

May 26, 2022

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

Attention: Ms. Friend,

Re: Board Review of Decision LA21037 - A & D Cattle Ltd  
Board Requested Information (Scope of Review regarding point #5)

Mr. Cody Metheral, P. Eng., of Linkage Ag Solutions has been retained by Adrian Van Huigenbos (A & D Cattle Ltd) to support the NRCB Board review of this feedlot application LA21037. In granting the review, the Board has determined the review scope to include five points. This submission intends to support the questions posed by the Board for point #5.

The site is approximately 2.5 km southwest of the Town of Fort Macleod and identified in Figure 1 (included below).

The Board's document RFR 2022/06 states that the review will include:

*5. Whether the Board should approve the operation despite its inconsistency with the IDP. The Board has established that the following considerations are reasonable in a determination of whether a permit application is approved notwithstanding an inconsistency with the MDP/IDP presented as a CFO exclusion zone:1 Accordingly, the Board expects to hear argument from all parties related to:*

- 1) the **municipal authority's** rationale for establishing the relevant provision(s) in the municipal development plan,*
- 2) whether the relevant provision is reasonable and reflective of **good planning**,*
- 3) whether there is a **direct link** between the planning objectives and the establishment of the CFO exclusion zone, and*
- 4) whether the municipal development plan is in **conflict with the AOPA** objective of establishing common rules for the siting of CFOs across the province.*

In response to the Board's questions (above), the following arguments are provided:

- 1) **Municipal authority:** It is understood both Municipalities should endeavor to create fair and consistent planning provision(s) in their planning documents.
- 2) **Good Planning:** the IDP is not clear and consistent as it recognizes the importance of agriculture in the Municipality (Policy 2 and 3), but creates a CFO exclusion zone for new CFO (Policy 3.1) and expanding CFOs (Policy 3.4).
  - a. Policy 3 Confined Feeding Operations (on page 7): *These policies recognize that it is important for both jurisdictions to maintain a good quality of life and high-quality*

*environment and support all types of agriculture, as both are fundamental to growth and development within each of their municipalities.*

- b. *Policy 3.1: New confined feeding operations (CFOs) are not permitted to be established within the Intermunicipal Development Plan Confined Feeding Operation Policy Area (CFO Exclusion Area) as illustrated on Map 3 – CFO Policy Area.*
  - c. *Policy 3.4: Both municipalities recognize and acknowledge that existing CFOs located within the CFO Exclusion Area will be allowed to continue to operate under acceptable operating practices and within the requirements of the Agricultural Operation Practices Act and Regulations. Consistent with Policy 3.1 of the IDP, existing CFOs in the CFO Exclusion Area may continue to operate only within the scope of their existing registrations or approvals. New CFO registrations or approvals are not permitted in the CFO Exclusion Area.*
- 3) **Direct Link:** It is argued that there is not a consistent link between planning objectives and the CFO exclusion zone. Several policies suggest the protection of agriculture lands and practices, yet no reason was provided as to why CFO growth should be limited. Other policy allows (and encourages) non-agriculture development.
- a. As noted in Policy 2.1: *Agriculture will continue to be the predominant land use in the Plan Area*
  - b. Provision to protect land for agricultural use by restricting Group Country Residential development (Policy 4)
  - c. The provision to encourage and approve other large-scale developments
    - i. Allowance for industrial scale wind and solar development. No exclusion area identified (Policy 10)
    - ii. Allowance for Proposed Highway Expansion. It will likely take several decades until the proposed Highway is complete, and unlikely that the Town will expand southwest of the Proposed Highway Bypass
    - iii. Allowance for commercial, industrial (Policy 5) and utilities development (Policy 6)
  - d. It is noted there are several CFO exist within the IDP area, some within this CFO policy area and several in close proximity to Town
- 4) **Conflict with AOPA:** As noted in section 3 (Confined Feeding Operations), the document states the intent of the policy: *recognize that it is important for both jurisdictions to maintain a good quality of life and high-quality environment...* This is interpreted to mean policy should have positive impact on people and the environment.

It is understood the Agricultural Operation Practices Act (AOPA) provides fair and consistent rules for addressing nuisance and environmental issues for CFO across the province. Therefore, a CFO exclusion zone, based on the intent noted in section 3 of the IDP is redundant, and therefore, not warranted.

