

#4 - REQUEST FOR REVIEW: LA19032/Corner's Pride Farms Ltd.	
Filed By:	Hugh and Lynne Grant Ian and Susan Wishaw Tom Reich Barclay Lutz
Deadline for RFRs:	November 19, 2020
Date RFR received:	November 19, 2020
Status of party as per Decision Summary:	Directly Affected

REQUEST FOR BOARD REVIEW
SUBMITTED TO THE NATURAL RESOURCES CONSERVATION BOARD

Application No:	
Name of Operator/Operation:	
Type of application (<i>check one</i>):	<input type="checkbox"/> Approval <input type="checkbox"/> Registration <input type="checkbox"/> Authorization
Location (<i>legal land description</i>):	
Municipality:	

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:

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:

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:

Address in Alberta:

Legal Land Description:

Phone Number:

Fax Number:

E-Mail Address:

Signature: _____

Optional

Date: _____

Required

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
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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We are disappointed and concerned with the decision to approve Comer's Pride's application for this confined feeding operation. We feel the concern raised over manure application by ourselves and 14 others remains unaddressed and therefore, still poses a significant risk to the environment and landowners downstream of the common body of water hereinafter referred to as "the drain". As was stated in our initial letter of objection, the majority of the lands owned by Comer's Pride (section 5,6 & portions of 7-7-20 W4M, proposed to accept the manure from the CFO, is nearly level, low lying, and adjacent to the drain, as shown by the elevation lines in Figure 1. The drain's initial purpose was to drain water from adjacent uplands several miles to the north and as far south as, and including, the town of Raymond. The drains primary purpose has been compromised by the additional use of conveying irrigation water to nearby farmers. As a result, during rainfall and water shedding events, this drain is not properly sized to handle both irrigation water and runoff. The impact is that a large portion of the nearby level, low lying lands adjacent to this drain become flooded. It has happened several times over the past couple of decades and is likely to do so in future years as well. In her decision letter, Carina Weisbach acknowledged this issue and placed restrictions on the timing of manure applications to section 5-7-20 W4M. However, these restrictions are not sufficient. Comer's Pride plans to apply manure to portions of section 6 and 7, which share the same characteristics as section 5. They are nearly level, low lying, and adjacent to the drain. Figure 1 provides a contour line indicating the extent of land surrounding the drain that is virtually the same elevation. The pictures that were submitted show the degree of flooding that occurs in this area.

In the decision, Ms. Weisbach indicates that she sees the causality and agree that these are not trivial in nature, but aside from the environment itself, the respondents did not demonstrate in which way they are reasonably expected to be impacted if a contamination was to occur. As landowners directly downstream of the drain, and users of the drain's water, we will be directly impacted. As clearly demonstrated above, the drain will flood much of the land Comer's Pride is proposing to apply manure on, without incorporation. As a result, the contaminants will remain on the surface of the soil. Some of the known contaminants in manure include nitrates, phosphate, sodium and chloride. During the flood event, these contaminants will become suspended in the water and migrate from Comer's Pride lands to neighboring lands. Following the flood event, the drain will resume it's primary purpose of removing excess water from adjacent lands, including contaminants in the manure applied to the lands proposed in Comer's Pride's application. These contaminants will eventually travel downstream and will enter onto our land via overflow of the drain or through irrigation; contaminants that we don't want and that can have degrading impacts to our farmland from increased salinity or increased sodium absorption ratio. Section 27(1) of the Agricultural Operation Practices Act, Standards and Administration, specifically states that a person who applies liquid manure or catch basin contents must ensure that the manure or catch basin contents do not create a risk to the environment by leaving the lands to which they are applied, by entering a common body of water (the drain) or by becoming return flow. In addition, the Manure Spreading Regulation (Agdex 096-5) states that setback distances are required to reduce nuisance effects on neighbors and to minimize the risk of manure leaving the lands on which it is applied and entering a common body of water (the drain). However, in spite of these minimum setbacks, the Regulation goes on to say that even if setbacks are met, reasonable care must be taken to ensure manure does not enter a common body of water, (the drain). It is clear that the spirit of these regulations is such that manure must not be allowed to leave the land it is applied to. Given the flood prone nature of the majority of the land Comer's Pride has proposed to apply the manure on, and given the inability to predict these flooding events, it doesn't seem plausible to satisfy these regulations.

