

#1 - REQUEST FOR REVIEW: LA20035/Hutterian Brethren of Murray Lake	
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Filed By:	Cypress County
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Deadline for RFRs:	October 26, 2020
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Date RFR received:	October 26, 2020
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Status of party as per Decision Summary:	Directly Affected
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REQUEST FOR BOARD REVIEW
SUBMITTED TO THE NATURAL RESOURCES CONSERVATION BOARD

Application No:	LA20035
Name of Operator/Operation:	Hutterian Brethren of Murray Lake
Type of application (<i>check one</i>):	<input type="checkbox"/> Approval <input type="checkbox"/> Registration <input checked="" type="checkbox"/> Authorization
Location (<i>legal land description</i>):	S 1/2 31-10-6-W4, NW 29-10-6-W4, SW 32-10-6-W4
Municipality:	Cypress 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:

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:

In the year 2018, Cypress County amended its Municipal Development Plan to require that "confined feeding operations are to be located where access to the site is to be gained from gravel, new high-grade roads or unless the confined feeding operator is willing to develop or upgrade the road to a gravel, new high-grade road at their own expense".

Under Sections 20 and 22 of the AOPA, an approval officer must consider whether the application is consistent with the municipal development plan land use provisions. Section 22, in terms of considering an application for an authorization, the AOPA grants an approval officer the ability to "impose terms and conditions on the authorization or amendment including the terms and conditions that a municipality could impose if the municipality were issuing a development permit".

Although there appears to be an inconsistency between Section 8.9 of the AOPA Operations Policy and Section 20 and 22 of the AOPA, the County is of the opinion that the NRCB in fact has sufficient authority to set the same type of conditions relating to upgrades and maintenance of County infrastructure by way that the decision would be consistent with the provisions of the County's statutory plans.

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:

Cypress County is inherently concerned with the impact Confined Feeding Operations have on our road infrastructure. Solely in consideration of application LA20035, Cypress County is aware that concerns have been raised by the operator pertaining to the condition of the roadways which currently grant access to this operation.

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 approval officer has sufficient authority under Section 22 of the AOPA to impose conditions that are consistent with the County statutory planning documents.

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.

Cypress County requests that in lieu of the NRCB imposing a requirement for the operator to upgrade all haul roads to Highway 3, to a high-grade gravel standard at the operator's expense, that the NRCB consider an alternative condition that the operator enter into a Road Use Agreement with Cypress County. This would allow for the resultant traffic from this operation to be directed to roads which are built to a standard to accommodate the type of traffic.

5. CONTACT INFORMATION

(ALL PARTIES MUST COMPLETE THIS SECTION)

Contact information of the person requesting the review:

Name: Cypress County

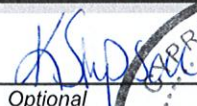
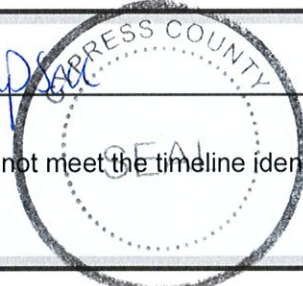
Address in Alberta: 816 2nd Avenue Dunmore AB T1B 0K3

Legal Land Description:

Phone Number: 403-526-2888

Fax Number: 403-526-8958

E-Mail Address: kaylene.simpson@cypress.ab.ca

Signature: <u></u> <i>Optional</i>	Date: <u>October 26, 2020</u> <i>Required</i>
 <p>If you do not meet the timeline identified, your request will not be considered.</p>	

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
19th Floor Centennial Place
250 – 5th Street SW
Calgary, AB T2P 0R4

Phone: 403-297-8269

Email: laura.friend@nrcb.ca

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