followed by my discussion.

The intent of this section is to minimize land use conflicts with other uses in the immediate vicinity, to ensure that a quality and compatible development can be provided.

I do not consider this to be a “land use provision”, but rather a source of insight on the interpretation of this section of the MDP.

The objectives of Section 15 are as follows:

- *To ensure all developments in the MD follow the standards established in the Land Use Bylaw;*
- *To provide applicants with guidance as to the acceptable standards for development in the MD.*

I do not consider the objectives of Section 15 to be “land use provisions”.

The policies of Section 15 are quoted below followed by my discussion.

- 15.1 *All development shall occur on parcel sizes outlined in this MDP or the Land Use Bylaw suitable for the proposed use.*

I do not consider this to be a “land use provision” because it refers to specifics with respect to the site of a development, rather than the generic direction on use of specified areas. I also consider it to be a test or condition related to the site for a CFO, which AOPA directs me not to consider. Therefore, this policy is not relevant to my MDP consistency determination.

15.2 Development approvals should ensure that non-compatible land uses are sited properly.

I do not consider this to be a “land use provision” because it refers to specifics with respect to the site of a development, in this case a CFO, rather than the use of specified lands. Further, it is not defined in the MDP what constitutes “non-compatible land uses” or “properly.” Therefore, this policy is not relevant to my MDP consistency determination. I note that the subject land is zoned Rural General.

15.3 The Development Authority may require a developer to provide additional information to determine the suitability of a site. Such information may include the provision of percolation and soil stability tests as well as other geotechnical data.

I do not consider this to be a “land use provision” but rather, a test or condition related to the construction of, or site for, a development, in this case a CFO, which AOPA directs me not to consider. Therefore, this policy is not relevant to my MDP consistency determination. As stated previously in this document, the proposed facilities meet the technical requirements of AOPA. Information that was requested by the MD of Willow Creek in their second response is discussed in Appendix D.

15.4 The Development Authority shall ensure development within the MD meets or exceeds the minimum distance separation (MDS), unless waived by the Subdivision and Development Authority.

I interpret “minimum distance separation” as referring to the minimum distance separation (MDS) requirements in section 3 and Schedule 1 of the Standards and Administration Regulation under AOPA. As stated previously, Ivy Ridge Colony’s proposed CFO and application meets AOPA’s MDS requirements.

15.5 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.

I do not consider this to be a “land use provision”, as it does not provide a generic direction about the acceptability of land uses. However, this policy directs me to consider the Land Use Bylaw, which I have discussed in section 9 of this decision summary.

For these reasons, I conclude that the application is consistent with the land use provisions of the M.D. of Willow Creek’s MDP that I may consider.

In their response, the MD of Willow Creek named three other planning documents to be considered “due to the application close proximity of the plan areas”. These planning documents are as follows:

- Bylaw 1836 Little Bow River Project Intermunicipal Development Plan Final July 2022
- Bylaw 1466 Clear Lake Area Structure Plan May 2004
- Intermunicipal Development Plan Bylaw 1892 MD of Willow Creek and Bylaw 818 Town of Stavelly

Ivy Ridge Colony's proposed CFO is located approximately 3 miles from the intermunicipal plan boundaries of both Bylaw 1836 and the IDP between the MD of Willow Creek and Town of Stavely, and approximately 4.3 miles from the area structure plan boundary of Bylaw 1466. In accordance with AOPA and with NRCB policy, I did not consider these planning documents.

APPENDIX B: Determining directly affected party status

The following 16 individuals qualify for directly affected party status because they submitted a response to the application and they own or reside on land within the “affected party radius,” as specified in section 5(c) of the Agricultural Operation, Part 2 Matters Regulation:

- Francis Heidmiller – SE 4-15-26 W4M
- Chelsey Hurt – Sec 30-14-26 W4M (owner of NW 30-14-26 W4 according to MD landowner map)
- Paul & Jodi Husted (Husted Ag Ltd.) – Sec 7-14-27 W4M (part owner of NE 36-14-27 W4 according to MD landowner map)
- Teresa Husted (Husted Holdings Ltd.) – Sec 36-14-27 W4M (part owner of NE 36-14-27 W4 according to MD landowner map)
- Tom Husted – part owner of NE 36-14-27 W4 (confirmed with MD)
- Samantha Irwin – SW 4-15-26 W4M
- Stacey & Dallas Irwin – SW 4-15-26 W4M
- Ray Malchow – 143003 Range Road 272 (owns N ½ 25-14-27 W4 according to MD landowner map)
- Doug Nelson – SE 13-14-27 W4 (owns S ½ 36-14-27 W4 according to MD landowner map)
- Terry Olsen – NE 30-14-26 W4M
- Bev Olsen – NE 30-14-26 W4M
- David Olsen – NE 30-14-26 W4M
- Greg Olsen – 144084 Rge Rd 265
- Sarah Olsen – 144084 Rge Rd 265

See NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1. To assist me with determining where the directly affected parties own or reside on land within the “affected party radius”, I consulted with the MD of Willow Creek and utilized a public land ownership map that is available on the MD of Willow Creek’s website (updated January, 2025).

A person who is not specified in section 5 of the Part 2 Matters Regulation as an affected party can also qualify for directly affected party status. However, they have the burden to demonstrate they are directly affected by the application. The following individuals in the tables below, may fall under this category. **Table B1** lists individuals and a party who own or reside on land outside the notification distance and who submitted their own individual response.

Table B1

1) Peter and Leanne Witt SW 34-14-26 W4	2) Diana Cieslak Stavely, AB	3) Larry Sears NW 25-13-29 W4
4) Rafal and Patricia Cieplak 145041 Range Road 263, MD of Willow Creek	5) David Park Stavely, AB	6) Lindsay, Teresa, and Quinten Taylor NE 8-15-26 W4
7) *Colin, Januari, Dylan, and Karson Eskeland Stavely, AB	8) Town of Stavely	9) *Elizabeth Roemmele (Roemmele Farms) Claresholm, AB
10) *Elaine Mahan Nanton, AB	11) David and Elizabeth Dawber NW 20-14-26 W4	12) *Ryan Flitton (Twin Valley Farms) Vulcan, AB

13) Maxine and Marla Russell SE 32-14-26 W4	14) Pat Eskeland 143069 Range Road 265, MD of Willow Creek; NW 20-14-26 W4	15) Jon and Sharon Lange 265047 TWP 144
16) Dale and Trudy Andrews Nanton, AB		

* Some of the responses failed to provide legal land locations or addresses, or provided incomplete physical addresses, or only provided a mailing address for communities/towns that they live in or near, or failed to provide an address of any kind. Therefore, I was not able to determine where these respondents live or own land (these submissions are noted in table B1 with a *). Section 8(3) of the *Administrative Procedures Regulation* under AOPA requires that submissions include addresses in Alberta, presumably in part for this reason. Therefore, these responses could not be considered as part of my decision.

Table B2 lists individuals who similarly own or reside on land outside the notification distance and whose response constituted a signature on a petition.

Table B2

1) Dunn, Jamey Stavely, AB	2) Abbott, Dave Stavely, AB	3) Abbott, Laura Stavely, AB
4) Akins, Kaycee 145001 Range Road 265	5) Allen, Julia High River, AB	6) Allerdings, Denise Stavely, AB
7) Alsgard, Dean Stavely, AB	8) *Alsgard, Lorna No physical address provided	9) *Anderson, David A Nanton, AB
10) *Anderson, Ross Nanton, AB	11) Anderson, Russ Fancy Estates, Pine Coulee	12) *Anderson, Stacey Nanton, AB
13) Andrews, Beverley High River, AB	14) *Andrews, Dale Nanton, AB	15) Andrews, Keith High River, AB
16) *Andrews, Melody Nanton, AB	17) *Andrews, Trudy Nanton, AB	18) *Annett, Laura Nanton, AB
19) Armstrong, Bob Stavely, AB	20) Atkinson, Patricia E Nanton, AB	21) *Baker, Jim Stavely, AB
22) Baker, Karen Stavely, AB	23) Ballman, Kandace Lethbridge, AB	24) *Bankhead, Caitlin No physical address provided
25) *Baptist, Lily Stavely, AB	26) *Baptist, Rayleigh Stavely, AB	27) *Barker, Garrett Nanton, AB
28) *Barrett, Clint Stavely, AB	29) Beaulieu, Dave Calgary, AB	30) Beaulieu, Lisa Calgary, AB
31) Beliveau, Mark Claresholm, AB	32) Beltran, Alex Kamloops, BC	33) *Berger, Brad Nanton, AB
34) *Berger, John Nanton, AB	35) *Berger, Loretta Nanton, AB	36) *Berger, Thomas Nanton, AB
37) *Best, Virginia M Stavely, AB	38) Bishoff, Jaden Claresholm, AB	39) *Bishoff, Tristen No physical address provided
40) *Bishop, Kelly Nanton, AB	41) *Black, Suzanne Nanton, AB	42) *Blades, Justin Nanton, AB

43) *Blades, Mida Nanton, AB	44) *Blake, Karen Nanton, AB	45) Blumhagen, Kendra Claresholm, AB
46) *Boldt, Danny Claresholm, AB	47) Boucher, Mike Stavely, AB	48) Brennan, Pat Stavely, AB
49) *Briggs, Brenda Stavely, AB	50) Broers, Daren Wetaskiwin County, AB	51) Broers, Lana Calgary, AB
52) *Broomfield, Don Stavely, AB	53) *Broomfield, Jimmy Stavely, AB	54) *Broomfield, Shlane Stavely, AB
55) Burkland, Shirley Stavely, AB	56) Byrne, Tracy 15007 RR 272, Stavely, AB	57) Campbell, Leanne High River, AB
58) Campbell, Wanda Stavely AB	59) *Carlson, Diana Stavely, AB	60) Carlson, Gil Calgary, AB
61) *Carlson, Gordon Stavely, AB	62) *Carlson, Len Stavely, AB	63) Carlson, Sharn Calgary, AB
64) *Charchun, Kathy Claresholm, AB	65) Chawla, Sapna Calgary, AB	66) *Cherniak, Brian Stavely, AB
67) *Cherniak, Raymond Claresholm, AB	68) *Chocholik, Jaymee Nanton, AB	69) Clark, Linda Stavely, AB
70) *Cleghorn, Dale Aldersyde, AB	71) Cliff, Jennifer Stavely, AB	72) Cliff, Steven Stavely, AB
73) Clydesdale, Chris Stavely, AB	74) Clydesdale, Lori Stavely, AB	75) *Cochlan, Sydney Stavely, AB
76) *Cochlan, Wendy Stavely, AB	77) Colley, Brian Stavely, AB	78) Colley, Linda Stavely, AB
79) Cook, William Jeffreys, NL	80) Cooper, Donna Dawson Creek, BC	81) Coreman, Darlene Calgary, AB
82) *Coreman, Dora M Stavely, AB	83) *Coreman, Doreen Calgary, AB	84) Coudon, Kyle 141071 RR 273, Stavely, AB
85) Coupland, Sara Calgary, AB	86) Craut, Joel Stavely, AB	87) Crone, Angela Stavely, AB
88) *Cross, Austin No physical address provided	89) *Crowe, Mike Stavely, AB	90) Cummings, Tracey 153005 RR 283, Nanton, AB
91) *Curtis, Merna Nanton, AB	92) *Dalton, Sandi Lomond, AB	93) Dancoisne, Kirsten Coaldale, AB
94) *Darch, Lisa Claresholm, AB	95) *Davies, Blaine High River, AB	96) Denney, (Denned) Norman High River, AB
97) *Derish, Dave No physical address provided	98) Desjardins, Madison Calgary, AB	99) *Desmeules, Larry Claresholm, AB
100) *deVisser, Micheal No physical address provided	101) *deVisser, Rhonda Nanton, AB	102) DeVries, Eric 262071 TWP 142
103) DeVries, Karen 262071 TWP 142	104) *Dixon, Kathy Stavely, AB	105) *Domolewski, Tamra Pincher Creek,
106) *Drake, Dustin Stavely, AB	107) *Drake, Emma Stavely, AB	108) Duerksen, Jocelyne High River, AB
109) Dunn, Courtney Stavely, AB	110) *Dwyer, Tim Nanton, AB	111) *Dykstra, Adrian Nanton, AB