Moreover, we are not only concerned about the impacts to our land, we are also concerned about the potential degradation to surface and groundwater water quality in our local environment. In the decision, Ms. Weisbach comments that aside from the environment itself, these respondents have not demonstrated in which way they are reasonably expected to be impacted if a contamination was to occur. When stated this way, we are left with the belief that the environment is being trivialized. In other words it is OK for Comer's Pride to contaminate the environment, so long as it does not directly impact anyone. The environment must not be treated in such a trivial manner. The regulations clearly do not treat it this way. We have demonstrated how the applied manure will leave the Comer's Pride lands and enter the drain. The adverse effects that the overapplication of manure will leave downstream surface water quality and local groundwater quality, particularly when applied to satisfy crop nitrogen demand, has been well documented. When applied this way, far too much phosphate is deposited onto the land, more than required for crop nutrition. The excess makes its way into surface waters, causing eutrophication of downstream aquatic environments. As we understand it, this is the primary reason other jurisdictions have moved away from allowing manure to be applied to satisfy nitrogen requirements and scientists have raised this as a major concern in Southern Alberta. We believe it is irresponsible for you to continue to ignore these facts, particularly in this application, given the flood prone nature of the lands to be used for manure application. Recognizing the risk applying manure to Comer's Pride land poses to both our land and the environment, Comer's Pride does not have access to sufficient suitable land to manage the manure on. Without access to sufficient land, approval of this application should not be granted.

