

## Decision Summary LA25007

This document summarizes my reasons for issuing Authorization LA25007 under the *Agricultural Operation Practices Act* (AOPA). Additional reasons are in Technical Document LA25007. 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 21, 2025, Vanden Dool Farms Ltd. (Vanden Dool) submitted a Part 1 application to the NRCB to construct two additional pens at an existing dairy CFO.

The Part 2 application was submitted on January 21, 2025 and I deemed the application complete the same day.

The proposed construction involves constructing two livestock pens – 40 m x 30 m each, for a total proposed dimensions of 80 m x 30 m. These pens will be located in the area marked as number '13' in Technical Document LA25007. The applicant proposes including two livestock shelters, located within the footprint of the pens. There is no proposed increase in livestock numbers. The reason for the additional pens is to provide the milking cows with additional space by moving the dry cows outside of the milking barn.

#### a. Location

The existing CFO is located at NW 10-11-21 W4M in Lethbridge County, roughly 1.2 km northwest of the Town of Picture Butte. The terrain is flat. The closest common body of water is a canal 46 m to the southwest that drains into the Picture Butte Lake Reservoir. The reservoir is approximately 1.4 km southeast of the CFO.

#### b. Existing permits

The CFO is already permitted under Approval LA17027 and Authorizations LA18029 and LA24038.

### 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 1.5 miles (2414 m) from the CFO

Lethbridge County and the LNID (canal owner) both received notice of this application.

A copy of the application was sent to Lethbridge County, which is the municipality where the CFO is located and the Town of Picture Butte, which is located within the notification radius.

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

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

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

I also sent a copy of the application to Atco Gas & Pipelines Ltd., and Fortis Alberta Ltd as they are utility right of way holders.

The NRCB received written responses from:

- Ms. Adriane Gomes Preissler, a water administration technologist for EPA. Ms. Preissler stated that because they are not proposing an increase in livestock numbers, there are no additional water requirements.
- A representative from AGI responded and indicated which livestock inspector will be responsible for this file.
- A representative from LNID responded and stated that they had no objections to the application.

### **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 more detailed discussion of the county's planning requirements.) There is no IDP applicable to the CFO site.

### **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 protective layers of manure storage facilities and manure collection areas

With the terms and conditions summarized in part 8 and Appendix C, 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, a supervisor of planning and development with Lethbridge County, provided a written response on behalf of Lethbridge County. Ms. Janzen stated that the application is consistent with Lethbridge County's land use provisions of the municipal development plan. The application's consistency with 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 meets these setbacks.

The Town of Picture Butte is also a directly affected party because the town's boundary is within the notification radius of this application.

Ms. Cathy Moore, mayor of the Town of Picture Butte, responded on behalf of the town. Ms. Moore stated that the town is opposed to this application because of potential odours that may impact residents of Picture Butte. In a follow up email, Keith Davis the CAO of the Town of Picture Butte, stated that the proposed pens are approximately 1.2 km from the town boundary. Ms. Moore's response is discussed in Appendix B, attached.

## 7. Environmental risk of facilities

New MSF/MCA 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, porous subsurface materials, or surface water systems an approval officer may require groundwater monitoring for the facility. A determination was made and due to the presence of a naturally occurring protective layer, groundwater 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 Vanden Dool Farms's existing CFO facilities were assessed in 2018 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 is not required.

## **8. Terms and conditions**

Authorization LA25007 permits the construction of two livestock pens.

Authorization LA25007 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 LA25007 includes conditions that generally address the construction deadline and construction inspection. For an explanation of the reasons for these conditions, see Appendix C.

## **9. Conclusion**

Authorization LA25007 is issued for the reasons provided above, in the attached appendices, and in Technical Document LA25007.

Authorization LA25007 must be read in conjunction with Vanden Dool's Approval LA17027 and Authorizations LA18029 and LA24038, which remain in effect.

