

#1 - REQUEST FOR REVIEW: LA20001 / P&H Wessels Farms Ltd.

Filed By:	Robert Rippin and Niesje Vanden Dool
Deadline for RFRs:	June 19, 2020
Date RFR received:	June 16, 2020
Status of party as per Decision Summary:	Directly Affected

REQUEST FOR BOARD REVIEW
SUBMITTED TO THE NATURAL RESOURCES CONSERVATION BOARD

Application No:	LA 20001
Name of Operator/Operation:	P & H Wessels Farms Ltd
Type of application (<i>check one</i>):	<input type="checkbox"/> Approval
Location (<i>legal land description</i>):	SW 4-8-26 W4 & NW 33-7-26 W4
Municipality:	MD of Willow Creek

I hereby request a Board Review of the Approval Officer's Decision and have the right to request a Board review because (*please review all options and check one*):

- I am the producer seeking the approval/registration/authorization.
- I represent the producer seeking the approval/registration/authorization.
- I represent the municipal government.
- I am listed as a directly affected party in the Approval Officer's Decision.
- I am not listed as a directly affected party in the Approval Officer's Decision and would like the Board to review my status.

IMPORTANT INSTRUCTIONS

1. You must meet the specified 10-day timeline; otherwise your request will not be considered.
2. Section 1 of this form must be completed only if you are requesting that the Board review your status as "not directly affected". Sections 2 to 5 must be completed by all applicants.
3. This form must be signed and dated before it is submitted to the Board for its review.
4. Be aware that Requests for Board Review are considered public documents. Your submitted request will be provided to all directly affected parties and will also be made available to members of the public upon request.
5. For more assistance, please call Laura Friend, Manager, Board Reviews at 403-297-8269.

1. PARTY STATUS

(IF YOU ARE NAMED A DIRECTLY AFFECTED PARTY IN THE APPROVAL OFFICER'S DECISION, YOU DO NOT NEED TO COMPLETE THIS SECTION)

Party status ("directly affected" or "not directly affected") is determined pursuant to the provisions of the *Agricultural Operation Practices Act (AOPA)* and its regulations. Upon receipt of an application, the Approval Officer must notify any affected parties. Affected parties include municipalities and owners or occupants of land as determined in accordance with the regulations. To obtain directly affected status, the owner or occupant notified in the above process must provide a written submission to the Approval Officer during the stage at which the Approval Officer considers the application. The Approval Officer will then determine who the directly affected parties are and include this determination in the Decision Summary.

Under its governing legislation, the Board can only consider requests for review submitted by directly affected parties. If you are not listed as directly affected in the Approval Officer's decision, you must request that the Board reconsider your status (*please note that under the provisions of AOPA, the Board cannot reconsider the status of a party who has not previously made a submission to the Approval Officer during the application process*).

In order to request your status be reconsidered, you must explain why your interests are directly affected by the decision of the Board. Please list these reasons below:

My grounds for requesting directly affected status are as follows:

We are directly affected

2.0 GROUNDS FOR REQUESTING A REVIEW

(ALL PARTIES MUST COMPLETE THIS SECTION)

In order to approve an application, NRCB Approval Officers must ensure the requirements of AOPA have been met. Your grounds for requesting a Board review should identify any requirements or specific issues that you believe the Approval Officer failed to adequately address in the Decision.

My grounds for requesting a review of the Approval Officer's decision are as follows:

The approving officer fails to address the following issues:

The NRCB Environmental Risk Screening Tool has no basis in science. It is not a validated tool and seems to serve more as a public relations tool to help NRCB management tell the public CFOs pose no risk to groundwater and to minimize the areas where groundwater needs to be tested. The Isotope testing outlined in the response from AHS clearly show nitrates of manure origin already leaching into the groundwater, the existing leaching science was ignored because the flawed screening tool indicates "no risk". By using this tool the approving officer failed to consider the real risks. (See attached letter from AHS)

Both AEP and AHS are on record as indicating groundwater chemical testing is warranted. Your staff ignored the groundwater chemistry testing recommendations of both groundwater experts at AEP and the health experts at AHS. By disregarding experts in the area, which the approving officer is not, the approving officer failed to consider the scientific facts at hand.

Both AEP and AHS pointed out the obvious failings (not testing soil in the pens and testing at -19C) of the permeability testing by Woods. The Woods testing failed to follow the subsoil testing guide NRCB AG Dex 096-62. In accepting the data from Woods alone, the approvals officer failed to follow the NRCB's testing requirements.

NRCB staff was made aware of and ignored the false claim in the application that a Water Act License was in place. Further the approvals officer ignored the applicant's illegal diversion of water. In doing so the approvals officer failed to respect the Water Act due processes.

