

## Decision Summary LA25001

This document summarizes my reasons for issuing Authorization LA25001 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25001. All decision documents and the full application are available on the Natural Resources Conservation Board (NRCB) website at [www.nrcb.ca](http://www.nrcb.ca) under Confined Feeding Operations (CFO)/CFO Search. My decision is based on the Act and its regulations, the policies of the NRCB, the information contained in the application, and all other materials in the application file.

Under AOPA this type of application requires an authorization. For additional information on NRCB permits please refer to [www.nrcb.ca](http://www.nrcb.ca).

### 1. Background

On January 2, 2025, Ben and Petula Bloemert (the Bloemerts), on behalf of 1359546 Alberta Ltd., submitted a Part 1 application to the NRCB to decommission and re-construct three manure collection areas at an existing dairy CFO.

The Part 2 application was submitted on January 13, 2025. On January 14, 2025, I deemed the application complete.

The proposed construction involves:

- Decommissioning the old dairy barn, calf barn, and shelters
- Constructing a dairy barn extension – 22.8 m x 33.5 m (total barn dimensions: 22.8 m x 78.5 m)
- Constructing a calf barn – 13.4 m x 20.9 m
- Constructing a dry cows and young stock shelter – 36.6 m x 18.2 m

The application also notified the NRCB of the proposed construction of a milk house attached to the calf barn. This facility is an “ancillary structure,” under section 1(1)(a.1) of the *Agricultural Operations, Part 2 Matters Regulation*, because it will not be used to store or collect manure or to confine livestock. Therefore, under section 4.1 of that regulation, this structure is part of the CFO but does not need to be permitted under the Act.

#### a. Location

The existing CFO is located at SW 1-12-21 W4M in Lethbridge County, roughly four km northwest of Iron Springs, Alberta. The terrain at the site is flat. The closest common body of water is an irrigation drain approximately 400 m to the south.

#### b. Existing permits

The CFO has a deemed permit and NRCB-issued Authorization LA16020A. This allows the operation of a 120 dairy cow (plus associated dries and replacements) CFO.

## **2. Notices to affected parties**

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

- the municipality where the CFO is located or is to be located
- in the case where part of a CFO is located, or is to be located, within 100 m of a bank of a river, stream or canal, a municipality entitled to divert water from that body within 10 miles downstream
- any other municipality whose boundary is within a notification distance. In this case, the notification distance is a ½ mile (805 m).

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 Lethbridge County, which is the municipality where the CFO is located.

No other municipality has a boundary within the notification distance.

## **3. Notice to other persons or organizations**

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

Referral letters and a copy of the complete application were emailed to Alberta Environment and Protected Areas (EPA) and the Lethbridge North Irrigation District (LNID).

I also sent a copy of the application to ATCO Gas as they are a right of way holder at this land location.

In their response, a water administration technologist with EPA acknowledged that the application does not propose an increase in animals. Additionally, the water administration technologist inquired with the applicant about water needs to clean and maintain the proposed facilities and determined that no additional water licensing is required.

In their response, the LNID stated that they do not object to the application.

No other responses were received.

## **4. Municipal Development Plan (MDP) consistency**

I have determined that the proposed construction is consistent with the land use provisions of Lethbridge County’s municipal development plan. (See Appendix A for a detailed discussion of the county’s planning requirements.)

## **5. AOPA requirements**

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

- Meets the required AOPA setbacks from all nearby residences (AOPA setbacks are known as the “minimum distance separation” requirements, or MDS)
- Meets the required AOPA setbacks from water wells, springs, and common bodies of

- water
- Has sufficient means to control surface runoff of manure
- Meets AOPA groundwater protection requirements for the design of floors and liners/layers of manure collection areas

With the terms and conditions summarized in part 8, the application meets all relevant AOPA requirements.

## **6. Responses from municipality**

Directly affected parties are entitled to a reasonable opportunity to provide evidence and written submissions relevant to the application and are entitled to request an NRCB Board review of the approval officer's decision.

Municipalities that are affected parties are identified by the Act as "directly affected." Lethbridge County is an affected party (and directly affected) because the proposed facilities are located within its boundaries.

Ms. Hilary Janzen, manager of planning and development with Lethbridge County, provided a written response on behalf of Lethbridge County. Ms. Janzen stated that the application is consistent with Lethbridge County's land use provisions of the municipal development plan. The application's consistency with Lethbridge County's municipal development plan is addressed in Appendix A, attached.

Ms. Janzen also listed the setbacks required by Lethbridge County's land use bylaw (LUB) and noted that the application appears to meet these setbacks. Ms. Janzen also noted that the application is not within an Intermunicipal Development Plan or Area Structure Plan area.

## **7. Environmental risk of facilities**

New CFO facilities which clearly meet or exceed AOPA requirements may be assumed to pose a low risk to surface and groundwater. However, there may be circumstances where, because of the proximity of a shallow aquifer, or porous subsurface materials, an approval officer may require surface and/or groundwater monitoring for the facility. In this case a determination was made and monitoring is not required.

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

In this case, the risks posed by the Bloemert's existing CFO facilities were assessed in 2016 using the ERST. According to that assessment, the facilities posed a low potential risk to surface water and groundwater.