112) Eld, Jay Nanton, AB	113) *Emann, Marvin Stavely, AB	114) *Emann, Linda E Stavely, AB
115) Emerson, BJ High River, AB	116) *Eskeland, Laverne No physical address provided	117) *Estes, Benita High River, AB
118) Fath, Glenn 145059 Rge Rd 261	119) Fath, Connie 145059 Rge Rd 261	120) *Fath, Kelsey Vulcan, AB
121) *Fath, Sheryl Stavely, AB	122) Fingte, Ryan Stavely, AB	123) *Fischl, Delbert Vulcan, AB
124) *Fisher, Charlotte Blackie, AB	125) *Fisher, Corinne Blackie, AB	126) *Fisher, Gabby Blackie, AB
127) *Flitton, Amy Vulcan	128) *Flitton, Jenna No physical address provided	129) *Flitton, Noel Vulcan, AB
130) *Flitton, Ryan Nanton, AB	131) Flood, Christopher 58 2nd St SE, Medicine Hat, AB	132) *Fox, Gary Nanton, AB
133) Freer, Stanley Coalhurst, AB	134) Gajek, Trey Claresholm, AB	135) *Garrett, Sean Edmonton, AB
136) *Gillis, Kathy Stavely, AB	137) *Given, Gordon Nanton, AB	138) *Goldsmith, Carly No physical address provided
139) Goldsmith, Kyle Calgary, AB	140) *Good Eye, Dave Stavely, AB	141) Gorzitza, Geoff Claresholm, AB
142) *Graham, David Stavely, AB	143) Grant, Carmelle Stavely, AB	144) Grant, Garth Stavely, AB
145) Grant, Ian Stavely, AB	146) Grant, Jocelyn Calgary, AB	147) Green, Lloyd 165045 RR 273, Nanton, AB
148) Green, Pauline 165045 RR 273, Nanton, AB	149) *Grein, Ronnie Nanton, AB	150) *Greven, Roel Claresholm, AB
151) Guitton, Gord 135041 Rge Rd 261	152) *Habraken, Leanne Nanton, AB	153) *Habraken, Vern Nanton, AB
154) *Hall, Brandon Stavely, AB	155) *Hall, Byron Stavely, AB	156) *Hall, Jacquelyn Stavely, AB
157) Hall, Justin Calgary, AB	158) Harris, Lora Pincher Creek, AB	159) *Heidmiller, Morley Stavely, AB
160) Henke, Maegton Stavely, AB	161) Heyd, Terry Airdrie, AB	162) *Hodgson, Jodi Nanton, AB
163) *Hoffarth, Blaine Stavely, AB	164) *Hoffman, Robbie Claresholm, AB	165) *Horkoff, Alex Vulcan, AB
166) *Hort, Jon Nanton, AB	167) Hort, Patti Calgary, AB	168) Hulstein, Chelsey 608 50 Ave, Coalhurst, AB
169) Hunt, Gilbert Tyler SE 19-15-26 W4M	170) Hunt, Susie 152003 RR 271, MD WC	171) Hurt, Zayden Lethbridge, AB
172) Hush, Joyce High River, AB	173) Jenkins, Andrew Calgary, AB	174) Johal, Anoop Edmonton, AB
175) *Johnson, Bernie Stavely, AB	176) *Jones, Barry Stavely, AB	177) Jones, Brad 264034 Twp 144, Stavely, AB
178) *Jones, Darryl Parkland, AB	179) *Jones, Jordan Vulcan, AB	180) Jones, Kylene 264034 Twp 144, Stavely, AB

181) *Jones, Rob Stavely, AB	182) Jones, Shane Calgary, AB	183) *Jones, Sharmyn Parkland, AB
184) Kee, Lorna Calgary, AB	185) *Keeler, Scott Stavely, AB	186) Kemp, Judi High River, AB
187) *Kenworthy, Natasha Claresholm, AB	188) *Kidd, Brade Stavely, AB	189) *Kidd, Debra Stavely, AB
190) *Kidd, Kyle Stavely, AB	191) *Kitchen, Don No physical address provided	192) *Kitchen, Gordon Nanton, AB
193) *Klein, Suzanne No physical address provided	194) *Klein, Rocco No physical address provided	195) Kline, Donna Edmonton, AB
196) *Klys, Pattie Nanton, AB	197) Lacey, Doug Foothills, AB	198) Lacey, Lori Foothills, AB
199) Lamontagne, Tracy Stavely, AB	200) *Lange, Kilee Claresholm, AB	201) *Lange, Sharon Claresholm, AB
202) *Larter, Marilyn Stavely, AB	203) LeBorgne, Christine 133010 RR 272, Claresholm, AB	204) Lelek, Kari 131012 RR 283, Stavely, AB
205) *Leslie, Harvey Nanton, AB	206) Lester, William NE 17-14-27 W4M	207) Lester, Juliana NE 17-14-27 W4M
208) *Lewis, Riley Claresholm, AB	209) *Lewis, Sara Claresholm, AB	210) Lian, Mike 263038 Secondary Hwy 529
211) *Little, Chris Incomplete physical address	212) *Livingston, Chris Nanton, AB	213) *Lockton, Kyle Nanton, AB
214) *Loree, John Nanton, AB	215) *Lovell, Norma Claresholm, AB	216) *Luimes, Rheana Vulcan, AB
217) *Lundberg, Cheryl Nanton, AB	218) *Lundberg, Sten Nanton, AB	219) *Mackay, Alissa Stavely, AB
220) *Macklin, Peter High River, AB	221) *Macklin, Sheila High River, AB	222) *MacQueen, A N Stavely, AB
223) *Malchow, Melody Stavely, AB	224) *Marteniuk, Jim Vulcan, AB	225) *Marteniuk, Ruth Vulcan, AB
226) Martin, Alison 15, 1407 3 St SE, High River, AB	227) *Martin, Greg Stavely, AB	228) Martin, Oscar Foothills, AB
229) Martin, Nick High River, AB	230) McEachen, Kim Stavely, AB	231) McIntosh, Larry 141029 RR 262, Stavely, AB
232) *McIntosh, Susan E Stavely, AB	233) *McKay, Donna Claresholm, AB	234) McKibben, Aidan Claresholm, AB
235) *McNish, Theresa No physical address provided	236) McPeak, Colleen 270051 Twnship Rd 152	237) *McWilliam, Gord Stavely, AB
238) Medicott, Darren Stavely, AB	239) Medicott, Dodi Stavely, AB	240) Medicott, Macy Stavely, AB
241) Medicott, Victoria Stavely, AB	242) Meldrum, Scott Stavely, AB	243) Melvin, Betty Foothills, AB
244) *Messner, Laurie Nanton, AB	245) Meyer, Darcy Calgary, AB	246) Meyer, Elaine Calgary, AB

247) *Mills, Kristen Champion, AB	248) Milton, Bob Claresholm, AB	249) *Minor, Kayla Claresholm, AB
250) *Mitchell, T. Stavely, AB	251) *Mjolsness, Kristel Nanton, AB	252) Molander, Cheryl Lynn Harvey Stavely, AB
253) Moller, Anny Stavely, AB	254) Moller, Peter Stavely, AB	255) Morrison, Colin Stavely, AB
256) Morrison, Brenda Stavely, AB	257) Moss, Delivia Stavely, AB	258) *Moss, Diane M Stavely, AB
259) Moyer, Colin Calgary, AB	260) Moyer, Maria Calgary, AB	261) *Mueller, Donna Champion, AB
262) *Mueller, Gordon Champion, AB	263) *Mueller, Keith Nanton, AB	264) *Mueller, Linda Champion, AB
265) *Mueller, Ron Champion, AB	266) *Munir, Zack Okotoks, AB	267) Munir, Zack Okotoks, AB
268) Munir, Cari Foothills, AB	269) Murtagh, Hannah Stavely, AB	270) *Nelson, Angela Stavely, AB
271) *Nelson, Christine Stavely, AB	272) Nelson, Colleen Champion, AB	273) *Nelson, Curtis Stavely, AB
274) *Nelson, Debra Nanton, AB	275) *Nelson, Doug Nanton, AB	276) Nelson, Kaley Calgary, AB
277) *Nelson, Larry Stavely, AB	278) *Nelson, Lee Stavely, AB	279) *Nelson, Sonya Stavely, AB
280) *Nelson, Louise Stavely, AB	281) *Nelson, Michelle High River, AB	282) *Nelson, Patti H Nanton, AB
283) Nelson, Terry Claresholm, AB	284) Nethercott, Megan 263081 Twp Rd 152, Stavely, AB	285) *Neyl, Georgie Nanton, AB
286) *Norby, Stephanie Claresholm, AB	287) Nugteren, Leo Stavely, AB	288) *Olsen, Sarah Stavely, AB
289) Olson, Todd 151035 Rge Rd 273, MD Willow Creek	290) Ovenden, Margaret Calgary, AB	291) Ovenden, Pauline Calgary, AB
292) *Palmer, Jaycee Nanton, AB	293) Park, Jessie Stavely, AB	294) *Patton, Christy Stavely, AB
295) *Patton, Curtis Nanton, AB	296) *Patton, Randy Nanton, AB	297) Pavicic, John Calgary, AB
298) *Penner, Rod Claresholm, AB	299) *Place, Cale Nanton, AB	300) Plowright, William E Incomplete physical address
301) *Poffenroth, Racheal Nanton, AB	302) Polachuk, Scott 272021 Hwy 529, Willow Creek MD	303) Porteous, Deanne Stavely, AB
304) Price, Elwood Stavely, AB	305) Price, Judith Stavely, AB	306) *Reinhard, Martin No physical address provided
307) Reinhard, Nick 144041 RR 264, Stavely, AB	308) Reinhard, Sara 144041 RR 264, Stavely, AB	309) *Riddle, Brittney Nanton, AB
310) *Riddle, Johnathon Nanton, AB	311) *Riehs, Ken High River, AB	312) *Riehs, Peggi High River, AB