March 18, 2025

(Original signed)  
Lynn Stone  
Approval Officer

## **Appendices:**

- A. Consistency with the municipal development plan
- B. Response from the Town of Picture Butte
- C. Explanation of conditions in Authorization LA25007

## **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.)

Vanden Dool’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 in March 2022, under Bylaw #22-001. The site is not located in an area with an intermunicipal development plan nor an area structure plan.

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

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

I do not consider this section as a land use provision because it is subjective in respect of what can be supported by municipal infrastructure. Such an assessment is not under the jurisdiction of the NRCB. Additionally, approval officers shall not consider any tests or conditions related to the site of a CFO (section 22 (2.1) AOPA).

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

This CFO is not located within the CFO exclusion area of Lethbridge County, nor within an IDP plan area, nor is it a new CFO. Therefore, this section does not apply.

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

Vanden Dool’s CFO is not within an urban fringe district.

Section 3.4 discusses the internal consistency of statutory planning documents.

This is not a land use provision, nor does it apply to the NRCB. Therefore, I cannot consider it.

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

The CFO is not located within any areas identified in that report, and therefore it meets this provision.

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

The proposed pens meet this setback, and therefore meets this provision. This is confirmed by the County's response.

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

The stipulation of a minimum parcel size to establish a new CFO would appear to fall under section 22(2.1) of AOPA that states that approval officers shall not consider any tests or conditions related to the site of a CFO. Therefore, I am not able to consider this provision. However, the existing CFO is on a parcel that is 160 acres in size and zoned Rural Agriculture, so it meets this policy.

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

This is not a land use provision; therefore it is not part of my consistency discussion.

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

This is not a land use provision; therefore it is not part of my consistency discussion.

Section 3.10 discusses the application of a reciprocal MDS.

This is not a land use provision; therefore it is not part of my consistency discussion.

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

This is an administrative policy directed towards the County, and is not a land use provision. Therefore, it is not part of my consistency discussion.

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

## **APPENDIX B: Concerns raised by municipality**

### **Concerns from directly affected municipalities**

Under section 22(2), AOPA directs that I may only consider whether or not an authorization application meets the land use provisions of the applicable municipal development plan and the requirements of the regulations. As stated in Appendix A, Vanden Dool's application is consistent with the land use provisions of Lethbridge County's MDP. Vanden Dool's site is not within any intermunicipal development plan or area structure plan areas. Vanden Dool's application also meets the requirements of AOPA and its regulations.

In her response, Ms. Cathy Moore, mayor of the Town of Picture Butte, expressed concern regarding potential odours that may impact residents of Picture Butte. In a follow up email, Keith Davis the CAO of the Town of Picture Butte, stated that the proposed pens are approximately 1.2 km from the town boundary.

While considering nuisances in the context of an authorization application is beyond my authority under AOPA, I acknowledge that the Town of Picture Butte took trouble to provide a response and a follow-up to the application. I observe that AOPA's minimum distance separation (MDS) requirements are a proxy for keeping odours, flies, noises, dust and other nuisance impacts at acceptable levels from CFOs, based on land zoning. The existing CFO meets the MDS to all neighbouring residences. It is presumed that nuisance effects from a proposed CFO will be acceptable if the MDS has been met.

I also observe that Vanden Dool's proposed pens are located in the middle of their existing CFO. The pens are not proposed to be located closer to the Town of Picture Butte than any of existing CFO facilities. Furthermore, Vanden Dool's application is not proposing an increase in livestock numbers or manure production; therefore, I do not anticipate any increase in odour or nuisance.

## **APPENDIX C: Explanation of conditions in Authorization LA25007**

### **a. Construction deadline**

Vanden Dool proposes to complete construction of the proposed pens by December 2026. This timeframe is reasonable for the proposed scope of work. The deadline of December 31, 2026, is included as a condition in Authorization LA25007.

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

The NRCB routinely inspects newly constructed facilities and expanded 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 LA25007 includes a condition stating that Vanden Dool shall not allow manure or livestock in the pens until NRCB personnel have inspected the pens and confirmed in writing that they meet the authorization requirements.

### **c. Livestock numbers**

The applicant must keep and maintain records of their current livestock numbers. These numbers must be available to NRCB personnel, upon request.