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

## **8. Terms and conditions**

Authorization LA25001 permits the construction of the dairy barn expansion, calf barn (plus milk house), and the dry cows and young stock shelter.

Authorization LA25001 contains terms that the NRCB generally includes in all AOPA authorizations, including terms stating that the applicant must follow AOPA requirements and must adhere to the project descriptions in their application and accompanying materials.

In addition to the terms described above, Authorization LA25001 includes conditions that generally address decommissioning, construction deadline, document submission, and construction inspection. For an explanation of the reasons for these conditions, see Appendix B.

## **9. Conclusion**

Authorization LA25001 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25001.

Authorization LA25001 must be read in conjunction with the Bloemert's deemed permit and NRCB previously issued authorization LA16020A which remains in effect.

March 10, 2025

(Original signed)  
Kailee Davis  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Explanation of conditions in Authorization LA25001

## **APPENDIX A: Consistency with the municipal development plan**

Under section 22 of AOPA, an approval officer may only approve an application for an authorization or amendment of an authorization if the approval officer holds the opinion that the application is consistent with the “land use provisions” of the applicable municipal development plan (MDP).

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

The Bloemert’s CFO is located in Lethbridge County and is therefore subject to that county’s MDP. Lethbridge County adopted the latest revision to this plan on March 10, 2022, under Bylaw #22-001.

The policies pertaining to CFOs are in part 4, section 3 “Intensive Livestock/Confined Feeding Operations.”

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

This is likely not a land use provision as it is subjective what can or cannot be supported by municipal infrastructure and that is not within NRCB’s discretion.

Section 3.1 and 3.2 states that new CFOs are not permitted in the MDP CFO exclusion areas (Maps 2A and 2B), IDP CFO exclusions areas, or in CFO exclusion zones of high density residential growth centres.

This application is not for a new CFO. Regardless, the Bloemert’s CFO is not in any exclusion areas identified in these policies and is therefore consistent with this policy.

Section 3.3 states that existing operations within an urban fringe district may be permitted to expand or make improvements with consideration to any IDP that allows for such.

The CFO is not within an urban fringe district; therefore, this policy does not apply to this application.

Section 3.4 pertains to the consistency of CFO exclusion zones across the county’s planning documents.

This policy is procedural in nature and is not a land use provision. Therefore, it is not relevant to my MDP consistency determination.

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

The existing CFO is not located within any environmentally sensitive areas identified in that report and is therefore consistent with this policy.

Section 3.6 states that “no part of a CFO building, structure, corrals, compost area, or stockpile is to be located within the property line and public roadway setbacks, including provincial highways, as outlined in the municipal Land Use Bylaw.”

The application meets the setbacks outlined in Lethbridge County’s Land Use Bylaw and is therefore consistent with this policy. The response received from Lethbridge County supports this finding.

Section 3.7 states that CFOs are discretionary uses only in areas zoned as Rural Agriculture with a minimum parcel size of 80 acres.

As noted in Lethbridge County’s response, the CFO is within a land use district zoned as Rural Agricultural. In their response, they also stated that the CFO is consistent with the MDP because the parcel size is 158.8 acres. The application is therefore consistent with this policy.

Sections 3.8, 3.9, 3.10, and 3.11 discuss CFO operational practices with respect to AOPA, manure spreading, the use of a reciprocal MDS, and collaboration with the NRCB, respectively.

These policies are not land use provisions and therefore not relevant to my MDP consistency determination.

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

## **APPENDIX B: Explanation of conditions in Authorization LA25001**

Authorization LA25001 includes several conditions, discussed below:

### **a. Construction deadline**

The Bloemerts propose to complete construction of the proposed dairy barn extension, calf barn (plus milk house), and the dry cows and young stock shelter by April 2026. This timeframe may not be reasonable for the proposed scope of work considering contractor and supply availability. The deadline of November 30, 2027 is included as a condition in Authorization LA25001.

### **b. Post-construction inspection and review**

The NRCB's general practice is to include conditions in new or amended permits to ensure that the new or expanded facilities are constructed according to the required design specifications. Accordingly, Authorization LA25001 includes conditions requiring:

- a. the concrete used to construct the liner of the manure collection and storage portion of the dairy barn expansion to meet the specification for category C (solid manure – wet) in Technical Guideline Agdex 096-93 “Non-Engineered Concrete Liners for Manure Collection and Storage Areas”
- b. the concrete used to construct the liner of the manure collection and storage portion of the calf 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 Bloemerts to provide documentation to confirm the specifications of the concrete used to construct the manure storage and collection portions of the dairy barn extension and the calf barn

The NRCB routinely inspects newly constructed facilities to assess whether the facilities were constructed in accordance with the permit requirements. To be effective, these inspections must occur before livestock or manure are placed in the newly constructed facilities. Authorization LA25001 includes conditions stating that the Bloemerts shall not place livestock or manure in the manure storage or collection portions of the new dairy barn extension, calf barn, or the dry cows and young stock shelter until NRCB personnel have inspected the facilities and confirmed in writing that they meet the authorization requirements.

### **c. Decommissioning of facilities**

As proposed by the Bloemerts, a condition will be included in the authorization requiring the permit holder to decommission the old dairy barn, calf barn, and shelters according to Technical Guideline Agdex 096-90 “Closure of Manure Storage Facilities and Manure Collection Areas”.