The claims of black soil were ludicrous given the large amount of clay and rocks noticeable in every field and observed at every construction. This error in soil identification means that unacceptably high manure loading rates have been approved. The approvals officer failed to properly assess soil quality and capacity.

Why was an unlimited quantity multi species approval issued when a 2000 head cattle CFO was applied for? The approvals officer showed an unsolicited bias

towards agricultural development when they failed to consider the environmental risks attributable to other livestock species.

The approving officer's decision was fettered and made in bad faith by the fact they are following NRCB management desire to ensure the public is not made aware of groundwater contamination issues from CFOs.

3.0 REASONS YOU ARE AFFECTED BY THE DECISION

(ALL PARTIES MUST COMPLETE THIS SECTION)

In order to support your reasons for requesting a review, please explain how you believe you would be affected by the Approval Officer's decision.

I believe that, as a result of the Approval Officer's decision, the following prejudice or damage will result:

As a result of this decision the quality of the McBride Aquifer will further deteriorate and what little water is left will be unusable. The McBride Aquifer is recharged from moisture on the land above the aquifer, not the mountains. The water in the McBride Aquifer currently exceeds the Maximum Acceptable Level for nitrates in drinking water. No efforts are being directed to finding the cause of the nitrates problem or to find a solution. Once approved there will be no mechanism to further address the negative impacts on the groundwater. Further deterioration will result in more neighbors relying on water hauling; and greater negative health outcome like miscarriages and slowed childhood brain development in those who ignore Alberta Health Services warnings. No single landowner's rights to access the aquifer outweigh the rights of the landowners at large. Approving this excessive industrial use stresses the aquifer that provides livelihoods for many. There will be a significant financial loss to all of us using the aquifer, including P&H Wessels Farms Ltd., if it is ruined.

4. ACTION REQUESTED

(ALL PARTIES MUST COMPLETE THIS SECTION)

I would like the Board to take the following actions with the respect to the Approval Officer's decision:

Amend the decision

Please describe why you believe the Board should take this action:

The groundwater problems in the McBride aquifer were brought to the attention of the NRCB in 2011 application LA11009 and since that time the NRCB has taken a position of willful blindness allowing the problem to

exacerbate, and hindering any attempt at safeguards. The lack of due diligence and this decision is another example of how the NRCB is actively obstructing those people and agencies trying to identify and fix the nitrate issues. By assisting in the creation of and exacerbating the groundwater problems, we have no doubt that the NRCB will be found liable for costs associated with the damages to homeowners in the area.

The general public are starting to understand water resources required for intensive, industrial livestock operations are in excess of what can healthfully be provided by small aquifers. Public opinion of this negative environmental footprint is driving down the desirability and consumption of beef. The NRCB should be working to make farmers successful and sustainable if they want to support the cattle industry. Approving the switch from a sustainable seasonal bedding operation to a natural resource draining CFO is a poor decision. Doing this without any attempt at reasonable safeguards is even worse. It is time for the NRCB to move into the 21st century and balance production with environmental stewardship before the cattle industry goes the way of the fishing industry.

If the Board decides to grant a review (in the form of either a hearing or a written review), all directly affected parties are eligible to participate. The Board may consider amending the Approval, Registration, or Authorization on any terms and conditions it deems appropriate. **Please note the Board cannot make any amendments unless it first decides to grant a review.**

If a review is granted by the Board, are there any new conditions, or amendments to existing conditions, that you would like the Board to consider? It is helpful if you identify how you believe your suggested conditions or amendments would address your concerns.

We would like to see the approval amended to delay construction until such time as the applicant complies with the Water Act. The applicant has no current water license. We find it unbecoming of a provincial agency that the NRCB would approve and encourage an application that includes fraudulent claims of water access. We believe the NRCB is acting in bad faith and complicit in the unlawful diversion of groundwater.



Given the region's lack of precipitation, high evaporation rate and high soil permeability, the catch basin will largely sit empty. Forcing the applicant to check the permeability of a plastic liner at his own expense does nothing to assist in determining the cause of the high nitrates, or protect the groundwater resource. We have significant concerns that manure leachate from the pens, and manure loading rates will increase the nitrate loading in the Aquifer and are puzzled why the free groundwater chemical testing suggested by AHS and AEP would be ignored and not be made a condition of approval. We would like to see the NRCB amend

the approval to indicate: Yearly groundwater volume and quality testing is required on all the water wells owned or operated by the applicant. With the goal that any of the CFO's negative impacts on the quality or quantity of the McBride aquifer will not be tolerated.

