

#2 - REQUEST FOR REVIEW: LA21037 / A&D Cattle Ltd.

Filed By:	<b>A&amp;D Cattle Ltd. (Adrian van Huigenbos)</b>
Deadline for RFRs:	April 26, 2022
Date RFR received:	April 25, 2022
Status of party as per Decision Summary:	Operator

April 25, 2022

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

Attention: Ms. Friend,

Re: Request Board Review of Decision LA21037  
A & D Cattle Ltd

Mr. Cody Metheral, P. Eng. of Linkage Ag Solutions has been retained by Adrian Van Huigenbos (A & D Cattle Ltd) to support his feedlot application to the NRCB. It is understood that Mr. Joe Sonnenberg, NRCB Approval Officer (AO), has denied the application as indicated in the Decision Summary LA21037 dated April 1, 2022.

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

### **In Summary**

Application LA21037: On December 3, 2021, the AO accepted Mr. Van Huigenbos' completed application to construct a new 2000 hd feedlot and catch basin.

Decision Summary LA21037: The application was deemed complete on January 5, 2022. On April 1, 2022, the application was denied because the feedlot was located within a confined feeding operation exclusion zone as noted in the Intermunicipal Development Plan (IDP) between the Municipal District (MD) of Willow Creek and Town of Fort Macleod. The IDP was adopted in March 2022. The AO notes the application meets all other regulatory requirements.

The NRCB Board is asked to grant a review of the AO's decision under AOPA section 25(1). AOPA requires the applicant to provide reasons why a review of an AO's decision is warranted. The applicant provides the following reasons:

- 1) Municipal District of Willow Creek – Letter of Support
- 2) Timelines and status of IDP
- 3) NRCB application review delay

## **Grounds for Review**

### **Issue 1 – Municipal District of Willow Creek – Letter of Support**

A review of the AO's decision is requested by both Mr. Van Huigenbos and the M.D. of Willow Creek. Both parties believe that the AO had plenty of time to approve the application prior to the adoption of the new IDP by the MD and Town of Fort Macleod.

The Board is asked to accept the letter of support from the MD of Willow Creek (included as part of this submission).

### **Issue 2 – Timelines and status of IDP**

Key dates for consideration include:

- 1) Mr. Van Huigenbos submitted his NRCB Part 1 application on July 19, 2021. Part 2 was finalized on Dec 3, 2021,
- 2) Adopting the IDP - The Town adopted the document at the end of February, 2022, and the MD adopted it during the council meeting on March 9, 2022,
- 3) NRCB Board Decision 2022-02 (Double H Feeders Ltd) issued March 17, 2022; and
- 4) AO issued LA201037 decision on April 1, 2022

It is important to note that Mr. Van Huigenbos' submission was based on AOPA legislation and the municipality requirements as of December, 3 2021. Therefore, the application should be reviewed for legislative compliance based on the submission date. Planning based on a submission date is an accepted planning tool in AOPA (example: Minimum Distance Separation (MDS) calculations and setbacks are based on the Part 1 submission date).

The AO referenced Board Decision 2022-02 (Double H Feeders Ltd) which provides direction as to how an AO should interpret an IDP when considering an NRCB application. It is likely that the AO was aware of the Board review (and issue under review), and may have delayed his decision until after the Board released their decision.

The Board is asked to determine if the IDP was a planning document to be used by the AO on this decision or if it's more appropriate to use planning requirements based on the submission date.

### **Issue 3 – NRCB application review delay**

The AO accepted the application on December 3, 2021. In the decision summary, it states that the AO decided to wait until January 5, 2022, to deem the application complete. The AO suggests the delay was required in order to account for the NRCB office closure during the holidays.

The decision summary states (page 1): *This closure is intended to allow public notice to be completed at a time when neighbouring residents and land owners were likely to see the notice and when NRCB offices would be open to take inquiries.*

Based on the date the application was submitted, it is understood there were 16 working days in the month of December (prior to the NRCB office closure from December 27, 2021 – Jan 3, 2022), which were appropriate for public notification. AOPA does not limit NRCB activity in December, except on statutory holidays. The AO decision to delayed the notification process essentially added 1 month to the decision

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A & D Cattle Ltd.

timeline. Had the AO initiated the public notice process in December, it is reasonable that the AO could have issued his decision prior to the MD and Town adopting the IDP.

The Board is asked to determine if the AO's decision to delay the public notification process through December created unwarranted delay that ultimately affected the outcome of this decision.

**In Conclusion**

The Board is asked to grant a review of LA21037 in order to discuss:

- 1) Municipal District of Willow Creek – Letter of Support
- 2) Timelines and status of IDP
- 3) NRCB application review delay

A Board review would allow for open discussion on the merits of the AO decision. It is understood that the Board can also approve the CFO application given that it is appropriate to do so. Mr. Van Huigenbos looks forward to supporting the Board on this review.

Respectfully Submitted,



Cody Metheral, P. Eng.  
Agricultural Engineer  
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# Municipal District of Willow Creek

Office of the Reeve

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April 14, 2022

Mr. Adrian Van Huigenbos  
A&D Cattle Ltd.  
Fort Macleod, Alberta  
T0L0Z0

Dear Mr. Huigenbos

**RE: Letter of Support – NRCB Application LA21037**

The Council of the Municipal District of Willow Creek No. 26 was disappointed to note the denial of NRCB Application LA21037, now therefore the Council has resolved to provide this letter of support to your request for review.

We note your concerns with respect to what appears to be an unusually long period of time taken to review what appears to be a relatively simple application. This unwarranted delay appears to have placed your application in an overlapping timeframe of the adoption process of the intermunicipal development plan, and as such the Municipal District of Willow Creek No. 26 supports your request for review.

Sincerely, on Behalf of Council,

Maryanne V. Sandberg  
Reeve  
Municipal District of Willow Creek No. 26