313) *Riehs, Peggi (different box number from other Peggi Riehs) High River, AB	314) Rittwage, Aaron Medicine Hat, AB	315) *Robbins, Karen Stavely, AB
316) *Robichaud, Liz Nanton, AB	317) Roemmele, Bryan Claresholm, AB	318) *Rose, Kaitlin Champion, AB
319) *Roy, Nicole Nanton, AB	320) *Rozander, Wade Nanton, AB	321) Russell, Alan M Stavely, AB
322) *Rylaarsdan, James Vulcan, AB	323) Saunderson, James A Champion, AB	324) *Schlosser, Ethel Nanton, AB
325) *Schlosser, Leslie Stavely, AB	326) *Schlusser, Ron Stavely, AB	327) *Schooten, H Nanton, AB
328) *Schooten, T Marie Nanton, AB	329) *Scidmore, Kate Parkland, AB	330) *Shorr, Timberley Nanton, AB
331) Shoucair, Brianna 134059 RR 265, Stavely, AB	332) Siebens, Carter Calgary, AB	333) Siebens, Clarice A Calgary, AB
334) Simpson, Catherine Stavely, AB	335) *Slough, Patricia Stavely, AB	336) Smith, Bonnie L Nanton, AB
337) *Smith, Laurie Stavely, AB	338) *Smith, Warren Stavely, AB	339) Smolak, Matthew Edmonton
340) Snethun, Thad 135045 Rge Rd 281	341) *Soetaert, Greg Stavely, AB	342) Sorkilmo, Eric High River
343) Sorkilmo, Lea 306 12 Ave SW	344) Staneland, Kevin 321 Butte Place, Stavely	345) Staneland, Sandra Stavely, AB
346) *Stirling, Troy Vulcan, AB	347) *Stokes Bolger, Lana Nanton, AB	348) Storch, Morgan Stavely, AB
349) Striethorst, Barb Edmonton	350) Striethorst, Blaine Edmonton	351) *Subject, Jackee Marie No physical address provided
352) *Sundquist, Cheryl Stavely, AB	353) *Sundquist, Colleen Stavely, AB	354) *Sundquist, Mason Stavely, AB
355) Sundquist, Stephen Ross 271037 hwy 527 Twp rd 142	356) *Swales, John Millarville, AB	357) *Swanson, Jacki Nanton, AB
358) Tamayose, Blake Lethbridge, AB	359) Tamayose, Jodi Lethbridge, AB	360) *Taylor, Layton Parkland, AB
361) *Thomasson, Suzann Nanton, AB	362) Thome, Janessa Medicine Hat, AB	363) Thompson, Buck 112040 Rge Rd 281, Claresholm, AB
364) Thompson, Cori Lethbridge, AB	365) Thompson, Dave Stavely, AB	366) *Thompson-August, Christina Stavely, AB
367) *Thomson, Kenneth Lundbreck, AB	368) *Toone, Corrie Claresholm, AB	369) *Toone, Kristi Claresholm, AB
370) Torrens, Denise Claresholm, AB	371) *Turner, Diane Stavely, AB	372) *Uhl, Randi Claresholm, AB
373) *Ully, Derek Vulcan, AB	374) *Vaage, Beverly Champion, AB	375) *Vaage, Faith No physical address provided

376) *Vaage, Alvin No physical address provided	377) *Vaage, Martin Champion, AB	378) Van Gelderen, Sonya Calgary, AB
379) Vegter, Jeannette Stavely, AB	380) Vezina, Debra Stavely, AB	381) Vezina, Michael Stavely, AB
382) Washington, Jennifer High River, AB	383) *Waters, Bonnie Nanton, AB	384) Weatherbee, Vanessa Calgary, AB
385) *Webb, Bill Calgary, AB	386) White, Diane Stavely, AB	387) Whittle, Jean High River, AB
388) Wiebe, Chad Claresholm, AB	389) *Wiebe, Wendy Claresholm, AB	390) Wiese, Paula Chestermere, AB
391) *Wilson, Juanita Stavely, AB	392) *Woermann, Richard Stavely, AB	393) Wong, Doug Calgary, AB
394) Wong, Ruth Calgary, AB	395) *Wright, J Beth Nanton, AB	396) *Yorgason, Lincoln No physical address provided
397) Young, Billie Lethbridge, AB		

* Some of the responses failed to provide legal land locations or addresses, or provided incomplete physical addresses, or only provided a mailing address for communities/towns that they live in or near, or failed to provide an address of any kind. Therefore, I was not able to determine where these respondents live or own land (these submissions are noted in table B2 with a *). Section 8(3) of the *Administrative Procedures Regulation* under AOPA requires that submissions include addresses in Alberta, presumably in part for this reason. Therefore, these responses could not be considered as part of my decision. Additionally, some respondents appear to reside or own land hundreds of miles from the location of the proposed CFO in entirely different towns, cities, and even provinces, well beyond the 0.5 mile notification distance.

Under NRCB policy, a person has the burden of demonstrating that they are directly affected by an application. In order to meet their burden of proof, the person has to demonstrate all the following five elements (see NRCB Operational Policy 2016-7: *Approvals*, part 7.2.1):

1. A plausible chain of causality exists between the proposed project and the effect asserted;
2. The effect would probably occur;
3. The effect could reasonably be expected to impact the party;
4. The effect would not be trivial; and
5. The effect falls within the NRCB regulatory mandate under AOPA.

For the individuals in **Table B2** that submitted a response via a petition letter, I established that none of those individuals have demonstrated to my satisfaction that they are directly affected by the application. The petition letter stated in full:

“The Ivy Ridge Breth[re]n Colony proposed Confined Feedlot Operation East of Stavely if approved will pose materially negative and long-lasting effects on the community, the water source, and the environment and as such is not an appropriate use of land in that location. The negative effects at the community level far outweigh any benefits.”

Do not approve application LA23050. This is not in the best interests of the community, it's members, and the environment."

The petition letter did not provide reasons as to why the proposed CFO would pose negative effects on the community, the water source, and the environment, nor why it is not an appropriate use of land. The petition letter also did not include any details on how any, or all, of the signatories would be directly affected. Without supporting reasons, it is difficult for me to determine how these statements would meet any of the five points above. For this reason, I conclude that the individuals in Table B2 have not met their burden of proving that they are directly affected by the application.

For the individuals listed in **Table B1** that provided addresses and reside or own land outside of the 0.5 mile notification distance, they asserted the following effects in their individual responses:

Water consumption

The following individuals expressed concerns regarding water consumption for the proposed CFO:

- Peter & Leanne Witt
- Larry Sears
- Rafal & Patricia Cieplak
- David Park
- Lindsay, Teresa, & Quinten Tayler
- David & Elizabeth Dawber
- Maxine & Marla Russell
- Pat Eskeland
- Jon & Sharon Lange
- Dale & Trudy Andrews

Their submissions asserted that the increased demand of water for this application could deplete the local water supply, reduce the availability of water, and impact other agricultural, residential, and wildlife needs. They also asserted that the diversion of water from Mosquito Creek would affect the ability to pasture cattle on land along the creek. They felt it is not appropriate for one operation to store water from Mosquito Creek, and the applicant's plan to drill multiple wells will drain the aquifer for nearby existing wells.

Alberta Environment and Protected Areas (EPA) is directly responsible for licensing the use of groundwater and surface water under the *Water Act*. As noted in Technical Document LA23050, Ivy Ridge Colony signed *Option 2: Processing the AOPA permit and Water Act license separately*. This asserted effect falls outside of the regulatory mandate of the NRCB under AOPA (point 5 above). The applicant has provided a copy of their amended water license, which is further discussed in Appendices C and D.

Groundwater and surface water contamination

The following parties expressed concerns about the potential contamination of groundwater and surface water from the proposed CFO:

- Peter & Leanne Witt
- Rafal & Patricia Cieplak
- David Park

- Lindsay, Teresa, & Quinten Taylor
- Town of Stavely
- David & Elizabeth Dawber
- Maxine & Marla Russell
- Pat Eskeland
- Jon & Sharon Lange
- Dale & Trudy Andrews

Their submissions asserted that nitrogen/nitrates, phosphorous, pathogens, and pharmaceuticals from manure and manure run-off will leach into the aquifer and nearby water bodies if not managed properly and result in the eutrophication of water bodies. Thus, harming aquatic ecosystems, lead to algae blooms, harm wildlife habitat, and contaminate drinking water and affect the quality of surrounding wells. Maxine and Marla Russell also stated that run-off from the proposed site follows a path east/southeast through their land and would negatively impact their farmland.

As noted in this decision summary, the proposed facilities meet all AOPA technical requirements. Several of these requirements are designed to protect groundwater and surface water from contamination. Because the proposed CFO facilities meet or exceed these requirements, I conclude that the level of groundwater and surface water risk posed by these facilities is acceptable.

As noted in section 8 of the decision summary, I assessed the CFO's proposed facilities using the NRCB environmental risk screening tool (ERST). The assessment found that the proposed facilities pose a low risk to groundwater and surface water.

Dr. Greg Piorkowski, NRCB Environmental Specialist and Science and Technology Manager, provided me with a potential path for run-off from the site of the proposed CFO to Maxine and Marla Russell's land. All the proposed CFO facilities appear to not be in the potential path for run-off. Further, the facility that has the highest potential for run-off is the solid manure storage pad, which the applicant has proposed to contain with berms. Therefore, I am of the opinion that it is unlikely manure impacted run-off from the CFO would reach the Russell's land.

The respondents have not provided me with any additional evidence to show that the alleged effect would probably occur (point 2 above). Therefore, I find that these individuals are not directly affected based on groundwater and surface water contamination risks.

Effects on the environment

The following parties expressed concerns for negative effects on the environment, that are not related to groundwater or surface water contamination:

- Peter & Leanne Witt
- David Park
- Town of Stavely
- David & Elizabeth Dawber
- Dale & Trudy Andrews

Their submissions stated that the application would pose risks to environmental sustainability, the protection of natural resources, ecosystem integrity, cause a loss of biodiversity, and cause soil erosion. They stated that the intensive use of feed crops can lead to monoculture practices

that deplete soil nutrients and the excessive use of manure as fertilizer can lead to nutrient imbalances in the soil that affects its health and productivity.

These parties are located outside of the affected party radius and did not establish a sufficient chain of causality between the effects they asserted and the proposed CFO (point 1 above). This is partly due to the distance from the proposed CFO, which also lessens the probability of the effects occurring and the reasonable expectation of impact upon these parties (point 3 above). As stated previously, the proposed CFO meets all of AOPA's technical requirements, including having sufficient land to meet the nutrient levels for manure spreading. Additionally, AOPA requires CFO operators test the soil of the land they spread on to ensure nutrient levels do not exceed allowable limits (*Standards and Administration Regulation*, section 25). Therefore, I find that these individuals are not directly affected based on effects on the environment.

Effects on wildlife

The following individuals raised concerns for the effects on wildlife:

- Peter & Leanne Witt
- Lindsay, Teresa, & Quinten Taylor
- Pat Eskeland

In their submissions, they expressed concerns for the possible annihilation and disruption of wildlife and bird migration patterns and habitats. They also stated that the site of the proposed CFO and surrounding areas provide vital habitat for the ferruginous hawk, leopard frog, burrowing owl, greater sage grouse, little brown bat, and western spider wort, and their habitat would be at risk of contamination from manure run-off.

These individuals did not provide evidence to support their claim that the subject land is currently a habitat to any of the species they listed. I also did not see any evidence of habitat for the species listed above during my site visits of the subject land. Further, the likelihood of contamination of surrounding habitat by manure impacted run-off is low, as the application meets all of AOPA's technical requirements. These individuals did not establish a sufficient chain of causality between the effects they asserted and the proposed CFO (point 1 above). Also, it is difficult to determine how effects on wildlife would impact these individuals (point 3 above). Therefore, I find that these individuals are not directly affected based on negative effects on wildlife.