5.0 CONTACT INFORMATION

(ALL PARTIES MUST COMPLETE THIS SECTION)

Contact information of the person requesting the review:

Name: Niesje Vanden Dool & Robert Rippin
Address in Alberta: Box 2305 Fort Macleod T0L0Z0
Legal Land Description: SW 33-7-26 W4M
Phone: 
E-Mail Address: 

Signature: 

Date: June 16 - 2020

Please note that all sections of the form must be completed in order for your request to be considered. Also, if you do not meet the timeline identified, your request will not be considered. Form must be signed and dated before being submitted for Board consideration

When you have completed your request, please send it, with any supporting documents to:

Laura Friend, Manager, Board Reviews
Natural Resources Conservation Board
19th Floor Centennial Place
250 – 5th Street SW
Calgary, AB T2P 0R4

Phone: 403-297-8269

Email: laura.friend@nrcb.ca

Please note, Requests for Board Review are considered public documents. Your submitted request will be provided to all directly affected parties and will also be made available to members of the public upon request.

For more assistance, please call Laura Friend, Manager, Board Reviews at 403-297-8269.



Alberta Health
Services

Healthy Albertans.
Healthy Communities.
Together.



NRCB Application LA20001
Applicant: P&H Wessels Farms Ltd.

March 17, 2020

Attention: Adria Snowdon, Approval Officer
Natural Resource Conservation Board
100, 5401 1st Avenue South
Lethbridge, AB, T1J 4V6

RE: NRCB Application LA 20001, P&H Wessels Farms Ltd., SW-04-008-26 W4M

In response to your February 19, 2020 request for comment on the above noted Confined Feeding operation application we have reviewed the information provided and wish to provide the following comments:

- In Southern Alberta, Confined Feeding Operations may be contributing to increased nitrate loading in groundwater resources. Currently, the well water used for domestic purposes at 7 neighboring residences within 2 Km of the existing seasonal bedding operation show very high levels of nitrates. The Guidelines for Canadian Drinking Water Quality has set the maximum allowable concentration for nitrate at 10mg/L. The nitrate levels range between 11.8mg/L and 35.3mg/L.
- AHS understands water samples taken from a well #2028608 on SW 4-8-26-W4M by University of Calgary, Department of Geology in a 2013 study, underwent radio isotope testing. The results indicated: $d^{15}N_{\text{nitrate}} = 28.6$ $d^{18}O_{\text{nitrate}} = 5.2$ which are indicative of nitrates from sewage or manure origin. This well in addition to new well # 1250901 are approximate 30 meter downhill from the existing seasonal bedding operation. As such, AHS has strong concerns that the high groundwater nitrates in the area are potentially caused from human or intensive livestock activity and any increase in improperly sited or monitored livestock operations could lead to a further deterioration of groundwater quality. Although the three most northern pens were omitted from this year's application there is no indication that they will be decommissioned.
- We noted that the soil permeability testing by Wood Canada used to conclude the pens had a "naturally occurring protective layer" were not conducted in the existing pens and the test was conducted on frozen ground over a 3 day period with water in January 2019 when the average outside temperature

was -19 C. We would suggest that it would be prudent to validate the conclusion.

- Data from the boreholes in the existing pens and proposed pens show heterogeneous soil types including a substantial amount of gravel soils. As such, AHS perceives this to be a potential risk of further contamination of groundwater resources and increasing nitrate loading.
- We note that there is no manure storage area indicated in the application, and that the manure from the operating pens is currently being stored on NE 32-7-26 W4M. We would suggest that this area undergo permeability testing to determine if the area is suitable for manure storage.
- On page 4 of the application, that applicant indicated that an addition water license was not required, from the correspondence associated with NRCB application LA19004 and correspondence with AEP, it is clear that the applicant is currently diverting water without approval or licenses. We do not recommend expansion of a business that is not in compliance with Alberta legislation.
- AHS has a history of complaints regarding CFO's specifically with the lack of dust control. There is significant wind in this area so AHS suggests that dust control measure designed to minimize blowing dust and manure be added as a condition of operation.
- AHS has strong concerns with this application due to risks associated with groundwater contamination and further nitrate loading. As such, AHS recommends further testing be conducted by the applicant prior to approval to determine the source of the high nitrates in the area. Most rural residents in the area use groundwater for domestic use and human consumption. It is well understood that safe and secure drinking water is essential to sustain healthy populations.
- AHS feels that the lack of water well monitoring in proximity to the pens as well as the increased manure loading in the surrounding field may result in the creation of a Public Health Nuisance. To address this potential nuisance, AHS recommends the applicant initiate a nitrate sampling program. The nitrate sampling program should include annual sampling of all wells within 300 meters of pens or manure storage areas.

If you require any further information, please contact me at Michael.swystun@ahs.ca or 403-627-1230.



Mike Swystun, B.Sc., BEH, CPHI(c)
Executive Officer/Public Health Inspector
Alberta Health Services