

#2 - REQUEST FOR REVIEW: RA20032 / Starland Colony

Starland County (Glen Riep)

Filed By:

Joint response made by Starland County as a directly affected party on behalf of the landowners and residents of the Hamlet of Rumsey and including John Kowalchuk and neighbouring landowners

Deadline for RFRs:

October 13, 2020

Date RFR received:

October 13, 2020

Status of Party:

Directly Affected

REQUEST FOR BOARD REVIEW
SUBMITTED TO THE NATURAL RESOURCES CONSERVATION BOARD

Application No:	RA20032
Name of Operator/Operation:	Hutterian Brethren Church of Starland
Type of application (check one):	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Registration <input type="checkbox"/> Authorization
Location (legal land description):	NW 15 - 33 - 21- W4th M
Municipality:	Starland County

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:

Please see attached letter and documentation in support of our request.

2. 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:

5. CONTACT INFORMATION

(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:

5. CONTACT INFORMATION

(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 or vary the decision

Reverse the decision

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

The ground water assessment report clearly identifies these lands as impacting both the ground water availability as well as contamination risks from the development.

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.

5. CONTACT INFORMATION

(ALL PARTIES MUST COMPLETE THIS SECTION)

Contact information of the person requesting the review:

Name: Glen V. Riep

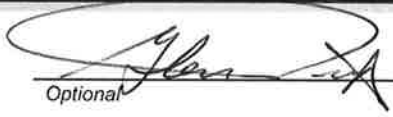
Address in Alberta: Starland County PO Box 249, Morrin, Alberta T0J 2B0

Legal Land Description: 217 Railway Avenue North Morrin, Alberta

Phone Number: 403 772-3793

Fax Number:

E-Mail Address: gvr@starlandcounty.com

Signature:  <i>Optional</i>	Date: <u>October 13, 2020</u> <i>Required</i>
If you do not meet the timeline identified, your request will not be considered.	

If you are, or will be, represented by another party, please provide their contact information (Note: If you are represented by legal counsel, correspondence from the Board will be directed to your counsel)

Name:

Address:

Phone Number:

Fax Number:

E-Mail Address:

When you have completed your request, please send it, with any supporting documents to:	
Laura Friend, Manager, Board Reviews Natural Resources Conservation Board 19 th Floor Centennial Place 250 – 5 th 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.



October 13, 2020

Laura Friend
Manager, Board Reviews
Natural Resource Conservation Board
19 floor Centennial Place
250 – 5th Street SW
Calgary, Alberta
T2P 0R4

**RE: Notice of Decision - RA20032
Hutterian Brethren of Starland
Part of the NW 15 – 33 – 21 – W4th**

Please accept this letter as a request for Board review with respect to the above noted application and approval for the construction of a new dairy barn and associated confinement and uses for the proposed Intensive Livestock Operation or Confined Feeding Operation within the jurisdiction of Starland County.

This letter is a joint response made by Starland Country as a directly affected party on behalf of the landowners and residents of the Hamlet of Rumsey and including John Kowalchuk and neighboring landowners.

The reasoning for our request is substantiated by relevant concerns of potential impact the development will have on the surrounding properties and nearby residents. We feel the application process neglects to consider local authorities and land use regulations designed to protect developers and landowners' rights.

The "Regional Groundwater Assessment" report that was completed by the firm of hydrogeological consultants ltd. in 1999 as a joint plan collaborated with Agriculture and Agri-Food Canada and Starland County for the purpose of determining areas within the County that were at risk or, had potential of intensive agricultural development and incorporated into our Land Use Bylaw. The report has identified a number of areas throughout the County where ground water is very limited and areas where the potential of groundwater contamination is high. Under the noted application, the proposed building site situated on the NW of 15 – 33 – 21 – W4th is considered as low risk of groundwater contamination and moderate to high for Aquifer Vulnerability. Although the building site

is considered low risk of groundwater contamination, those adjoining lands and lands used for spreading of manure are determined as high risk and should be considered as same. This is further outlined in the Starland County Municipal Development Plan that states adjoining lands within the "Exclusion Area" as defined therein are to be considered part of the exclusion area. These lands are outlined in the application and illustrated on the map. Those lands identified include the North half of 15, the East half of 22 and the NW of 23 all in township 33, range 21 west of the 4th M.

Under the decision as outlined by Lynn Stone the approval officer, the diversion of groundwater is not considered in the siting of the proposed CFO and the approval of water will be done by Alberta Environment. It is of great concern to Starland County that the development will be allowed to construct and operate without a thorough investigation and evaluation of the impact the development will have upon the water aquifer and residents including the Hamlet of Rumsey. From our information as derived in the "Ground Water Assessment" report, the vulnerability of the aquifer is in question. The lack of information supplied by the applicants and response by the NRCB approval officer in these regards indicate a distinct severance in the overall review process. It is imperative that Starland County and area residents are part of the review and evaluation process.