Effects on community

The following parties raised concerns for effects on the community:

- Peter & Leanne Witt
- Larry Sears
- Rafal & Patricia Cieplak
- David Park
- Lindsay, Teresa, & Quinten Taylor
- Town of Stavely
- David & Elizabeth Dawber
- Maxine & Marla Russell
- Pat Eskeland
- Jon & Sharon Lange
- Dale & Trudy Andrews

These individuals raised concerns that the application would put a strain on local infrastructure that could necessitate costly upgrades that would burden taxpayers and divert funds from other community needs, pose a risk to local businesses, impact the rural landscape, loss of small family farms and acreages, and cause current residents to move away from the area and make the Town of Stavely undesirable to live due to adverse living conditions and too many CFOs in the surrounding area. They also raised concerns that long-standing community members would be replaced by transient workers, which would threaten the culture and agricultural heritage of the area. There would also be an increased strain on fire and emergency services. They stated that CFOs have no community spirit, no good will, do not communicate with the public, and make no contributions to local and rural communities and their way of life.

The concerns raised about the strain on local infrastructure, fire and emergency services, risk to local businesses, and making Stavely and the surrounding area undesirable to live because of too many CFOs, are not within the NRCB's regulatory mandate under AOPA (point 5 above). I interpret "too many CFOs" to mean the cumulative effect of CFOs. AOPA does not use this term and the NRCB does not consider cumulative effects to be within an approval officer's regulatory mandate under AOPA (Operational Policy 2016-7: *Approvals*, section 9.11). The concern about community members being replaced by transient workers also does not fall under the NRCB's regulatory mandate under AOPA (point 5 above).

They also brought forward other concerns for effects on the community, however, these concerns were not in relation to CFOs. Because of this, I cannot consider these concerns as part of my analysis to determine if these individuals are directly affected by this application.

Odour and other nuisance impacts

The following individuals expressed concerns regarding odour and other nuisance impacts:

- Diana Cieslak
- Rafal & Patricia Cieplak
- David Park
- Maxine & Marla Russell

In their submissions, they asserted that the strong, unpleasant odours, and increased noise and traffic from the proposed CFO would reduce their quality of life and make outdoor activities unpleasant and/or unbearable.

AOPA's minimum distance separation (MDS) is a means for mitigating odour and other nuisance impacts from CFOs. Ivy Ridge Colony's proposed CFO meets MDS requirements from neighbours (403 m for Category 1). People residing beyond the MDS may still experience non-trivial odour impacts from time to time. Furthermore, nuisances would be expected to decrease as the distance from the proposed CFO increases and therefore, becoming less impactful to the individuals (points 2 and 3 above). Therefore, I find that these individuals are not directly affected based on odour and other nuisance impacts.

Road use

The following individuals raised concerns about road use:

- Diana Cieslak
- David Park
- Lindsay, Teresa, & Quinten Taylor

- Pat Eskeland
- Dale & Trudy Andrews

These individuals stated in their responses that the increased traffic related to the proposed CFO would deteriorate the roads and cause congestion on the roads, increase the likelihood of accidents, pose a safety risk to pedestrians and other users of the roads, and affect services that are provided by the MD, provincial, and federal governments.

The MD of Willow Creek has jurisdiction over local roads, while Alberta Transportation and Economic Corridors (TEC) has jurisdiction over provincial highways. The MD of Willow Creek did not outright express concerns for their local roads, just that it is important the traffic generated as a result of the development is understood and requested the applicant conduct a Traffic Impact Assessment (TIA) and enter into a Heavy Haul Agreement with the MD of Willow Creek. TEC did not express concerns over road use in their responses. Given that road use and maintenance falls outside the regulatory mandate of the NRCB under AOPA (point 5 above), I do not consider these individuals to be directly affected by road use.

Commercial farming

The following individuals brought forward concerns about commercial farms and their practices:

- Larry Sears
- Rafal & Patricia Cieplak
- David Park
- David & Elizabeth Dawber

These individuals stated in their responses that commercial farms prioritize profits over community wellbeing, they dominate the market, do not utilize sustainable agricultural practices nor prioritize environmental stewardship and animal welfare, are insular in nature, and are subject to different federal and municipal taxation rules.

All CFOs that are regulated by the NRCB, must follow the rules and regulations, and meet the technical requirements of AOPA. Several of these requirements prevent nutrient overloading of land that manure is spread on and prevent groundwater and surface water contamination, as examples. These individuals have not provided me with any reasons or evidence of how their claim would specifically affect them (point 3 above). Further, animal welfare, market conditions, and taxation rules fall outside the regulatory mandate of the NRCB under AOPA (point 5 above). Therefore, I do not consider these individuals to be directly affected by commercial farming.

Health

The following parties raised health concerns:

- Rafal & Patricia Cieplak
- David Park
- Town of Stavely
- David & Elizabeth Dawber
- Maxine & Marla Russell

In their submissions, they stated that there would be health risks due to manure run-off leaching nutrients, pathogens, and pharmaceuticals into drinking water supplies, there would be reduced air quality and health problems such as respiratory issues and headaches from the emission of ammonia, hydrogen sulfide, methane, and particulate matter from animals confined in feedlots.

They also stated that animals confined in feedlots contribute to the proliferation of pathogens like E. Coli, Salmonella, and antibiotic resistant bacteria.

AOPA's minimum distance separation (MDS) is a means for mitigating odour and other nuisance impacts from CFOs. Ivy Ridge Colony's proposed CFO meets MDS requirements from neighbours (403 m for Category 1). People residing beyond the MDS may still experience non-trivial odour impacts from time to time. In this case, these individuals reside beyond the notification distance of 0.5 mile and nuisances would not be reasonably expected to impact parties outside of the notification distance (points 2 and 3 above).

I also sent a copy of the application and responses with health concerns to Alberta Health Services (AHS) for comment. 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 prevented. Therefore, I do not consider these individuals to be directly affected by health concerns.

Property values

The following parties expressed concerns for property values:

- Rafal & Patricia Cieplak
- Town of Stavely
- Pat Eskeland

They stated in their responses that the high-water usage and potential contamination from a CFO could result in reduced property values and properties in the vicinity of the proposed CFO will decrease in value.

The NRCB's Board has consistently stated that concerns regarding effects on property values are "not a subject for [the board's] review under AOPA" or for approval officers' consideration of permit applications. 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..." (Zaeland Farms, RFR 2011-02, p. 5)

Without evidence, it is hard to predict if the proposed CFO would impact property values, to what extent that impact would be, and if it would impact these individuals specifically (points 2, 3 and 4 above). Additionally, property values do not fall under the regulatory mandate of AOPA (point 5 above). Therefore, there is little to no evidence to show that these individuals are directly affected in relation to property values.

Effects on economy

The following individuals raised concerns for effects on the economy:

- Rafal & Patricia Cieplak
- Diana Cieslak
- David Park
- Lindsay, Teresa, & Quinten Taylor
- Pat Eskeland
- Jon & Sharon Lange

In their responses, they stated there would be economic losses for other farmers, the proposed CFO would pose a threat to local jobs and businesses, there would be no economic gain, and no jobs would be created. They stated that an industrial scale operation would cause economic displacement of local, small family farms, and is incompatible with local organic farming, artisanal food production, and agritourism, and would cause these businesses to suffer due to decrease tourists to the area. They also stated that having a large operation in the area would make land prices unaffordable and smaller operations and family farms would not be able to expand or compete.

The concerns raised are difficult to evaluate, particularly in respect to an actual outcome, in which way it meets point 2 (would the effect probably occur?) and point 3 (would the effect be reasonably expected to impact the party?) of the analysis. These individuals did not provide evidence to show that these effects would reasonably be expected to impact them, or a plausible chain of causality exists between the proposed CFO and the effects asserted (points 1 and 3 above). Therefore, I do not consider these individuals to be directly affected in relation to effects on the economy.

They also brought forward other concerns for effects on the economy, however, these concerns were not in relation to CFOs. Because of this, I cannot consider these concerns as part of my analysis to determine if these individuals are directly affected by this application.

NRCB policy

Lindsay, Teresa, and Quinten Taylor, and Jon and Sharon Lange raised concerns about current NRCB policies. In their responses, they stated that government agencies pass issues onto other departments, that the NRCB hides behind broken, outdated policies, and that NRCB setbacks to neighbours are not sufficient. They were also concerned that the NRCB does not consider water supply and usage as part of CFO applications and urged the NRCB to review, engage with local stakeholders, and make necessary changes to outdated policies and procedures.

NRCB policy is constrained by AOPA and its regulations. The NRCB is continually revising and updating its policies. Because of this, it is difficult to evaluate how these concerns about NRCB policy would impact the individuals (point 3 above) or if a chain of causality exists between the proposed CFO and the effects asserted (point 1 above). Therefore, I do not consider these individuals to be directly affected by this application regarding NRCB policy.

Location

The Town of Stavely raised a concern for the location of Ivy Ridge Colony's proposed CFO and asked that an alternative location be considered.

The reasons provided by the Town of Stavely for an alternative location to be considered for the proposed CFO were not specific to the CFO itself. Also, AOPA does not require an applicant to justify their site against other potential sites (see Board decision in Hutterian Brethren of Parkland, RFR 2022-10, p. 7) Therefore, I cannot consider those reasons as part of my analysis to determine if the town is directly affected by the application based on the location.

Inadequate land for manure storage

David and Elizabeth Dawber expressed a concern that there was not enough land for manure storage for the proposed CFO.

AOPA sets out the requirements for how manure from a CFO must be stored. For liquid manure, it must be contained in either an earthen manure storage (EMS) or an above ground tank. In this application, Ivy Ridge Colony proposed to contain the liquid manure from their proposed CFO in an above ground, concrete tank. The holding capacity and proposed concrete specifications meet the AOPA requirements for liquid manure storage. For solid manure, AOPA allows operators to store their manure in either a permanent manure storage facility (MSF) or by using short term manure storage (STMS). In this application, Ivy Ridge Colony proposed to store the solid manure from the CFO on a manure storage pad, with a compacted clay liner, that meets AOPA requirements. Since the manure storage facilities meet AOPA requirements, it is difficult to evaluate how the storage of manure would affect the Dawbers (point 3 above). Therefore, I do not consider them to be directly affected based on adequacy of land for manure storage.

Future expansion

David and Elizabeth Dawber raised a concern for the future expansion of the proposed CFO.

They did not provide reasons or evidence as to how future expansion of a CFO would impact them (point 3 above) Further, each CFO application is evaluated on its own merits and there are no guarantees that future applications would be approved. Therefore, I do not consider them to be directly affected with regards to future expansion.

Applicant housing in close proximity to barns and manure storage facilities

David and Elizabeth Dawber raised a concern for the applicant's housing being in close proximity to the proposed barns and manure storage facilities. They stated that according to Alberta.ca website, living accommodations cannot be in close proximity to manure holding and this was not taken into account in this application.

When they say "in close proximity", I assume they mean that the applicant's housing does not meet MDS requirements to their proposed facilities. In the *Standards and Administration Regulation*, section 3(6)(b), it states "The minimum distance separation calculated...does not apply to a residence within the minimum distance separation if the owner or operator of the proposed operation or facility owns or controls the residence." Also, this falls outside the regulatory mandate of the NRCB as AOPA does not regulate housing (point 5 above) and the application does not apply to the permitting of housing structures. Further, it is difficult to evaluate how the location of the applicant's housing would affect these individuals (point 3 above). Therefore, I do not consider them to be directly affected with regards to the applicant's housing being in close proximity to the proposed barns and manure storage facilities.