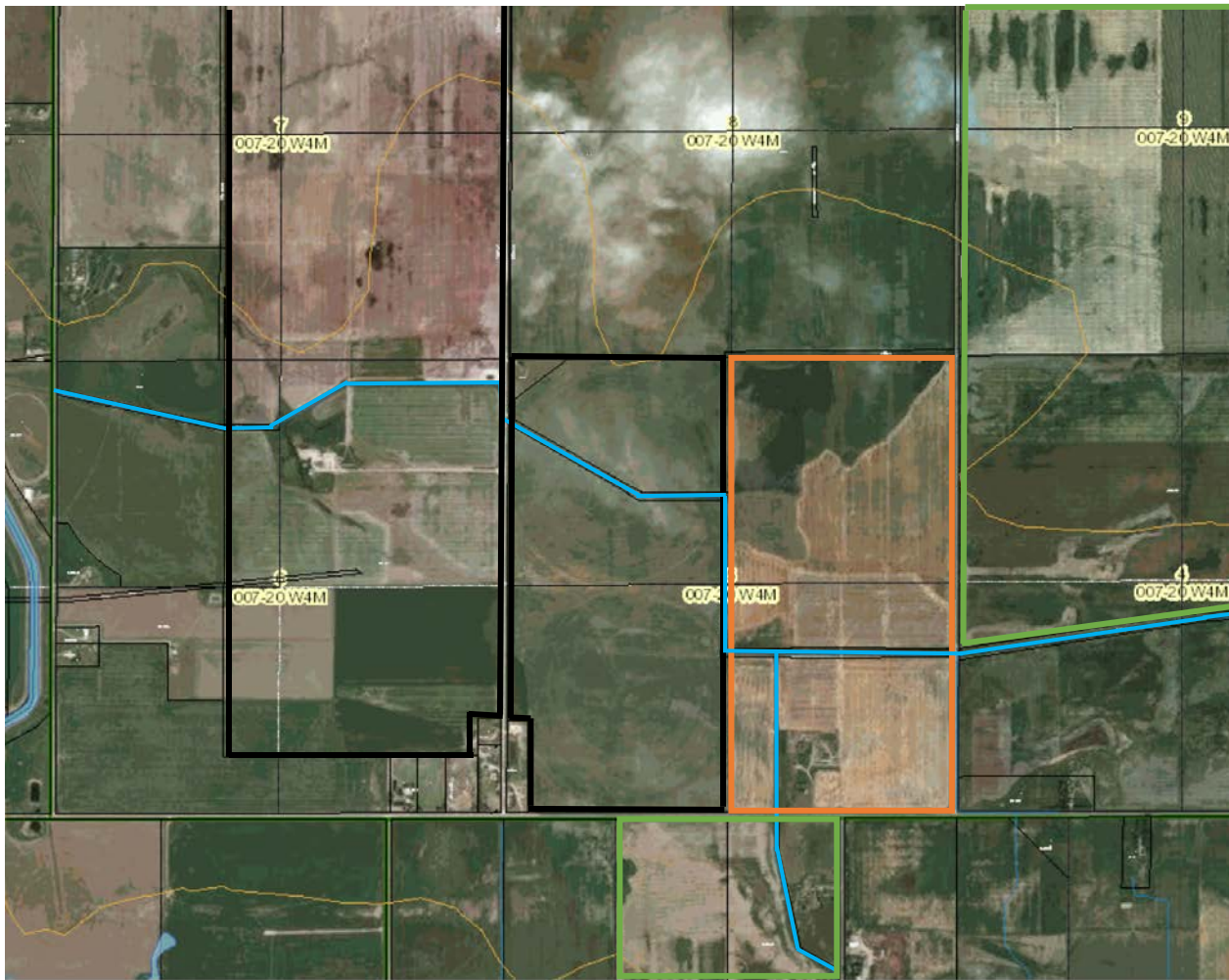


Figure 1. Aerial overview of Corner's Pride Lands and surrounding lands. The image shows considerable flooding in proximity to the drain, particularly in section 5 and 7-007-20 W4M.

Legend

- Drain Corner's Pride Lands Barkley Lutz Lands Hugh Grant Lands
- Elevation Line – areas within these lines are similar elevation







5. CONTACT INFORMATION

(ALL PARTIES MUST COMPLETE THIS SECTION)

Contact information of the person requesting the review:

Name: Hugh & Lynne Grant

Address in Alberta: 203059 Township RD 72
LETHBRIDGE COUNTY, AB T1K 8G9

Legal Land Description: Section 09-007-20-W4; NE 31-006-20-W4; NW 04-007-20-W4

Phone Number:

Fax Number:

E-Mail Address:

Signature:

[Handwritten Signature]
Optional

Date:

[Handwritten Date: Nov 15/2020]
Required

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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)

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

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Contact information of the person requesting the review:

Name: Ian & Susan Lehighan
Address in Alberta: 80022 RR 205
County of Wetmore RGT 868
rd - 1K
Legal Land Description: Roll number F30820NW 6-7-20-
Phone Number:

Signature: [Signature] Date: Nov 15/20
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 timeframe identified, your request will not be considered. Form must be signed and dated before being submitted for Board consideration.

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Name: _____
Address: _____
Phone Number: _____ Fax Number: _____
E-Mail Address: _____

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Natural Resources Conservation Board Email: laura.friend@nrca.ca
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Calgary, AB T2P 0R4

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Contact information of the person requesting the review:

Name: Tom Reich

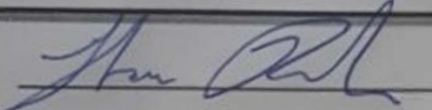
Address in Alberta: P.O. Box 1641 STN MN

LETHBRIDGE, AB T1J 4K3

Legal Land Description: SW 7-7-20 W4M

Phone Number: _____

E-Mail Address: c101

Signature:  Date: November 17, 2020

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Contact information of the person requesting the review:

Name: Barclay Lutz.

Address in Alberta: Box 556 Raymond Ab T0K 2S0

Legal Land Description: S1E & N1E 5-7-20 W4

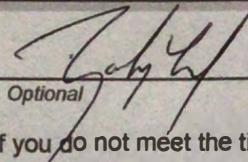
Phone Number:

Fax Number:

Mail Address:

E-

Signature:


Optional

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Nov 18 2020
Required

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