The County has concerns with how the applicants will conform to the regulations or how the development will be supervised for compliance. Over the past few years, the surface drainage has been altered to drain surface waters away from the property including those adjoining properties owned by the applicants. The diversion or altering of the natural drainage requires approval by Alberta Environment with no records indicating this action or approval has been obtained. Much of the diverted water is onto other properties not associated with the applicants. It is our concern that the same land that has been altered will be used for application of manure and contamination will be able to transfer to those other lands not affiliated with the development.

As referenced in our application of appeal on the previous 2 applications made by the applicant, the use of the land is intended as an "Intensive Livestock Operation" or "Confined Feeding Operation". Under the current land classification, the lands as proposed are still classified as "A" Agricultural. No applications for permits or reclassification of lands have been submitted by the developers at this time with Starland County. The development and application process under the County LUB is necessary to ensure building codes and regulations are followed, siting requirements are maintained and operational considerations are reviewed including "Road Use Agreements" established and regulated by the local authority being Starland County.

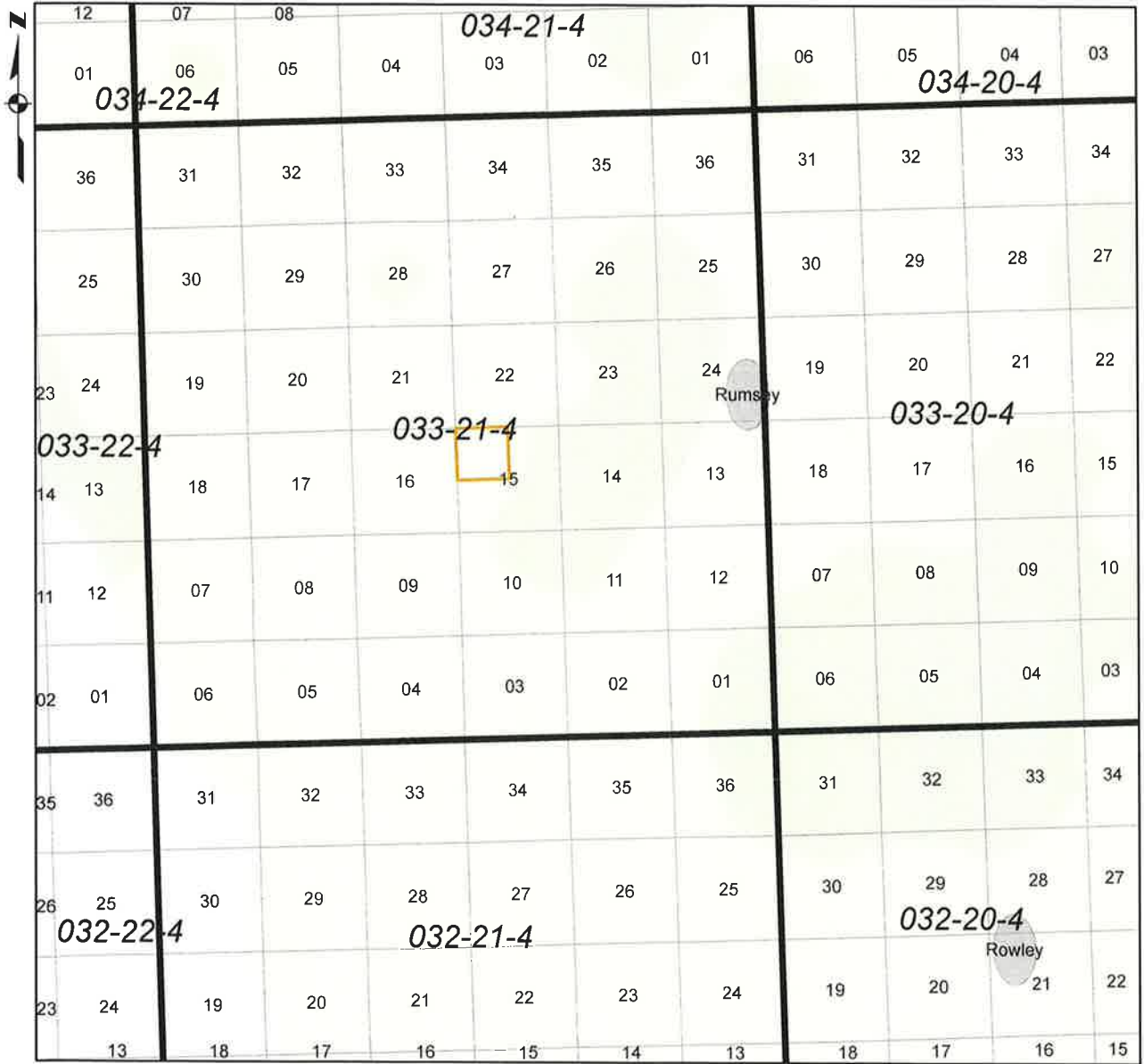
In support of our request for the Board review, I have attached a more clearly defined map to illustrate the ground water contamination risk areas, a map of the aquifer vulnerability associated with the development including a copy of the map submitted by the applicant illustrating the lands associated with the development.