For the reasons given above, I conclude that none of the respondents in Tables B1 and B2 have met their burden of proving that they are directly affected by the application. That being said, most of the concerns that were raised were the same or similar to the concerns raised by the directly affected parties. Those parties' concerns are further discussed in Appendix C.

APPENDIX C: Concerns raised by directly affected parties

Concerns from directly affected parties

The 16 directly affected parties raised a number of concerns which are listed and summarized below, followed by my analysis and conclusions:

- Source of water for the proposed CFO and use of water
- Contamination of water
- Minimum distance separation (MDS)
- Odour, noise, and other nuisances
- Environmental impacts
- Effects on the community
- Effects on the economy
- Location of the proposed CFO
- Property values
- Road use
- Health concerns
- Commercial farming
- NRCB policies and process
- AOPA legislation
- Future expansion of the CFO
- Cumulative effects
- Actions of the approval officer
- Applicant engagement with the community

Source of water for the proposed CFO and use of water

The majority of the directly affected parties expressed concerns for the source of the water for the proposed CFO and how much water it will use. In their responses, they stated that the watershed supply is inconsistent, there is not enough water in the aquifer, the proposed diversion of water from Mosquito Creek would not be able to support the proposed CFO and all the existing farms and families in the area, and the application would further strain already compromised water resources and threaten the quality of drinking water. They stated that the region has been strained by persistent droughts, that Mosquito Creek and groundwater sources are under severe stress and the applicant has disregarded these realities and risks further depleting water resources. They also raised concerns about the overuse of water resources, how the drawing of water from Mosquito Creek during times of low-flow could negatively affect other water right holders, and how the utilization of water will be monitored.

Some of the directly affected parties also raised concerns regarding NRCB policies and the NRCB process with regards to water usage and licensing. In their responses, they stated that NRCB has a lack of consideration of water resources and does not inquire with local landowners about water supply when issuing decisions, that CFOs can be approved without definitively knowing if water is available, that the NRCB does not care to take water concerns into account when making decisions, and said that the NRCB should reinstate that all applications must have a water license prior to approval. They urged the NRCB and EPA to put a moratorium on all approvals until all the deficiencies found in the Auditor General audit have been addressed.

Approval officer's conclusions

Alberta Environment and Protected Areas (EPA) is directly responsible for licensing the use of groundwater and surface water under the *Water Act*. Therefore, for efficiency and to avoid inconsistent regulation, NRCB approval officers generally do not consider water supply concerns when reviewing AOPA permit applications, other than ensuring applicants sign one of the water licensing declarations. As noted in Technical Document LA23050, Ivy Ridge Colony signed *Option 2: Processing the AOPA permit and Water Act license separately*. On behalf of EPA, Mr. Jason Cheng responded to the referral for this application indicating that in Ivy Ridge Colony's *Water Act* application, they have applied for two license amendments that will transfer 48,106 cubic metres and 25,903 cubic metres of water for a combined total of 70,009 cubic metres. Mr. Cheng stated that the estimated water usage for the proposed livestock in this application is 13,950 cubic metres per year. On September 19, 2024, the applicant provided me with a copy of their amended water license for the site.

Contamination of water

Some of the directly affected parties expressed concern about the contamination of groundwater and surface water from the proposed CFO. In their responses, they expressed concerns for potential contamination of their own water wells, run-off from manure spreading activities, and the potential contamination of water from large-scale accumulation of manure. They also stated that feedlots are known contributors of water contamination through waste run-off and threaten water sources and the improper management of waste can pollute the water. They were also concerned that the in-barn dairy pits would infiltrate the water table, that there was inadequate separation between the bottom of the compacted clay liner of the manure storage pad and water table, and the proposed facilities are in an area with shallow groundwater.

Approval officer's conclusions

AOPA and its regulations contain several requirements to prevent or minimize manure leakage from CFO facilities and thus to prevent manure from a CFO from reaching and contaminating surface water and groundwater. One of these requirements is the setback from water wells set out in Section 7(1)(b) of the Standards and Administration Regulation, which prohibits the construction of a manure storage facility or manure collection areas (MSF/MCA) within 100 m of water wells. Another requirement is the setbacks from common bodies of water set out in Section 7(1)(c) of the Standards and Administration Regulation, which prohibits the construction of a manure storage facility or manure collection area less than 30 m from a common body of water.

During my site visits, I did not note any common bodies of water within 30 m of the proposed CFO facilities, nor any water wells within 100 m. There are some marshes located within the section of land for the proposed development, but the facilities are to be located more than 100 m from these areas. I verified these distances by reviewing Google Earth imagery.

As noted in section 8 of this decision summary, I assessed the proposed CFO facilities using the NRCB's ERST in order to determine the level of risk they pose to surface water and groundwater. According to the ERST, the proposed facilities pose a low potential risk to surface water and groundwater.

As noted in section 6 of this decision summary and further documented in Technical Document LA23050, the proposed CFO facilities meet all AOPA groundwater protection requirements for the floors and liners of manure storage facilities and manure collection areas. The information contained in the application, including the engineer's soil investigation, did not suggest a shallow groundwater resource. However, some of the boreholes in the engineer's soil investigation did encounter a water table. I acknowledge that the height of the water table can vary over time, based upon the time of year or precipitation events. AOPA requires that facilities must meet a minimum of a one metre separation between the bottom of the liner or protective layer of an MSF/MCA and the water table, at the time of construction. To address the concerns regarding the potential infiltration of the water table, I have included conditions for the proposed dairy barn and the proposed solid manure storage pad that construction is to immediately cease and the NRCB be contacted should the water table be observed to be 1 m or less from the bottom of the facilities' liners at the time of construction. Also, I have included a condition for the above ground manure storage tank that requires the applicant to visually inspect the sump annually for liquid and collect a sample for testing to determine if the facility is leaking.

With regards to potential run-off from manure spreading activities, the applicant is required to follow all AOPA requirements. Section 24(1) of the *Standards and Administration Regulation* requires manure to be incorporated within 48 hours of application when it is applied to cultivated land. Incorporation reduces run-off by working the manure into the soil. Under section 24(5)(a) of the same regulation, manure does not need to be incorporated after surface application on forages or on no-till cropland, in order to preserve the soil. However, the manure must be applied at least 150 m from any residence, to mitigate nuisances from manure spreading without incorporation. Sections 24(9) and (10) discuss setbacks for manure application from a common body of water, as well as setbacks based on the slope of the terrain to common bodies of water. The applicant is required to follow these regulations. When these AOPA requirements are followed, they will provide protection to neighbours and common bodies of water from run-off related to manure spreading activities.

Minimum distance separation (MDS)

Two of the directly affected parties expressed concerns about the MDS. They stated that the MDS is insufficient and does not take into account the topography, prevailing winds, and other environmental factors, and that the MDS is outdated.

Approval officer's conclusions

Section 3 of the *Standards and Administration Regulation* sets out the requirements that approval officers must follow for MDS requirements. Sections 5-7 in schedule 1 of the *Standards and Administration Regulation* allow for the application of a dispersion factor, an expansion factor, and a technology factor. The legislation specifies that these factors must equal 1.0 unless information is provided, to the satisfaction of the approval officer, to establish otherwise. I received no information to justify adjusting these factors to a value other than 1.0. For this application, the MDS is 403 m for Category 1, and all proposed facilities meet the MDS to neighbouring residences.

Odour, noise, and other nuisances

Some of the directly affected parties expressed concern for the odour, noise, and other nuisances that would come from the proposed CFO. In their responses, they raised concerns about the odours from manure being stored on site and from spreading manure on adjacent lands. They were also concerned about the odours that would be downwind of the CFO, and that the noise and odour from the CFO would degrade the rural quality of life and make the area less appealing for people to move to.

Approval officer's conclusions

AOPA's MDS requirements are a proxy for minimizing odours and other nuisance effects from CFOs. Ivy Ridge Colony's proposed CFO meets the MDS to all neighbouring residences. Some of the parties outside of the MDS may experience odours and other 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.

Often, any issues that arise relating to the operation of a CFO can be resolved through good communication between neighbours and the CFO operator. However, if a member of the public has concerns regarding a CFO, including odour and manure spreading, they may contact the NRCB through its 24-hour reporting line (1-866-383-6722). A NRCB inspector will follow up on the concern.

Environmental impacts

Some of the directly affected parties raised concerns about the effects the proposed CFO will have on the environment. In their responses, they stated that waste run-off from the CFO, if not properly managed, will contaminate the soil and the ecological balance could be irreversibly harmed. They stated that CFO's have been well documented for having problems with manure, disease, greenhouse gas emissions, vermin, and airborne particulate matter that will affect the environment if not managed properly, and the intensive practices associated with CFO's can lead to soil degradation and loss of biodiversity that reduces the sustainability of the land.

They also raised concerns for the wildlife and vulnerable species in the area, stating that neighbouring lands have wetlands, nests, and dens for endangered birds like the burrowing owl and ferruginous hawk, and the land proposed for the CFO and point of diversion from Mosquito Creek is considered a key wildlife diversity habitat. They were concerned that there are no legally enforceable setbacks for endangered species, that the development of the proposed site will affect the burrowing owl and requested that considerations under the *Wildlife Act* be considered prior to approval of this application.

Approval officer's conclusions

If an application meets all of AOPA's technical requirements, then I may presume that the environmental effects of the proposed development will be acceptable (Operational Policy 2016-7: *Approvals*, part 9.10.9(1)). As noted in section 6 of this decision summary and further documented in Technical Document LA23050, the proposed CFO facilities meet all AOPA technical requirements.

During my visits at the proposed CFO site, I noted that the land had been used for agricultural purposes (i.e. cultivated and seeded), and the applicant confirmed the land had been used for agricultural activities for some time now. It seems unlikely that the subject land is a habitat for wildlife. As for the "point of diversion from Mosquito Creek", I

presume they mean the point of Mosquito Creek in which the applicant plans to divert water from, for their operation. The NRCB does not have regulatory authority under AOPA with regards to the diversion of water. Further, the site for the proposed CFO is located approximately 3.3 miles from the closest point of Mosquito Creek. The directly affected parties did not provide evidence of how the proposed CFO will affect local wildlife and therefore, I am of the opinion that the proposed CFO will not significantly impact wildlife. Nevertheless, the applicant is reminded that they are bound by legislation, such as the *Species at Risk Act* and the *Migratory Birds Convention Act*.

Effects on the community

Most of the directly affected parties stated that the proposed CFO would have negative effects on the community. In their responses, they stated that the proposed CFO would make it difficult for the average small farmer to grow and prosper, would force smaller farms to shut down and move away from the area, deter new families from settling in the area as they would not want to live near a CFO, and lead to a declining population. They said this would cause a loss of cultural heritage, traditions, and local knowledge about sustainable farming practices.

They also stated that the proposed CFO would alter the cultural fabric of the community, there would be community degradation, disrupt the cohesion and close-knit nature of the community, weaken social ties, lead to a breakdown in community networks, and potentially cause social tension and division among residents. They said that due to a declining population, it would lead to neglected infrastructure and impact and limit access to public services, such as fire and emergency services, and healthcare that rely on volunteers. They also said that a declining population could lead to a loss of local businesses, such as grocery stores, and create a food desert for local residents.

They also asked questions about how section 617 of the Alberta *Municipal Government Act* (MGA) is being considered.

Other concerns were raised regarding the negative effects the application would have on the community; however, these concerns were not related to the CFO specifically. Therefore, I cannot consider these concerns as part of my analysis.