## Summary

Should the Board determine the IDP is the valid document for consideration in this review, A & D Cattle Ltd request that the Board approve the application despite its inconsistency with the IDP for the following reasons:

- 1) Several sections in the IDP suggest the agriculture activity and the landscape should be preserved and protected,
- 2) A CFO exclusion zone was created, but no reasons were not provided as to why new or expanding operations were undesirable or considered inappropriate within the exclusion area.
- 3) Other non-agriculture activities were encouraged within the IDP, but no reasons why CFO growth should be limited.
- 4) AOPA provides appropriate protection to neighbour and the environment for the siting of CFO in the province

A & D looks forward to further discussing these issues during the Board Review. Should the Board require additional information, feel free to contact us directly.

Respectfully Submitted,



Cody Metheral, P. Eng.  
Linkage Ag Solutions  
403 635-6131

Reviewed By:  
Adrian Van Huigenbos  
A & D Cattle Ltd



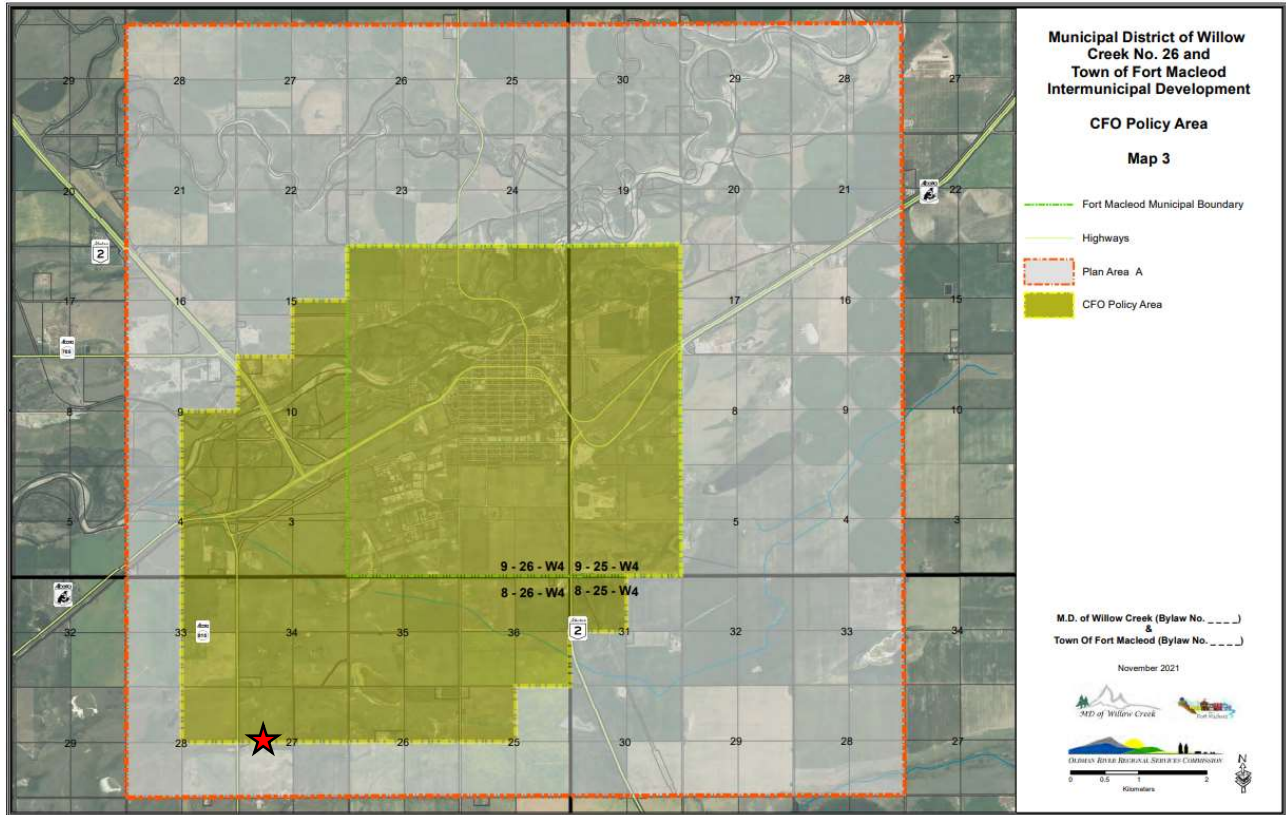


Figure 1: Van Huigenbos proposed feedlot (star) compared to CFO Policy Map (IDP, 2022)



Figure 2: Google Map Street View (HWY 810 and A&D Livestock intersection)

Adrian Van Huigenbos

Board Review – LA21037

May 26, 2022

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This document is a summary of events (phone calls email and meeting) with NRCB field staff and the County related to my feedlot application. I have done my best to document dates and time base on phone records and email history. I have tried to recap some of the comments and issues that occurred during the review process.

