

#1 - REQUEST FOR REVIEW: LA21053 / John Schooten and Sons Custom Feedyard Ltd.

Filed By:	John Schooten and Sons Custom Feedyard Ltd. (operator)
Deadline for RFRs:	April 7, 2022
Date RFR received:	April 7, 2022
Status of party as per Decision Summary:	Directly Affected (operator)

April 7, 2022

Natural Resources Conservation Board
Board Reviews
John J Bowlen Building
#901, 620 – 7 Avenue SW
Calgary, Alberta, T2P 0Y8

Attention: Ms. Friend,

Re: **Decision LA21053 – Request Board Review of Permit Conditions and Grandfathered Capacity
John Schooten and Sons Custom Feedyards Ltd.
S ½ 8-21-24W4M and N ½ 5-21-24W4M**

Mr. Cody Metheral, P. Eng. of Linkage Ag Solutions has been retained by John Schooten and Sons Custom Feedyard Ltd (Schootens) to support their Mossleigh feedlot expansion application to the NRCB. It is understood that Mrs. Carina Weisbach, NRCB Approval Officer (AO), has approved the expansion as indicated in the Decision Summary LA21053 dated March 17, 2022.

Pursuant to section 20(5) of the Agricultural Operations Practices Act (AOPA), this submission constitutes a formal request for a Board Review (RFR) of two permit conditions found in the decision LA21053; and provides a brief overview of the reasons why the review is necessary.

Further, Schootens would inform the Board that they disagree with the grandfathering determination that was completed by the AO (also in the decision summary). The AO was provided several key pieces of information which were discredited or not included in the assessment. A rebuttal submission on this point is requested and the Board is asked to support a review the feedlot deemed capacity determination – which remains an opportunity under Board Decision RFR 2021-08.

In Summary

Application LA21053: In October, 2021, Schootens submitted an application to expand the Mossleigh feedlot operation by increasing the livestock number on site to 75,000 beef finisher and construct 80 additional pens and a catch basin.

Decision Summary LA21053: The AO approved the proposed expansion and included nine conditions as part of the permit. Some of the conditions are new and other are modified conditions from the previous municipal permits.

The AO also provides a grandfathering determination for the feedlot as was required by the Board in the Board Decision RFR 2021-08. NRCB Field staff suggest that the permitted capacity of the site is 41,250 head of beef cattle, however, the Schooten believe the physical capacity to hold livestock is actually 50,000 hd beef finishers.

Grounds for Review

The NRCB Board is asked to grant a review of the AO's decision under AOPA section 25(1). A review is necessary in order to:

- 1) Remove condition #3 (Requirements for a Traffic Impact Assessment (TIA))
- 2) Modify condition #8 (Change report month)
- 3) Determine deemed capacity of the grandfathered portion of the feedlot

Issue 1 – Remove condition #3

Condition 3 states: *The permit holder shall conduct a Traffic Impact Assessment. The Traffic Impact Assessment shall be done according to the guidelines provided by Vulcan County together with Alberta Transportation (as applicable) and provided to Vulcan County for follow up. The results of the assessment shall be provided to Vulcan County prior to commencing construction. The NRCB delegates the oversight of this process, including scope, details, resulting commitments, and compliance, to Vulcan County*

At the request of both the Schootens and Vulcan County condition 3 is requested to be removed. The Schootens and Municipality have entered into a Road Use Agreement (that includes a TIA) and believe this type of partnership better suits the needs of both parties. A letter of support from Vulcan County has been included as part of this submission.

Further, the feedlot is located approximately 4.8 km (3.0 miles) north of the intersection discussed in the decision summary (Provincial Highway 547 and Municipal Range Road 244). This distance puts the operation outside of the jurisdiction of Alberta Transportation and suggests the Municipality has discretion as to how they will support the development. Therefore, with the adoption of a Road Use Agreement, a condition associated with the feedlot permit is not required.

In addition, the Schootens ask the Board to provide guidance as to how, and when, an AO should include a TIA as a permit condition for a confined feeding operation (CFO). Schootens have examined permit conditions from several other large feedlot expansions in the past few years, and are not aware of any other operations that have a TIA as a permit condition. While the point was made in the Decision Summary that there will be additional traffic, no thresholds or information was presented as to when a TIA should be implemented. If an increase in animal numbers was the only criteria, then every new or expanding confined feeding operation in Alberta would likely require a TIA. Because a TIA is an important development tool, it also requires proper planning and implementation when associated with a CFO.

Issue 2 – Modify condition #8

Condition 8 states: *The permit holder shall submit soil testing records of all manure spreading lands on an annual basis in October of each year to the NRCB, starting in October of 2022.*

The Schootens request that the Board modify this condition to better reflect the agricultural practices on the feedlot. Once harvest and manure spreading activities are complete, soil sampling efforts and laboratory reporting timelines push record keeping later into the Fall. Therefore, it is requested that the condition be adjusted to annual reporting in December.

Decision LA21053 – Request for Board Review of Permit Conditions and Grandfathered Capacity

John Schooten and Sons Custom Feedyards Ltd.

S ½ 8-21-24W4M and N ½ 5-21-24W4M

In Conclusion

The NRCB Board is asked to grant a review of the AO's decision in order to:

- 1) Remove condition #3
- 2) Modify condition #8
- 3) Determine deemed capacity of the grandfathered portion of the feedlot

The Board is asked to review the permit conditions (#3 and #8) separately from the grandfathering determination. Should the Board find it acceptable to remove condition 3, then the Schooten will likely cancel the grandfathering determination request.

However, should condition #3 remain as is, the Schootens would proceed with the grandfathering determination as the TIA may become too restrictive for the Schootens to even proceed with the expansion activities.

A Board review would allow for open discussion on the merits of the AO decision and permit conditions. Schootens look forward to supporting the Board on this review.

Respectfully Submitted,



Cody Metheral, P. Eng.
Agricultural Engineer
Linkage Ag Solutions
(403) 635-6131



P.O. BOX 180
VULCAN, ALBERTA
T0L 2B0

TELEPHONE: 1-403-485-2241
TOLL FREE: 1-877-485-2299
FAX: 1-403-485-2920
www.vulcancounty.ab.ca

April 6, 2022

Natural Resources Conservation Board
Attn: Carina Weisbach
Agriculture Centre, 100, 5401 1 Ave S
Lethbridge, AB T1J 4V6

RE: Schooten & Sons – Notice of Decision LA21053

To Whom it May Concern,

With reference to NRCB decision LA21053, Vulcan County supports Schooten and Sons proposal of removing condition #3. The municipality has entered into a Road Use Agreement with Schooten and Sons to address the concerns expressed regarding the applicant's use of Vulcan County infrastructure. This Road Use Agreement includes a Traffic Impact Assessment.

Kindest Regards,

A handwritten signature in blue ink, appearing to read "Jason Schneider".

Jason Schneider
Reeve
Vulcan County