Approval officer's conclusions

Consistent with NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9, if the application is consistent with the land use provisions of the MDP, then the proposed development is presumed to have an acceptable effect on the community. As noted in section 5 and Appendix A of this decision summary, the proposed CFO is consistent with the land use provisions of the MD of Willow Creek's MDP.

The MGA empowers municipalities to shape their communities and it regulates how municipalities are funded and how local governments should govern and plan for growth. Section 617 of the MGA speaks to the purpose of Part 17 of the MGA, to how plans and their related matters may be prepared. I interpret this section to speak to matters that a municipality should consider when it comes to preparing the planning and development documents. I also note that Part 17 of the MGA relating to development permits does not apply to a CFO under AOPA (section 618(2.1)). As stated previously, the application meets the land use provisions of the MD of Willow Creek's MDP, and I have nothing before me to overturn a presumption of the proposed development having an acceptable effect on the community.

Effects on the economy

Some of the directly affected parties expressed concerns that the proposed CFO would have negative effects on the economy. In their responses, they stated that smaller farming operations would not be able to compete with a large CFO of this size, as large operations could undercut local farms and businesses, and this would lead to increased debt load of the small farms in order to remain competitive. They stated that small farming operations would be displaced, as they would be forced to sell to larger, commercial operations, and the livelihoods of the existing farmers in the region could be jeopardized and it would reduce the economic viability of the region. They also stated that the wealth generated by these large operations does not stay in the local community, and therefore, would cause local businesses to close and lead to unemployment and financial stress, and perpetuate a cycle of poverty.

Other concerns were raised regarding the negative effects the application would have on the economy; however, these concerns were not related to the CFO specifically. Therefore, I cannot consider these concerns as part of my analysis.

Approval officer's conclusions

Consistent with NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9, if the application is consistent with the land use provisions of the MDP, then the proposed development is presumed to have an acceptable effect on the economy. As noted in section 5 and Appendix A of this decision summary, the proposed CFO meets the land use provisions of the MD of Willow Creek's MDP.

Location of the proposed CFO

Some of the directly affected parties expressed concern for the location of the proposed CFO, stating that the area is not suitable because of the arid and hostile environment and would be better suited closer to a more consistent water supply such as a creek or lake. They raised concern for the proposed relocation of some of the manure storage facilities that would put them closer to their residence, that the location of the facilities will hinder future plans for their own land, development of a large scale operation will interrupt the view of the landscape and diminish their enjoyment of their surroundings, and were concerned the development is proposed near a busy secondary highway.

Other concerns were raised about the location of the proposed CFO; however, these concerns were not related to the CFO specifically. Therefore, I cannot consider these concerns as part of my analysis.

Approval officer's conclusions

AOPA does not require an applicant to justify a selected site for the proposed development, but rather, only that the proposed site is able to meet various requirements of the legislation. As stated previously, Ivy Ridge Colony's proposed CFO meets the MDS requirements to all nearby residences, meets setbacks to roadways including Highway 529, is located on land zoned "Rural General", and meets the provisions of the M.D. of Willow Creeks Municipal Development Plan. Further, the Board has stated in a decision, also in the MD of Willow Creek, that CFO developments in the "Rural General" land zoning category "...should not be unexpected by residents. Agricultural infrastructure in general, including barns, grain storage facilities, feed mills, and silos, is an expected part of the viewscape in areas where agriculture is the dominant rural activity." (Hutterian Brethren of Parkland, RFR 2022-10, p. 3).

Property values

A few of the directly affected parties raised concerns regarding property values, stating that their land and property value would decrease due to its close proximity to a CFO.

Approval officer's conclusions

The NRCB's Board has consistently stated that concerns regarding effects on property values are "not a subject for [the board's] review under AOPA" or for approval officers' consideration of permit applications. 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..." (Zealand Farms, RFR 2011-02, p. 5). Further, the land the proposed CFO is to be located and the surrounding lands within 0.5 miles are zoned "Rural General".

Road use

Some of the directly affected parties raised concerns regarding the use of local roads. In their responses, they expressed concern for the increased heavy vehicle traffic on Highway 529, stating that it will pose public safety risks and likely lead to increased instances of accidents and degrade the rural quality of life. They also expressed concern for the gravel roads in the area, saying that the MD would need to spend more taxpayer dollars to reconstruct the gravel roads to support the increased traffic.

They also raised concerns about the intersection of Highways 529 and 23, stating that the intersection is known to be problematic and fatal accidents have occurred at this intersection. They also felt that manure storage facilities are proposed to be located too close to the intersection of Highway 529 and Range Road 265, and that TEC policy requires permits for roadside development within 800 m of an intersection. They asked if a Traffic Impact Assessment (TIA) has been done and how the discrepancies with the proposed development and TEC policies will be addressed.

Approval officer's conclusions

The NRCB does not have direct responsibility for regulating road use. Section 18 of the *Municipal Government Act* gives municipalities "direction, control and management" of all roads within their borders. It would be impractical and inefficient for the NRCB to attempt to manage road use or upgrades 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 agreements/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). Further, on September 19, 2024, the applicant sent me confirmation that they have already begun the process to complete a TIA.

As for the development setbacks, TEC stated in their initial response that a roadside development permit will not be required for this application. As mentioned in section 3 of this decision summary above, I contacted TEC regarding the developments setbacks, and they stated that Highway 529 is considered a minor two-lane highway, and in their MOU with the MD of Willow Creek, development setbacks to these highways are to be 30 m from the property line or 50 m from the centre of the highway. According to the *Highway Development Act*, the setback is 400 m from the centre point of a minor two-

lane highway. Regardless of which setback is applicable to this application, the proposed development meets these setbacks. However, I advised the applicant to inquire with TEC to confirm if they require a roadside development permit or not.

Health concerns

Some of the directly affected parties raised health concerns relating to the proposed CFO and related commercial activities. In their responses, they raised concerns about the potential health impacts from the odour, particularly with regards to the emission of ammonia, methane, and volatile organic compounds. They stated that the smell will degrade the quality of the air, leading to respiratory issues and diseases, cancer, and reduced mental health and suffering due to living near a CFO. They expressed concern for run-off from manure spreading activities and people potentially being exposed to that run-off. They also expressed concerns for the health impacts that would be created due to people moving away from the area because they do not want to live near a CFO. They stated that the exodus of people will cause economic stress, businesses to close (i.e. grocery stores), and limit access to resources like healthcare. They stated that for these reasons, the people remaining would feel isolated and lonely, it would limit their access to nutritious food and support systems and cause them to adopt unhealthy behaviours such as substance abuse and poor diet. They also stated that the exodus of people would cause others to neglect and abandon their land and property, which can become overgrown and contribute to vector-borne diseases.

Approval officer's conclusions

As per NRCB policy, a copy of the application and responses with health concerns were sent to AHS for their comments (Operational Policy 2016-7: *Approvals*, part 8.7.5.)

Cortney Hlady provided a response on behalf of AHS. In her response, she stated that when industry best management practices and NRCB operating requirements are used appropriately, concerns noted in response to the application should be prevented.

Ivy Ridge Colony's proposed CFO meets all of AOPA's technical requirements. Several of these requirements as designed to prevent or minimize manure leakage from CFO facilities and thus to prevent manure from reaching and contaminating groundwater and surface water. AOPA's MDS requirements are a proxy for minimizing odours and other nuisance effects, such as ammonia from CFOs. Ivy Ridge Colony's proposed CFO meets the MDS requirements to all neighbouring residences. Some of the parties outside of the MDS may experience odours and other 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.

Based on my experience and from previous responses from AHS to similar health related concerns, general air quality is addressed and mitigated by the MDS, guidelines, and industry best management practices. The applicant is encouraged to follow best management practices.

Section 24 of the *Standards and Administration Regulation* discusses manure application. In this section, there are setbacks that must be met to neighbouring residences and common bodies of water based on the slope of the land towards that body of water. These setbacks help mitigate the odour from manure spreading and the risk of run-off from manure spreading to reach a common body of water. The applicant is required to follow all AOPA requirements, which is stated in Approval LA23050.

Commercial farming

Some of the directly affected parties expressed concern about commercial sized farms and their farming practices. In their responses, they stated that this proposed CFO is commercial in size, rather than a traditional, small-scale family farm that is typical of the surrounding area, and therefore not compatible with the surrounding farming practices. They stated that commercial sized farms concentrate production in less hands, which reduce market competition and drive down prices that smaller farms could receive for their products and create unfair competition for land, and they don't demonstrate neighbourly cooperation or sustainable agricultural practices. They also stated that CFOs are industrial entities and must be treated as such, rather than an agricultural operation, and the commercial section of the MDP should be considered for this application.

Approval officer's conclusions

AOPA does not provide guidance on when a CFO is considered "commercial" or "industrial", it only sets out threshold levels on when an operation requires a permit under AOPA. However, AOPA does recognize that some CFOs are larger in scale than other operations (for example, in MDS calculations, notification distance, and other technical requirements). Regardless of the size of the operation, all CFOs that have an NRCB permit must follow all of the rules and regulations of AOPA. AOPA is designed to ensure that permit holders pose minimal risks to the environment and prevent the nutrient overloading of soil during manure spreading activities. Consistent with NRCB Operational Policy 2016-7: *Approvals*, part 9.10.9, if the application is consistent with the land use provisions of the MDP, then the proposed development is presumed to have an acceptable effect on the community. As noted in section 5 and Appendix A of this decision summary, the proposed CFO meets the land use provisions of the MD of Willow Creek's MDP and the subject land is zoned Rural General. Further, the NRCB's Board has noted that for zoning, CFOs are not more industrial like than agricultural (see Board Decision 04-05 Meinders, p. 29).

NRCB policies and process

Some of the directly affected parties had concerns regarding NRCB policies and the NRCB process. In their responses, they stated that there are not many avenues of consideration outside the NRCB from elected officials, the approval or denial of an application is at the sole discretion of one approval officer, that there is a lack of inclusion from municipalities or representation from communities in the decision making process, and that the role of municipalities in the decision-making process needs to be expanded, as approval officers could potentially be corrupted. They said that the NRCB has unchecked power and develops its own judgements that don't match public values.

They stated that NRCB policies are outdated, they have no consideration for public interest criteria that was crafted by public stakeholders, as it is assumed that applications are in the best interest of the public if it meets technical requirements, and the NRCB seems to pick and choose which policies to update based on what will benefit them and industry advisors. They said that the NRCB seems to "pass the buck" to other agencies when concerns are brought forward that is not under the regulatory scope of AOPA, that the current policies fail to account for current environmental conditions and prioritize industry interests and economic gains over sustainable development.

They stated that the policy of advertising an application in a paper and 20 working days to respond to an application is insufficient, as the applicant is given months to submit an application with the help of an approval officer to ensure that the application meets technical requirements. They said that this leaves directly affected parties with no guidance as to what they can argue for a CFO application. They also stated the timing of this application being sent for public notice was in the middle of seeding and questioned whether or not it was intentional. They also said that the NRCB does not grant directly affected party status to individuals that reside outside the MDS and responses to directly affected party concerns are repetitive.

They also stated that the NRCB can only approve the application in front of them without considering if there would be future expansion. They said the NRCB should be considering future expansion of livestock in all applications and the impact it will have on the watershed.