In September 2021 I purchased the NE quarter of 27-8-26W4M. I offered well over market price because of the great potential for our farmyard and potential feedlot. It has a lot of water, has very few neighbors to the northeast and is a long distance away from the town of Fort Macleod. I have spend a lot of money and time to apply for a permit only to have it declined because of a newly adopted Inter-municipal development plan (IDP) that got passed shortly before my Natural Resources Conservation Board (NRCB) decision. This is very hard for me to accept because there nothing that I could do to speed up the process. It was left it in the hands of those that were working on the permit hoping that they would complete their process without delays.

For the Boards consideration:

July 17 2021 - I had sent in my part 1 application

July 19 - Sylvia Kaminsky emailed that NRCB had received the application

September 1 – Chilako Drilling had the report on the soil samples done

September 15-17 - John Lobbezoo (Wood Environmental, Associate Engineer) and Joe Sonnenberg discussed over email where the best location for a catch Basin would be

September 17 – John Lobbezoo emailed Chilako Drilling if they could do a couple more soil samples in the area where the proposed catch basin would be. Chilako completed this task on September 30 because they were on holidays

October 19 – the engineer was working on finishing the report which was done and paid

November 3 – Joe Sonnenberg, Approval Officer (AO), came for a site visit and helped fill out the part 2 application. We also discussed the Town of Fort Macleod and the MD of Willow Creeks proposed IDP. I stated that I would like to see that the application gets a decision soon

November 15 – I sent in my MDS waiver from 5 Star Cattle LTD and 430 acres of spreading lands from Serene Holdings. Joe replied back saying he needed a copy of the application and drilling report.

November 16 – Joe’s email said he still needed the engineers report, and that I was a bit short of spreading land. He considered public notice in email. Provided no notice or deadline for submission materials based on the Macleod gazette timelines for November or December (see copied email below).

November 23 – I emailed Joe the rest of the information that he needed (engineer report, additional spreading lands, and MDS waiver).

November 24 (I believe) I had a phone call with Joe about the public notice. He stated that he could not send out the public notice till the 5<sup>th</sup> of January due to the holiday closure in December. I was not happy to hear that and wanted more information as to why there had to be this delay in the permitting process. Joe said it was NRCB policy to have holiday closure and implied that NRCB has seen more statements of concern when public notice happens during December. After hearing that it was NRCB policy and that Joe was not going to proceed further I had to let it be.

November 30 – I decided that if I was waiting anyway, I would add 4 more corrals to the permit. (I would never have done this if my application was proceeding through public notice). The updated application included a new page 1 with 4 more proposed pens and a new site plan.

December 1 – Joe sent me an email that the final part 2 Application was accepted. Minor changes to the catch basin were requested by Joe. At this time, it was understood that he was going to consider my application against the current MDP. Otherwise, how could I make changes to meet unknown laws that may be coming in the future.

December 2 – I emailed Joe and told him that the application was good. No more information was provided.

January 5 – Sylvia Kaminsky sent me an email stating that the application was deemed complete. This starts the 65-workday countdown in which NRCB hopes to have a decision.

January 5 – Joe provided the first statement of concern for review and response. He told me that he would send the comments as he gets them but after that he didn't send anymore until the review was closed. Joe had told me that it should not take too long to get a decision and that he wanted to get it done before more applications come in. The close deadline for statements of concern was Feb 2.

February 7 – Five days after the response deadline I called Joe to see if there were anymore complaints at which time, he told me there were several and finally sent them to me later on in the day. In summary they are:

- |  |                        |
|--|------------------------|
| 1) Alberta Environment and Parks (sent to NRCB on Jan 5) | – sent by Joe on Jan 5 |
| 2) Alberta Transportation (sent to NRCB on Jan 13)       | – sent by Joe on Feb 7 |
| 3) MD of Willow Creek (sent to NRCB Jan 14)              | – sent by Joe on Feb 7 |
| 4) AHS (sent to NRCB on Jan 27)                          | – sent by Joe on Feb 7 |
| 5) Neighbours (Jan and Feb submission)                   | – sent by Joe on Feb 7 |

February 7 – After reviewing the statements of concern, I emailed Joe that I thought the concerns could be addressed through the permitting process.