Please accept this letter as part of our request for review and thank you for this opportunity to comment on the proposed operations within Starland County, if you have any questions regarding this matter, please contact the undersigned.

Yours truly,

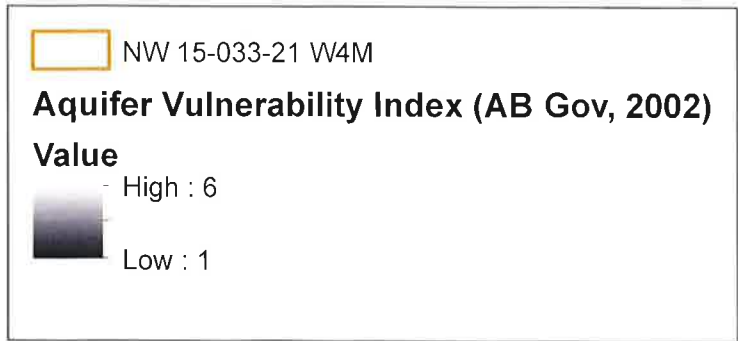
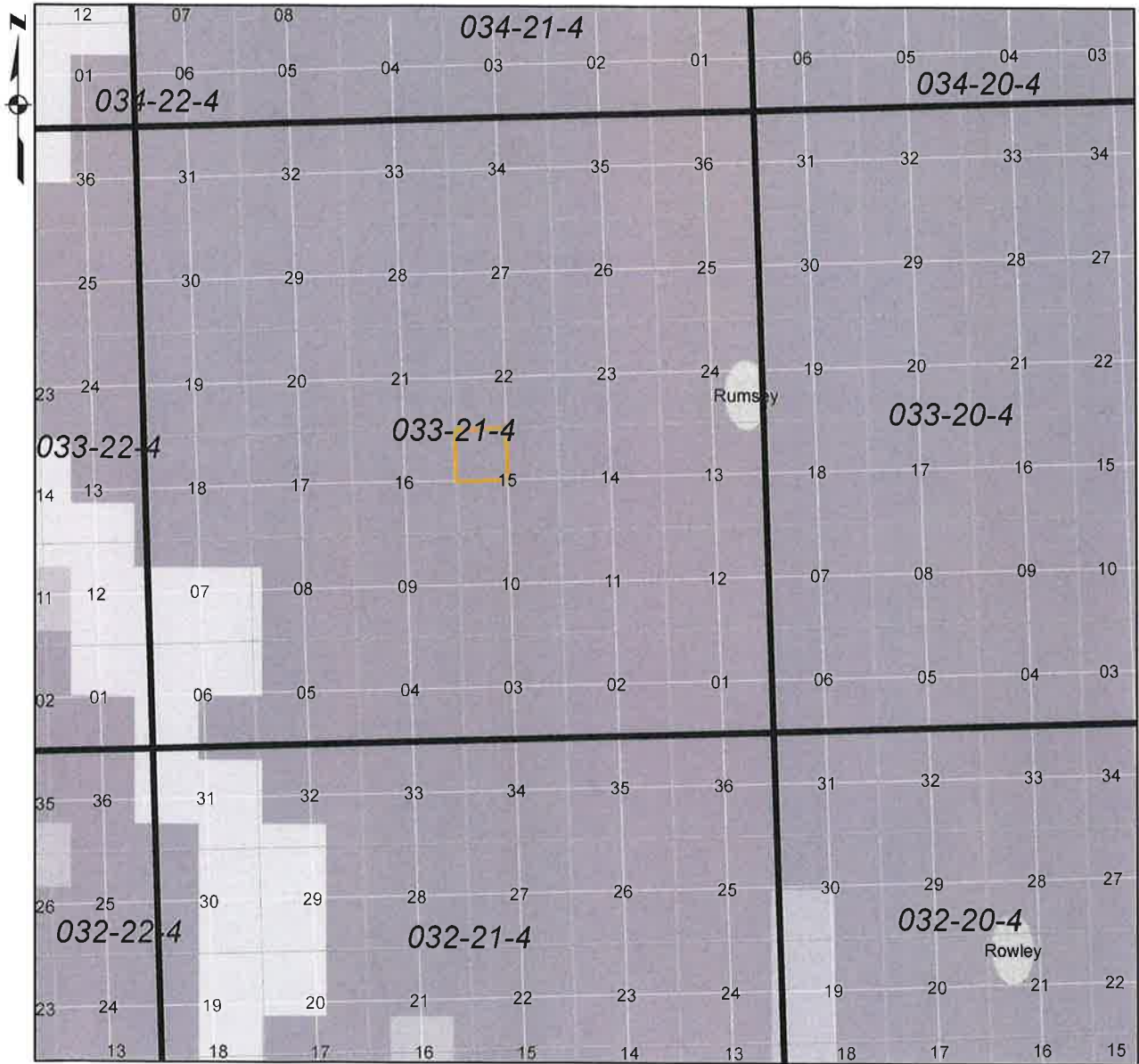


