

**#1 - REQUEST FOR REVIEW: RA20029A/Lone Pine Hutterian Brethren**

**Filed By:**

**County of Stettler No. 6**

**Deadline for RFRs:**

January 27, 2021

**Date RFR received:**

January 27, 2021

**Status of party as per Decision Summary:**

Directly Affected

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

<b>Application No:</b>	RA20029A
<b>Name of Operator/Operation:</b>	Lone Pine Hutterian Brethren
<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>	SW 7-39-17-W4M
<b>Municipality:</b>	County of Stettler No. 6

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:**

This section is not applicable as a Municipality is automatically considered to be a directly affected party.

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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:**

On August 31, 2020 the County of Stettler responded to the NRCB request for comment on Application RA20029. In that response it was noted that the proposed development appears to be consistent with the County of Stettler Municipal Development Plan and Land Use Bylaw. Despite this, the letter also stated that County Council has expressed concerns regarding the types and location of soil seams and the potential impacts if there were to be an unplanned discharge from the liquid EMS lagoon. The documents accompanying the approval issued by NRCB (Decision Summary RA20029) recognized the response from the County in regards to the Municipal Development Plan and the Land Use Bylaw but failed to comment on the concerns related to soil seams and the potential impacts of an unplanned discharge. The County chose not request a review of the decision, trusting that the NRCB would ensure the proper protection of the natural capital features.

Shortly thereafter, the County of Stettler received a second referral (Application for Amendment RA20029A) from NRCB requesting further comment on this development as the liquid EMS lagoon has been developed by the landowner to dimensions differing from what was approved under the original NRCB authorization. This construction is in violation of the statement included in the RA20029 Decision Summary (dated September 21, 2020) which reads "The permit holder shall adhere to the descriptions contained in the filed application for RA20029 together with the site plan, building plans, engineering reports and other attached documents, unless otherwise noted in the following conditions." The County of Stettler again provided comments voicing concern over the location of the liquid EMS lagoon in relation to the types and location of soil seams and the dangers of an unplanned discharge.

In light of the development being constructed in contravention of the original NRCB approval and the issuance of a second approval which closely mirrors the approval of the first application, the County is requesting a review of the decision to ensure that the concerns regarding the sandy soils and the negative impacts on nearby water sources/course have been properly addressed. The County is troubled by the statement that health concerns and access to potable water are not considered in the review of this application. Equally concerning is the statement in the RA20029A Decision Summary (dated January 6, 2021) that AOPA requirements do not guarantee zero risk but that a low potential risk exists. Finally, the Approval Officer indicates in the Decision Summary RA20029A that approval officers do not have the jurisdiction to re-visit previously issued permits. The County of Stettler respectfully disagrees with this statement as RA20029A is specifically amending RA20029.

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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:**

The County of Stettler is concerned that the nearby water sources and/or water courses may be negatively affected should there be an unplanned discharge from the lagoon as the sandy soils will not be conducive in preventing the spread of contamination.

The liquid EMS lagoon is located within an area of substantially sandy soil as evidenced by the borehole sites and soil assessment. According to the analytical report submitted with the application the EMS lagoon will be constructed to a below grade depth of 4.0m. The bottom of the compacted clay liner will be 5.0 m below grade. The report recognizes that sand pockets may be encountered during construction and should be removed prior to liner installation. At the same time, borehole #2 (BH02) shows sand at 4.5m with no bottom to the sand pocket. Remaining boreholes show soil structures that would improve the situation if the EMS lagoon had been moved to a more favorable location.

The County is very concerned with the potential health risks associated with the contamination of water wells in the area as 90% of the rural population of the County of Stettler relies on groundwater for residential purposes. Contaminated groundwater has led to public health concerns in other parts of Canada in recent history and the County of Stettler is anxious to prevent any similar type of situation within our borders. Furthermore, in the event of contamination, providing ratepayer access to potable water will impose a financial burden to the municipality as there are no municipal water services in proximity to the subject area.

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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:**

It is the opinion of the County of Stettler that the liquid EMS lagoon is a danger to the nearby water sources/courses. Relocation of the the liquid EMS lagoon to a more favorable location on the property with compatible soil conditions would add an extra layer of protection to the water resources of the County of Stettler. Alternatively, a reinforced liner, clay and/or synthetic (i.e. rubber) would further protect the water resources.

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.

The County of Stettler would like to see the approval issued for RA20029A amended and the requirement of either relocating the liquid EMS lagoon to a more favorable location on the property (i.e. fewer sand pockets/seams) or the installation of a reinforced lining within the liquid EMS lagoon.

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## 5. CONTACT INFORMATION

(ALL PARTIES MUST COMPLETE THIS SECTION)

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### Contact information of the person requesting the review:

Name: County of Stettler No. 6

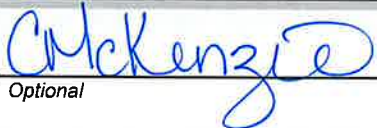
Address in Alberta: Box 1270, 6602 - 44 Ave, Stettler, Alberta T0C 2L0

Legal Land Description: Lot 1 Plan 8220910 (County of Stetter Administration Building)

Phone Number: 403.742.4441

Fax Number: 403.742.1277

E-Mail Address: cmckenzie@stettlercounty.ca

Signature: <u></u> <i>Optional</i>	Date: <u>January 27, 2021</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: As above.

Address:

Phone Number:

Fax Number:

E-Mail Address:

<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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