March 9 – the MD of Willow Creek passed the IDP (I believe)

March 10 – I called Joe to ask how the permit was going. He said he needed more information about the water well and manure spreading acres.

March 14 – Joe emailed and said he also needed some more information (100 more acres of spreading land and more information about the well). It seems odd to me that Joe needed this information at this point and not in December or January when he deemed the application complete. If Joe was still

collecting information in March, that means he could have started public notice in November. He did not mention in this email of IDP and that permit would be denied (see email copy below).

March 15 – I emailed Joe photos of the water well and answered his additional questions. However, Joe was provided this information during his site visit on November 3, 2021 when he helped me complete the part 2 of my application. During the site visit, we discussed both wells and the distance from the livestock corrals. Both wells are upgradient of the corrals. For whatever reason, Joe did not visually inspect the wells during this visit.

March 16 – I emailed Joe the new land spreading agreement for 100 acres

March 16 – Joe's follow-up email states that application was under review. Based on internal factors. (see email copy below)

March 17 – the NRCB Board delivered its decision on Double H Feeders

On March 21 – Joe called about the permit and he said that it would be denied due to the new IDP. During this conversation with Joe, I came to the understanding that NRCB staff were going through a complicated review process but that he would still be able to get my permit accepted.

March 22 – Call MD of Willow Creek. Spoke with Derek Krizsan about the adoption of the IDP. Explained that the County had passed second and third reading, but that the Province still needed to accept the County's decision.

I called Andy Cumming. I wanted to get a better understanding of what was all going on with my permit. Andy told me that Joe was working hard on it and really wanted it off of his desk.

On April 1 – Joe called me to let me know that he had a decision done for my permit. I took a look at it and gave Joe a call back. In this conversation I stated I was not happy with the decision and had asked him why there was a delay in December and why he didn't deem the application complete on December 3 when I had the final part 2 submitted. Joe told me again that it was NRCB policy. He also said that he understood my frustration and that the timeline of my permit was not in my favour.

April 1 – I called Andy Cumming about the decision and he referred me to the Board review from Double H Feeders and said that my denial was based on the Double H decision. I also asked him about the office closure and he indicated that NRCB office closure was from 24<sup>th</sup> until January 2<sup>nd</sup>.



## **November 16 emails-**

1:12 pm

Hello Adrian,

*I have attached everything compiled to date and done a bit more of a thorough look through. Could you please also forward me the copy of the engineers report? The other observation I had is you appear to be a bit short on manure spreading lands. If possible, it would also be helpful if the additional lands permission form had a bit more detail. I've attached an unofficial template we sometimes offer out but at minimum I need the manure spreading mentioned and a date. Otherwise it's pretty much ready to go and once I have that report and spreading lands I'll send out the public notice.*

*I apologize if a similar email came to you twice here, I've been having some computer issues today.*

1:44 pm

Hello Adrian,

*I have attached everything compiled to date and done a bit more of a thorough look through. Could you please also forward me the copy of the engineers report? The other observation I had is you appear to be a bit short on manure spreading lands (need 620 acres of available land with setbacks and non-farmed areas removed). If possible, it would also be helpful if the additional lands permission form had a bit more detail. I included a little template we use (you don't have to) but I need at least a date and line saying manure can be spread there. Otherwise I have started preparing the public notice as it is very close to ready to go.*

Thanks,

## **Email March 14-**

Hello Adrian,

*I am very close to having a decision out for review on your application. I do still require a bit of info (as we discussed the other day). Please provide:*

- *The details on the water well we discussed including distance from proposed pens, how you're going to protect it, and clear delineation of where it is located (location on a drawing, photos etc)*
- *Additional manure spreading lands. Upon review of what you submitted we need another 100 acres of suitable land to compensate for areas that are not cultivated, don't meet AOPA setbacks. These lands must be accompanied by agreements stating the land location, dates, and signature of owner.*

*Once I have that information I can proceed with finishing up this decision. Thanks you.*

## **March 16 emails-**

*Adrian: You too. How long does a decision usually take?*

*Joes: Typically 3 months or so depending on complexity. I am hopeful yours will be out in the next 3 weeks or so but no promises as its contingent on internal review and a few factors. Hope that helps.*