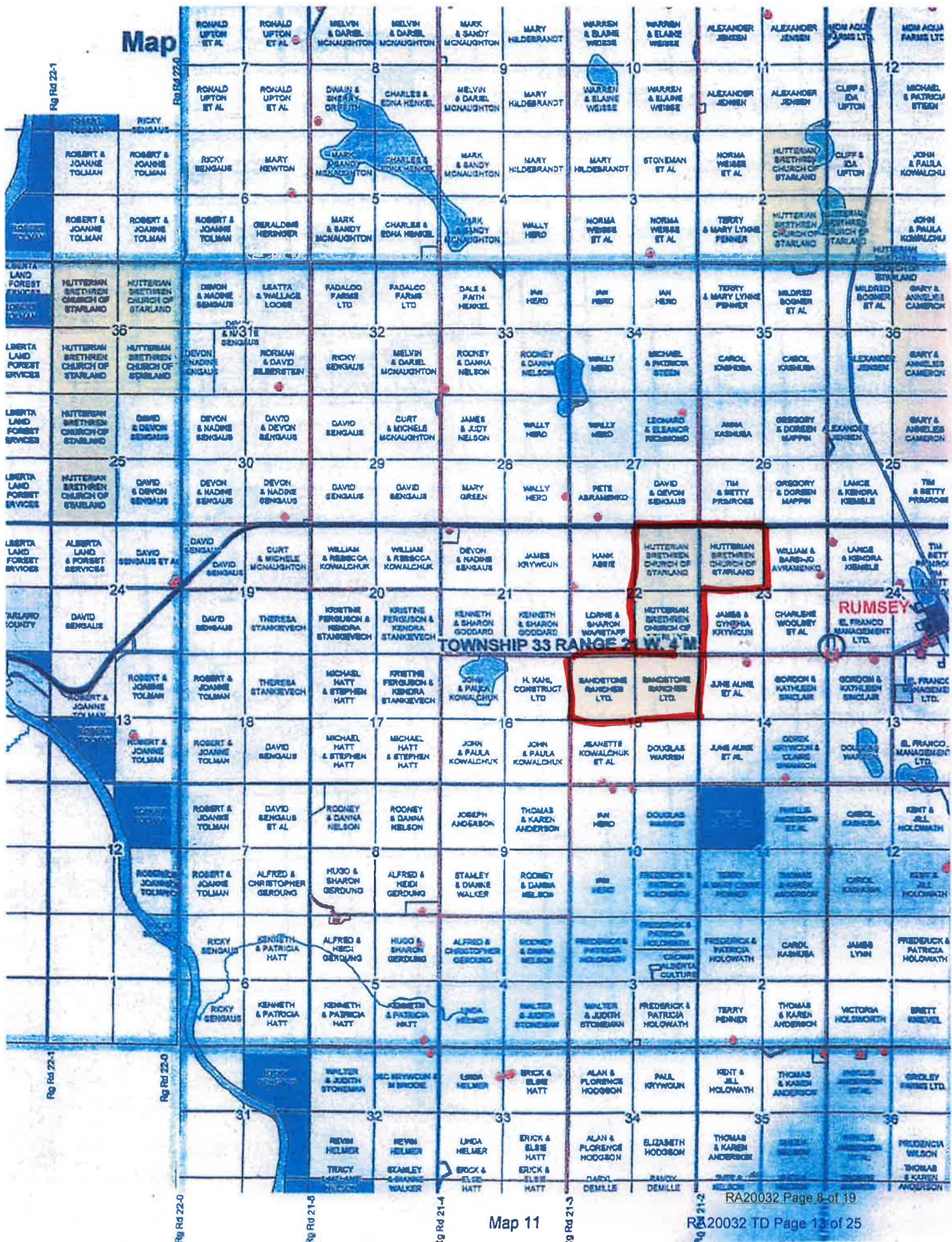
Glen V. Riep
Development Officer



Risk of Groundwater Contamination (HCL, 1999)

NW 15-033-21 W4M
 High
 Low





Map

TOWNSHIP 33 RANGE 21 W. 4 M

RUMSEY

AO Note: The applicant provided this map for ease of identifying spread lands (map date is unknown).