

#3 - REQUEST FOR REVIEW: LA19032/Corner's Pride Farms Ltd.	
Filed By:	<b>Michael B. Niven representing: the Jensens the Grants Barclay Lutz</b>
Deadline for RFRs:	November 19, 2020
Date RFR received:	November 19, 2020
Status of party as per Decision Summary:	Directly Affected



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Assistant: Laura Beecroft

File No. 30760.001

November 19, 2020

BY EMAIL

Natural Resources Conservation Board  
19th Floor Centennial Place  
250 - 5th Street SW  
Calgary, AB T2P 0R4

Attention: Laura Friend, Manager, Board Reviews

Dear Madam:

Re: Request for a Board Review of Application LA19032.

We are counsel to Kim Jensen, Linda Jensen, Hugh Grant, Lynne Grant, and Barclay Lutz, all of whom are directly affected parties in the above noted matter. Please find enclosed for service upon you a Request for Board Review of Application LA19302 pursuant to Section 20(5) of the *Agricultural Operation Practices Act*, RSA 2000, c A-7.

Yours truly,

Michael B. Niven

JN

900, 332 6th Avenue SW  
Calgary, Alberta T2P 0B2

**Main:** (403) 262-3775

**Fax:** (403) 262-2952

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**REQUEST FOR BOARD REVIEW**  
**SUBMITTED TO THE NATURAL RESOURCES CONSERVATION BOARD**

<b>Application No:</b>	LA19032
<b>Name of Operator/Operation:</b>	Corner's Pride Farms Ltd.
<b>Type of application (<i>check one</i>):</b>	<input checked="" type="checkbox"/> <b>Approval</b> <input type="checkbox"/> <b>Registration</b> <input type="checkbox"/> <b>Authorization</b>
<b>Location (<i>legal land description</i>):</b>	NE 7-7-20 W4M in Lethbridge County,
<b>Municipality:</b>	Lethbridge

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.

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## 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)

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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:**

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## 2. GROUNDS FOR REQUESTING A REVIEW

(ALL PARTIES MUST COMPLETE THIS SECTION)

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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:**

We are counsel to Kim Jensen, Linda Jensen, (the "Jensens"), Hugh Grant and Lynne Grant (the "Grants"), and Barclay Lutz. We have reviewed the decision regarding application LA19032 and are requesting a Board Review of the Approval officer's decision on behalf of the Jensens, the Grants, Barclay Lutz, and on behalf of: Travis Jensen, Justin Jensen, Murray Charles, Carmen Mack, Tom Reich, Ian Whishaw, Susan Whishaw, Darlene Urban, Darren Urban, Greg Smith, Cara Rasmussen, Cory Rasmussen, Dean Jenkins, Carole Jenkins, Antonio Ramirez, Helen Crombez, Matthew Eagles, Tamara Eagles, Joe Miko, Danielle Miko (collectively the "affected parties").

Section 8(3) of the Natural Resource Conservation Act, RSA 2000, c N-3 ("NRCA") states: Where the Board receives a written objection in respect of an application and the objection is submitted by a person who the Board considers is directly affected by the proposed project, the Board shall hold a hearing in respect of the application unless it considers the objection to be vexatious or of little merit.

Pursuant to the legislation, our grounds for requesting a review are as follows:

- a) In the Decision Summary, the Approval officer found that the Jensens, Grants, and Barclay Lutz together with a number of others are directly affected parties. The Jensens, Grants, Barclay Lutz and other directly affected parties submitted 33 objections to Confined Feeding Operation ("CFO") application.
- b) The Approval officer made no finding that the objections put forward by the Jensens, Grants, Barclay Lutz, and the other affected parties were vexatious.
- c) The Approval officer made no finding that the objections put forward by the Jensens, Grants, Barclay Lutz, and the other affected parties were of little merit.

It was therefore incumbent on the Natural Resource Conservation Board ("NRCB") to hold a hearing for application LA19032. We request a Board Review of the Approval officer's decision for failing to follow the procedures set out in the NRCA.



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## 5. CONTACT INFORMATION

(ALL PARTIES MUST COMPLETE THIS SECTION)

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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:**

### 3. REASONS YOU ARE AFFECTED BY THE DECISION

The Approval officer's decision will impact the affected parties directly as they own land directly adjacent to, and across from, the approved CFO. Much of this land was acquired for succession planning purposes. The approved CFO has negated or hindered the affected parties' development plans and succession plans. The spread of manure, lasting odour, fly infestations, increase in traffic, increased risk of flooding, and poor drainage and runoff resulting from heavy irrigation, will limit the land use and lead to a decrease in quality of life and decrease in property values for the affected parties.

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## 5. CONTACT INFORMATION

(ALL PARTIES MUST COMPLETE THIS SECTION)

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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:

### 4. ACTION REQUIRED

The NRCB failed to follow the enabling legislation and to consider what is in the public interest. There were 39 timely responses submitted to the NRCB objecting to the CFO application. Of the 39 objectors, 33 own or reside on land that makes them directly affected parties. Notwithstanding these many objections, the NRCB approved application LA19032 without holding a hearing.

We request the NRCB overturn and vacate the Approval officer's decision.

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: Kim Jensen, Linda Jensen, Hugh Grant, Lynne Grant, Barclay Lutz

Address in Alberta: 72054 Range Road 210  
Lethbridge County AB

Legal Land Description: NE 13-7-21 W4 and SE 17-7-20 W4, Section 9 and 10 of 7-20 W4, S 16-7-20

Phone Number: [REDACTED]

E-Mail Address: [REDACTED]

Signature:  <i>Optional</i>	Date: <u>November 18, 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: Michael B. Niven Q.C.

Address: Carscallen LLP  
900, 332 - 6 Avenue SW  
Calgary Alberta T2P 0B2

Phone Number: 403-298-8464

Fax Number: 403-298-8464

E-Mail Address: niven@carscallen.com

<b>When you have completed your request, please send it, with any supporting documents to:</b>	
Laura Friend, Manager, Board Reviews Natural Resources Conservation Board 19 <sup>th</sup> Floor Centennial Place 250 – 5 <sup>th</sup> Street SW Calgary, AB T2P 0R4	Phone: 403-297-8269 Email: <a href="mailto:laura.friend@nrcb.ca">laura.friend@nrcb.ca</a>

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