Approval officer's conclusions

Inclusion of Municipalities

Under AOPA, the municipality where a proposed development is located is automatically considered a directly affected party and is provided with an opportunity to provide a written response to the application (Operational Policy 2016-7: *Approvals*, parts 7.4 and 8.10). The NRCB notifies the municipality as soon as the NRCB receives a Part 1 application, and then again after the application is deemed complete. The NRCB values and has regard for the input from the municipality, and approval officers will request the local municipality to provide input regarding the application's consistency with the land use planning provisions of the municipality's statutory plans. Section 20(1) of AOPA requires an approval officer to assess whether an application for an approval is consistent with the land use provisions of the local municipality's MDP. Notably, if an application under AOPA is inconsistent with the land use provisions of a municipality's MDP, the approval officer is required to deny the application. In this case, this application meets the MD of Willow Creek's MDP. Under AOPA, approval officers are tasked with making independent consistency determinations, and while they will have close regard for municipal input, they are not bound to follow a municipality's views regarding the meaning and application of the land use provisions of their statutory plans (Operational Policy 2016-7: *Approvals*, part 9.2.2). Additionally, directly affected parties who are dissatisfied with an approval officer's decision may seek a review of that decision by the NRCB Board.

Currency of policies

Approval officers are tasked with acting in accordance with AOPA. AOPA authorizes approval officers to consider applications for CFOs and manure storage facilities. In doing so, approval officers interact with other agencies in order to share and solicit information. When an approval officer considers an application for a new or expanding CFO, there are many aspects that they must consider in order to make their decision on whether or not to approve the application, including land use provisions of the municipal development plan of the county or municipal district in which the proposed CFO is located. All NRCB applications are referred to the applicable county or municipal district to allow them the opportunity to provide a response to the application.

In addition, the NRCB notifies referral agencies such as EPA and TEC, irrigation districts, ROW holders, and if applicable, AHS and Alberta Agriculture and Irrigation (AGI), for approval and registration applications for their information. Also, approval

officers may send written responses to referral agencies in order to assist the approval officer in making an informed decision (see Operational Policy 2016-7: *Approvals*, part 8.7.5). In the case of this application, responses that had health concerns were sent to AHS to provide input, as they have the expertise to address health concerns. The NRCB does not have the expertise for other aspects of a CFO, such as water supply and use, and road use. Those matters are therefore, better left to the respective regulatory bodies and professionals working within them to address (e.g. EPA under the *Water Act*, municipalities under the *Municipal Government Act*). NRCB Field Services has developed numerous operational policies to guide approval officers and inspectors, and regularly updates and improves its policies. For example, the Approvals Policy was last updated in November of 2023.

Public advertisement and response period, timing of public advertisement, directly affected party status and responses to concerns

AOPA specifies how and when approval officers notify the local community of an application. Section 2 of the *Administrative Procedures Regulation* requires applications for approvals to be submitted in two parts. The NRCB application process involves a “Part 1” application that declares the applicant’s intent and sets the MDS. A “Part 2” application must be filed within 6 months but can be extended by an additional 6 months. The Part 2 application includes technical specifications, construction specifications, site maps, and soils investigations (if required). Approval officers do not complete or fill out applications and are not responsible for the content within them. They are similarly not responsible for assisting the public in completing their responses to an application (Operational Policy 2016-7: *Approvals*, part 3.8). A notice of a permit application is only provided once a completed Part 2 has been filed (*Administrative Procedures Regulation*, section 5). The time of year for notifying the community is not a consideration, with the exception of the winter holiday closure period which is between Christmas Eve and New Year’s Day (Operational Policy 2016-7: *Approvals*, part 8.7.1.1).

For clarity, the distance for affected persons (notification distance) is not MDS, but rather the distance set out in the Part 2 Matters Regulation.

Section 19 of AOPA states that deadlines to ask for directly affected party status shall be 10 working days from when an affected party is notified of an application, and 20 working days from when any member of the public has viewed the application. To allow for a more uniform system, the NRCB has combined the application for directly affected status with the response to the application. The NRCB also accepts responses for up to 20 working days after the application has been deemed complete (Operational Policy 2016-7: *Approvals*, parts 7.3 and 8.13). An approval officer has little discretion to vary deadlines set by legislation.

When it comes to decision making, approval officers strive for the consistent delivery of AOPA throughout the province. In doing so, approval officers will look at prior permitting decisions with similar circumstances to provide a level of guidance and ensure consistent decision making. When an approval officer departs from a similar situation in past permitting decisions, approval officers explain the basis for the departure (Operational Policy 2016-7: *Approvals*, part 3.6). Further, the NRCB’s Board has stated “While it is the Board’s view that each application must be reviewed against AOPA’s legislative requirements on its own merit, a balance must be achieved between reliance

on precedent and the regulatory pillar of consistency in decision-making.” (*Arie and Willemina Muilwijk*, RFR 2021-03, p. 4).

Considerations of future expansion

Any future expansions of confined livestock numbers would require an application to the NRCB. Each application is assessed individually on its own merits, and if it meets AOPA’s technical requirements and the land use provisions of the MDP. An application for a new CFO does not automatically mean that an operator will expand, nor does having an existing permit mean that a future application is automatically approved.

AOPA legislation

Two of the directly affected parties raised concerns about current AOPA legislation. In their responses, they stated that AOPA is outdated and that the current regulations for setbacks fail to protect and threaten neighbouring properties and environmental safety. They stated that AOPA lacks reflection of the public’s interest and community input, lacks transparency in the decision-making process, and is inconsistent with other legislation for environmental protection like the *Water Act*, *Water Resources Act*, and municipal planning documents. They also stated that AOPA was shaped by industry to prioritize their own interests, continues to be subjected to industry influence, does not discern between traditional small-scale family farms and intensive commercial operations, and that commercial CFOs should have more rigorous requirements beyond AOPA technical requirements.

Other concerns were brought forward regarding AOPA legislation, however, these concerns were not related to the proposed CFO specifically. Therefore, I cannot consider these concerns as part of my analysis.

Approval officer’s conclusions

These concerns seem to be related to how AOPA requires NRCB approval officers to regulate confined feeding operations. As one of the respondents recognized in their response, these concerns go beyond the application I have before me. I acknowledge these respondents’ dissatisfaction with the legislation. However, this is the legislation that governs how I make a decision on this application, and I am obligated to act in accordance with the task the Legislature has given me.

Future expansion of the CFO

One of the directly affected parties expressed concern for the future expansion of the CFO. They stated that the applicant had applied for the lowest numbers possible, but that the poultry barns could hold up to 200,000 birds, and they would request multiple expansions, but that the NRCB does not consider this.

Approval officer’s conclusions

As stated previously in this appendix, any future expansions of confined livestock numbers would require an application to the NRCB. Each application is assessed individually on its own merits, and if it meets AOPA’s technical requirements and the land use provisions of the MDP. An existing permit does not mean that a future application is automatically approved. Further, AOPA does not provide guidance on how much space is required to house livestock. Industry guidelines do provide minimum

space requirements for animal welfare purposes, and operators are free to provide more space for their livestock depending on their management practices.

In a conversation with the applicant, I asked about the capacity of the poultry barns and if there was the potential to house more birds in them. They said that the barns were designed to hold the number of poultry they applied for based on how they will be housed, and if they want to expand on those numbers, they will have to expand the size of the barns or build more barns.

Cumulative effects

A few of the directly affected parties raised concerns about the cumulative effects of CFOs. They stated that this CFO is in close proximity to others. They also asked what actions were undertaken to identify foreseeable cumulative effects that will harm the environment and community, and since AOPA and the NRCB's Board guides approval officers to not consider cumulative effects, then who would consider them.

Approval officer's conclusions

Approval officers generally do not consider cumulative effects, even when this factor is included in an MDP provision or when the issue is raised in a directly affected party's response, like in this case. AOPA does not use the term "cumulative effects" nor does the NRCB consider cumulative effects to be within an approval officer's regulatory mandate. The NRCB's Board has stated "AOPA provides a province wide regulatory framework to manage CFO effects within agricultural communities. It does so by establishing regulatory siting, construction and operating standards that apply in relation to each application and operation." (*500016 AB Ltd.*, RFR 2018-11, p. 2)

Actions of the approval officer

One of the directly affected parties expressed concern for my actions in relation to being invited to a town hall meeting. In their response, they stated that I had declined an invitation to attend a townhall meeting and then notified the applicant of the townhall meeting. They alleged that by doing this, I was discussing known opposition with the applicant, was not being impartial, I had made preliminary judgements about individuals notified of the application, and this has led to an appearance of bias. They questioned why my actions were taken to support one invested party over another.

Approval officer's conclusions

When approval officers are invited to townhall meetings regarding applications, they can only discuss the NRCB process and not the specifics of an application. For this reason, approval officers do not typically attend townhall meetings for applications they are currently handling. I notified the applicant in case they wanted to attend, as they could discuss the specifics of their application. Further, in a recent decision, the NRCB's Board has stated "discussion amongst a CFO applicant and opponents where there are competing ideas about community benefits is not improper per se." (*Van Huigenbos Farms Ltd.*, RFR 2024-05, p. 11)

Applicant engagement with the community

One of the directly affected parties raised concerns about the applicant's engagement with the community. In their response, they stated that the applicant had not collaborated or integrated with the community at the time of their submission, that the applicant's actions have been malicious in nature, that the applicant has not taken into consideration the community and the negative effects they are proposing with their application, and that the applicant will have all of the benefits while their neighbours will have none nor will they receive any form of compensation.

Approval officer's conclusions

AOPA does not provide any guidance on how applicants should interact with neighbours during the application process, nor does it require applicants to compensate their neighbours for any alleged negative outcomes. That being said, often any issues that arise relating to the operation of a CFO can be resolved through good communication between neighbours and the CFO operator.

APPENDIX D: Responses from municipality

MD of Willow Creek (a directly affected party)

Ms. Chisholm provided two written responses on behalf of the MD of Willow Creek. In the first response dated June 19, 2024, Ms. Chisholm raised the following questions and concerns, and requested additional information be provided regarding:

1. Water licensing and usage:

- *The MD requests confirmation that the applicant has received a license from Alberta Environment and Protected Areas to construct the water reservoir which is shown on the drawings provided as part of this application. The MD requests confirmation from the applicant, NRCB and from Alberta Environment that there is sufficient water to support this application:*
 - *What is the projected yearly water usage required for the proposed CFO's?*
- *It was noted that (2) two Water Well Drilling Reports (Well Owner: Olson) were included in the NRCB LA23050 application. The MD is requesting an explanation on the purpose of these reports and if the applicants' intentions are to use the water wells for the proposed developments?*
- *The MD requests confirmation that the applicants have applied and registered to drill additional water wells on the proposed lands for proposed developments to ensure projected water usage quantities are met?*

Alberta Environment and Protected Areas (EPA) is responsible for licencing the use of groundwater and surface water and is responsible for permitting the construction of water reservoirs under the *Water Act*. Therefore, for efficiency and to avoid inconsistent regulation, NRCB approval officers generally do not consider water supply concerns when reviewing AOPA permit applications, other than ensuring that applicants sign one of the water licensing declarations. As noted in Technical Document LA23050, Ivy Ridge Colony signed *Option 2: Processing the AOPA permit and Water Act license separately*. In signing that option, the applicant provided two application numbers to transfer existing water licenses to the site for the proposed CFO. Additionally, EPA stated in their response that Ivy Ridge had submitted two groundwater license amendments to EPA to address their water needs required for the proposed development, and the two license amendments will transfer a combined total of 60 ac-ft (70,009 cubic metres). EPA also said that the estimated water use for the proposed livestock is 13,950 cubic metres per year. On September 19, 2024, the applicant provided me with a copy of the amended water licence.

