

#2 - REQUEST FOR REVIEW: LA22029 / Hutterian Brethren of Parkland

Filed By:	Berger Land and Cattle Co. Ltd. (Thomas and Loretta Berger)
Deadline for RFRs:	September 28, 2022
Date RFR received:	September 27, 2022
Status of party as per Decision Summary:	Directly Affected Party

REQUEST FOR BOARD REVIEW
Submitted to the Natural Resources Conservation Board

NRCB Application No.	LA22029
Name of Operator or Operation	Hutterian Brethren of Parkland
Type of application (if known)	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Registration <input type="checkbox"/> Authorization
Location (<i>legal land description</i>)	SW 32-15-26-W4M
Municipality	MD of Willow Creek

I hereby request a Board review (RFR) of the approval officer's decision.
I have the right to request a Board review because:
(review the options and check one)

- I am the operator.
- I represent the operator.
- 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 deadline specified in the approval officer's decision letter or 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. Requests for Board review are considered public documents. Your request will be provided to all directly affected parties and will be posted on the NRCB website.
4. For more assistance, please call Laura Friend, Manager, Board Reviews at 403-297-8269.

1. Party Status

(IF YOU ARE NAMED A NOT DIRECTLY AFFECTED PARTY IN THE APPROVAL OFFICER'S DECISION, YOU MUST COMPLETE THIS SECTION)

Party status (either "directly affected" or "not directly affected") is determined pursuant to the provisions of the *Agricultural Operation Practices Act* (AOPA) and regulations. Upon receipt of an operator's application, the approval officer must notify any affected parties. "Affected parties" includes municipalities and owners or occupants of land as determined by the AOPA regulations. To obtain "directly affected" status, the owner or occupant must provide a written submission to the approval officer by the deadline specified in the published notice. The approval officer will then determine who the "directly affected parties" to the application are and include this determination in their decision.

Under its legislation, the Board can only consider requests for Board 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. 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 review decision of the Board.

My grounds for requesting directly affected status are:

2. Grounds for Requesting a Review

(ALL PARTIES MUST COMPLETE THIS SECTION)

In order to approve an operator's application, approval officers must ensure the requirements of AOPA have been met. Your grounds for requesting a Board review should identify any AOPA requirements, or other 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:

We are listed under the "directly affected party" status of application LA22029. We are requesting a review of approval due to the following concerns:

The approval officer has overlooked that fact that the application for a Confined Feeding Operation on this site is but a mere piece of the entire project (i.e. Ivy Ridge Colony). As noted in the maps and the Technical requirements in Part 2 of the original application to the NRCB, there is obvious evidence that this application is for a much larger project (i.e. Ivy Ridge Colony). Therefore, the approval officer has neglected to take into account all of the legislations that would be required for an application of this scale.

Our statement of concerns remain:

- Negative impact on our Quality of Life
- Decrease in Land Values
- Negative impact on nearby Water Quality
- Increased demands on nearby Water Quantity
- Adverse effect on Twin Valley Reservoir Recreation Area
- Contamination of our Adjacent Licensed Dam (File #20512 and #12404)
- Threat of contaminated runoff
- Negative impact on the Quality of the MD of Willow Creek Roads
- Increase Traffic
- Increase Odour
- Increase Noise
- Increase in harmful insect population
- Changed zoning from Agriculture to Village Status
- Increase threat to the control of Avian influenza

These concerns are all explained in the attached letter.

We do not believe that the water concerns, as outlined in our original statement of concerns, was adequately considered in this application. The interconnectivity of the aquifers and the draw down of a full build out, will negatively affect the surrounding water wells and significantly affect the dams in the immediate area. The approval officer has neglected to proactively consider the anticipated water applications that will accompany a CFO/ full build Hutterite Colony of this size, to make this project sustainable.

Although legislation requirements are a .5 mile radius to be considered as a "directly affected party" status we completely disagree with this measurement. When a boundary fence is shared between two owners, that is our definition of "directly affected party" status.