In relation to the second and third bullets, as noted on page 8 of Technical Document LA23050, there are no water wells on Sec. 31-14-26 W4 and the wells in question were used to identify the uppermost groundwater resource for the purpose of determining the risk to groundwater posed by the proposed CFO facilities.

2. Road use:

- *Pursuant to the Municipal District of Willow Creek Municipal Development Plan Bylaw No. 1765, Section 6; Policies 6.1 and 6.6, the MD requests that the NRCB application, if approved, include the requirement for the applicant to undertake and provide a "Traffic Impact Assessment (TIA)" report, to the M.D. of Willow Creek, which outlines projected*

traffic volumes and required upgrades, prepared in accordance with the Alberta Traffic Impact Assessment Guidelines.

- *To facilitate the implementation of the “TIA”, the MD requests that, as a condition of approval, the NRCB require the applicant to enter into a “Development Agreement”, between the Municipal District of Willow Creek No. 26 and Hutterian Brethren Church of Ivy Ridge, to address required road upgrades outlined in the “TIA”.*
- *Additionally, the MD will require a Heavy Haul Agreement be entered into between the MD of Willow Creek and applicant which will address road maintenance that arise due to high traffic volumes generated by the proposed developments prior to commencement of construction prior to NRCB approval through the entire life of the project.*

The NRCB does not have direct responsibility for regulating road use, road infrastructure, and road safety. Section 18 of the *Municipal Government Act* gives counties “direction, control and management” of all roads within their borders. It would be impractical and inefficient for the NRCB to attempt to manage road use or upgrades through AOPA permits (see Operational Policy 2016-7: *Approvals* part 9.13). Further, the NRCB’s Board has stated “field staff do not have the requisite expertise to develop, mediate or enforce road use agreements/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).

3. Setback distances to neighbouring residences, property lines, and municipal and provincial road right-of-ways:

- *Section 9.1(a) – the submitted site plan does not provide setback distances of proposed developments to the municipal road right-of-way(s) or the provincial road right-of-way.*
- *Section 9.2(d) – The required Minimum Distance Setback (MDS) noted on NRCB LA23050 application, page 15-16, does not appear to meet the required MDS for all residents listed on page 14. The MD requests confirmation as to how the NRCB and applicant will address the MDS to all residents within the MDS.*
- *The application does not comply Land Use Bylaw No. 1826, Schedule 2 Rural General (RG) land use district, Section 3 Minimum Setback Requirements. It appears that NRCB LA23050 application site plan does not provide the setback distances for all proposed developments from adjacent property boundaries, municipal road right of ways, provincial highway and topographical features (wetlands) on the lands.*
- *The site plan provided in the application indicates proposed developments are encroaching and/or straddling the NE/SE quarter section boundaries. The MD recommends that the applicant re-locate proposed developments or consolidates the lands to accommodate proposed developments to ensure MD setback requirements are met. The applicant may contact the Municipal District to discuss the minimum setback requirements and a revised site plan to reflect the setback distances of the proposed development to ensure minimum setback requirements are met.*

References in the first two bullets are to the MDP. See Appendix A of this decision summary for discussion on the MDP’s land use provisions.

The initial site plan for the proposed CFO did not include setback distances to municipal and provincial road right-of-ways. After the first response from the MD of Willow Creek was received,

the applicant provided a new site plan that moved some manure storage facilities to accommodate neighbour concerns, and this site plan provided MDS measurements and setback distances to the adjacent roads. The updated application was sent to the MD of Willow Creek, in which they provided a second response that is discussed later in this appendix.

As it was unclear which residences the MD of Willow Creek were referring to, an email was sent to Ms. Chisholm asking to clarify which residences did not meet MDS. Ms. Chisholm sent a follow-up email in which she indicated that the MDS requirements were mis-interpreted, and the application appears to meet the MDS requirements.

In a conversation with the applicant, I asked if the NE and SE quarters were consolidated to one land title. On September 19, 2024, the applicant provided a land title certificate that shows the NE and SE quarters had been consolidated to one title.

In a second written response dated July 18, 2024, Ms. Chisholm made the following comments on behalf of the MD of Willow Creek:

- *Amended site plan does not provide distances of proposed developments between the slurry tank, solid manure storage, pond, and sanitary discharge pond.*

AOPA does not provide guidance on distances between structures for an application. AOPA requires CFO facilities to meet MDS requirements to neighbouring residences. The proposed CFO facilities in this application meet MDS to neighbouring residences.

- *Page 14 of 43, the MDS do not reflect the new distances of the relocation of the above ground liquid manure storage tank and manure storage pad to the neighbouring residences.*

Page 16 of Technical Document LA23050 *Distance of Any Manure Storage Facility (Existing or Proposed) to Neighbouring Residences* is intended for the applicant to provide proposed distances. These distances are later analyzed by an approval officer to verify if these distances are correct or accurate. In some instances, the distance provided by the applicant is not the same distance that is measured by the approval officer. All proposed facilities, including the manure storage tank and solid manure storage pad, meet MDS to neighbouring residences.

- *What is the volume of the sanitary discharge pond?*

Sanitary discharge ponds for human waste are not regulated by the NRCB under AOPA. The applicant is reminded to inquire with the MD of Willow Creek or the appropriate regulatory agency, for any proposed development that is not regulated by the NRCB under AOPA.

- *The distance of the stormwater ponds to municipal road allowance, property boundaries and CFO buildings.*

Stormwater ponds are not regulated by the NRCB under AOPA, as they are not considered manure storage facilities or manure collection areas. The applicant is reminded to inquire with the MD of Willow Creek or the appropriate regulatory agency, for any proposed development that is not regulated by the NRCB under AOPA.

- *Batching plant and storage with setback distances are not noted on the amended site plan. This development requires a development permit application to be submitted to the Municipality for a decision.*

The batching plant and storage are not regulated by the NRCB under AOPA. The applicant is reminded to inquire with the MD of Willow Creek or the appropriate regulatory agency, for any proposed development that is not regulated by the NRCB under AOPA.

APPENDIX E: Explanation of conditions in Approval LA23050

Approval LA23050 includes several conditions, discussed below:

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 in-barn pits of the dairy barn may not meet the one metre requirement of section 9(3). Because the height of the water table can vary over time, a condition is included requiring Ivy Ridge Colony to cease construction and notify the NRCB immediately if the water table is observed to be one metre or less from the bottom of the in-barn pits at the time of construction.

b. Groundwater protection requirements

Ivy Ridge Colony proposes to construct a solid manure storage pad with a 1 metre thick compacted soil liner. Section 9 of AOPA’s *Standards and Administration Regulation* specifies a maximum hydraulic conductivity for this type of liner in order to minimize leakage.

To demonstrate compliance with this standard, Ivy Ridge Colony provided lab measurements of the hydraulic conductivity of the materials that will be used to construct the compacted soil liner. Lab measurements of hydraulic conductivity are made in a precisely controlled setting and are typically based on a small soil sample. Therefore, the NRCB generally multiplies lab-measured hydraulic conductivity values by a factor of 10 to reflect the potential variability in actual liner materials and conditions that can reasonably be expected to be achieved in the field.

The regulations provide that the actual hydraulic conductivity for solid manure storage with a half metre thick compacted soil liner must not be more than 5×10^{-7} cm/s.

In this case, the lab measurement was 5.07×10^{-10} m/s. When this is converted to cm/s, it equals 5.07×10^{-8} cm/sec. With the required ten-fold modification, the expected field value would be 5.07×10^{-7} cm/sec. This expected value is above (worse than) the maximum value in the regulations. Using the equivalency equation for single layer systems as outlined in Technical Guideline Agdex 096-61 “Determining Equivalent Protective Layers and Constructed Liners”, I determined that as the compacted soil liner is proposed to be 1 m thick, it meets the hydraulic conductivity requirements in the regulations. To ensure that groundwater protection requirements are met, Approval LA23050 includes a condition requiring a construction completion report, from a professional engineer, that includes confirmation of liner thickness and elevation, and the in-situ density results for the compacted soil liner.

c. Construction Deadline

Ivy Ridge Colony proposes to complete construction of the proposed new chicken layer and pullet barn, dairy barn, calf shed and dry cow barn, broiler barn, mixed poultry barn, manure storage tank, and solid manure storage pad by February 28, 2029. To account for unforeseen delays, it is my opinion that a longer timeframe is appropriate for the proposed construction. Therefore, the deadline of November 30, 2029, is included as a condition for each facility in Approval LA23050.

d. 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 LA23050 includes conditions requiring:

- a. Ivy Ridge Colony to provide an engineer's completion report certifying that the solid manure storage pad was constructed with the same liner material as that used for hydraulic conductivity testing, was constructed at the location specified in the site plan provided with the application, that the water table was not observed to be one meter or less from the bottom of the liner at the time of construction, confirm the final dimensions including elevations below and above grade and liner thickness, and provide the in-situ density results.
- b. the concrete used to construct the liner of the manure collection and storage portions of the chicken layer and pullet barn, the broiler barn, and the mixed poultry barn to meet the specification for category D (solid manure – dry) in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas."
- c. the concrete used to construct the liner of the manure collection and storage portion of the dairy barn and in-barn pits to meet the specifications for category B (liquid manure – shallow pits) in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas."
- d. the concrete used to construct the liner of the manure collection and storage portion of the calf shed and dry cow barn to meet the specifications for category C (solid manure – wet) in Technical Guideline Agdex 096-93 "Non-Engineered Concrete Liners for Manure Collection and Storage Areas."
- e. Ivy Ridge Colony to provide evidence or written confirmation from a qualified third party that the concrete used for the manure collection and storage areas of the chicken layer and pullet barn, the broiler barn, the mixed poultry barn, and the calf shed and dry cow barn meets the required specifications.
- f. Ivy Ridge Colony to provide an engineer's completion report that certifies the concrete used to construct the liner of the dairy barn and in-barn pits meets the required specifications, confirm the water table was not observed to be one meter or less from the bottom of the in-barn pits at the time of construction, certify the dairy barn was constructed at the location specified in the site plan provided with the application, and confirm the dairy barn's final dimensions and depth below grade.
- g. Ivy Ridge Colony to provide a completion report, stamped by a professional engineer, certifying that the manure storage tank was constructed at the location specified in the site plan provided with the application, certify the manure storage tank was constructed according to the recommended construction procedures and design specifications, certify the thickness, type, and compressive strength of the concrete, the type, size, and spacing of the reinforcement, and the type of sealants used to seal joints and extrusions which penetrate the manure storage tank walls and floor, confirm the manure storage tank's final dimensions, including elevations above and below grade, liner thickness, height, and diameter, and certify the manure storage tank was constructed to be filled in the lower ¼.

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 LA23050 includes conditions stating that Ivy Ridge Colony shall not place livestock or manure in the manure storage or collection portions of the chicken layer and pullet barn, dairy barn, calf shed and dry cow barn, broiler barn, mixed poultry barn, or manure storage tank until NRCB personnel have inspected these facilities and confirmed in writing that they meet the approval requirements. Approval LA23050 also includes a condition stating that Ivy Ridge Colony shall not place manure on the solid manure storage pad until NRCB personnel have inspected the solid manure storage pad, and confirmed in writing that it meets the approval requirements.