In conclusion, we believe that there has been an error in judgement when considering this application. The application is misleading and is clearly the beginning of a large Hutterite Colony (i.e. Ivy Ridge Colony). The approval officer did not take into consideration the scale of this project when making this decision. The future plans of this site must be seriously considered for the well being of all affected parties and nearby neighbours. We know, when we look at the maps drawn up by Wood, that this application is the start of a large project for the Ivy Ridge Hutterite Colony. The application should therefore be reviewed as a complete colony.

3. Reasons you are Affected by the Decision

(ALL PARTIES MUST COMPLETE THIS SECTION)

In order to support your reasons for requesting a Board review, 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:

As stated above, there would be significant negative impact to our quality of life and well-being if the approval officer's decision stands. Additionally, the generational wealth of our family (who has been farming this land for over 100 years) is at stake if this application is approved. -

4. Action Requested

(ALL PARTIES MUST COMPLETE THIS SECTION)

I would like the Board to take the following actions with 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:

We believe that this decision should be reversed because the approval officer has not done there due diligence in assessing the actual and implied scope of the application. In addition, we have already advised the NRCB of a superior, alternate solution. The alternate solution is ideal for several reasons, most significantly, there is better outcomes for the MD of Willow Creek Roads and much less effect to the valuable water supply in our area.

If the Board decides to grant a review of the approval officer's decision (*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. The Board cannot make amendments unless it first decides to grant a review of the approval officer's decision. Are there any new conditions, or amendments to existing conditions, that you would like the Board to consider?

I would like the board to consider the fact that this project has no water source and we strongly believe that the application for water should be considered first.

5. Contact Information

(ALL PARTIES MUST COMPLETE THIS SECTION)

Contact information of person(s) requesting the review:

Name: Thomas & Loretta Berger of Berger Land & Cattle Co. Ltd.

Address in Alberta:

Nanton, Alberta
T0L 1R0

Legal Land Description: SE 32-15-26 W4M

Phone Number:

Fax Number:

E-Mail Address:

Signature: _____ Date: _____

This form must be received by the deadline specified in the approval officer's decision letter or your request will not be considered.

If you will be represented by legal counsel or another party, provide their contact information. Correspondence from the Board will be directed to that person.

Name:

Address:

Phone Number:

Fax Number:

E-Mail Address:

**When you have completed your request form email it,
along with any supporting documents, to:**

Laura Friend
Manager, Board Reviews
Natural Resources Conservation Board

Phone: 403-297-8269

Email: laura.friend@nrcb.ca

Requests for Board Review (RFRs) are considered public documents. Your request will be provided to all directly affected parties and will be posted on the NRCB website.

For more assistance, please call Laura Friend, Manager, Board Reviews at 403-297-8269.

Thomas & Loretta Berger
Berger Land & Cattle Co. Ltd.

██████████
Nanton, Alberta T0L 1R0

Email: ██████████
██████████

June 8, 2022

Natural Resources Conservation Board
Agriculture Center, 100, 5401 - 1 Avenue South
Lethbridge, Alberta T1J 4V6
403-381-5166

Attention: Julie Wright
Approval Officer
Application LA22029 - Courtesy Letter
Hutterian Brethren of Parkland
SW 32-15-26 W4M

Re: Expression of Concern

Julie,

Please accept this letter as our official written statement expressing concerns related to NRCB Application LA22029 (Hutterian Brethren of Parkland). As a directly affected party we own the land adjacent to the proposed Confined Feeding Operation (CFO) at SE ¼ 32-15-26-W4M, all of 33-15-26-W4M, and NW ¼ 34-15-26-W4M. A summary of our concerns are listed below.

1. Negative impact on our Quality of Life
2. Decrease in Land Values
3. Negative impact on nearby Water Quality
4. Increased demands on nearby Water Quantity
5. Adverse effect on Twin Valley Reservoir Recreation Area
6. Contamination of our adjacent Licensed Dam
7. Threat of contaminated runoff
8. Negative impact on the Quality of MD Roads
9. Increase of Traffic
10. Increase of Odour
11. Increase of Noise
12. Increase in Harmful Insect Population

13. Changed zoning from Agriculture to Village Status

14. Increase threat to the Control of Avian influenza

In the following paragraphs we will elaborate on the aforementioned concerns.

This application proposes a CFO involving 150 Milking Cows, 18,000 Chickens (Layer), 24,000 Chickens (pullets), 1,200 Ducks and 300 Geese. As people who have been in the livestock industry for 35 years we have first hand knowledge of the operational needs and environmental impact of running a working farm. With that said, we are aware that an operation of this size would significantly contribute to the stress and impact on surrounding water, increased waste, pollution, decreased air quality, and general harms to the environment as a whole. Also, the roads surrounding the proposed CFO site are not constructed to withstand the heavy and frequent traffic required for an operation of this size. Also, we have a thorough appreciation for the importance of reducing biosecurity risks to prevent animal illness. With the current Avian Influenza outbreak impacting our local and migratory bird populations we have reason to believe a sizable poultry operation, like the one proposed, poses a significant health risk to our family and farming operation.

The location of the proposed CFO is currently zoned for agriculture purposes and is not a suitable area for a small village, such as a Hutterite Colony. We realize this application is not explicitly intended for a Hutterite Colony, however, as stated in their application (LA22029), *Part 2 - Technical Requirements*, page 5 of 14 (i.e. Maps drawn up by Wood Environmental and Infrastructure Solutions out of Lethbridge), it clearly names the project as, "Ivy Ridge Colony". As well, on page 6 of 14 of the same document, there is space outlined for a Human waste lagoon. If this application is only for a CFO we struggle to see the relevance of a human waste lagoon of sizable proportions. For these two reasons, we believe there is the intention of a future Hutterite Colony development (i.e. the Ivy Ridge Colony).

If, in fact, this application is for the Ivy Ridge Hutterite Colony there are other conditions that must be met as per the MD of Willow Creek requirements, such as; a detailed plan of the site, a water license approval, a water well quality analysis, a hydro-geological and draw-down testing of wells, an approved stormwater management plan, a geotechnical report for the aquifer, a subdivision and development permit for the residences and a report that shows it has met all the Alberta Health Services requirements and setback from neighbours and roads.

We are very concerned about many other things that come along with living next to a Hutterite Colony (i.e. small village) that's operating an industrial sized CFO of poultry and cattle. These concerns include the increase of odour, increase in noise, increase of insects from the lagoons, and increase of dust impacting air quality. Most importantly, we are extremely concerned about the potential contamination and negative affect to the surface and ground water quality and quantity. We know the surrounding area has very limited water supply as it stands today which is why our land has a licensed dam to collect water throughout the year. As well, we have great concerns that the water wells in the area would not be adequate to support such a large population of animals and humans.

The Twin Valley Reservoir, which is located within 3 kilometers of the proposed CFO site, is a valuable water source and recreation area that has contributed greatly to the local area. The threat of contaminated runoff from manure being applied to the land is a huge concern to the future quality of the lake and aquatic life. Not only would this proposed CFO adversely affect the reservoir, it is likely to cause irreversible damage to the lake and surrounding area.

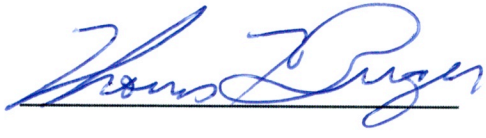
As mentioned earlier, we currently have a licensed dam on the adjacent land to the proposed site and are concerned the water in the dam would be at risk due to the fact that the topography of the land slopes towards the dam. With over 100 years of experience with this land we can assure you that spring runoff and heavy rainfall events have proven the potential for contamination. We have been advised that representatives from the NRCB, the M.D. of Willow Creek, and Wood Environment and Infrastructure Solutions have been out to the site. We would welcome the chance to have input in this matter that so closely affects us. We have valuable insight into when and how the water flows in this area. Over one hundred and ten years of history and examples.

Lastly, we do not feel that this site is the best place for the Ivy Ridge Colony for reasons listed above, and would like to suggest an alternative location. We understand the desire of the Hutterian Brethren of Parkland to split and establish a new colony. We believe there is a more desirable location that could be in the best interest of The Hutterite Brethren of Parkland, the M.D. of Willow Creek, and surrounding landowners. We are aware the Hutterian Brethren of Parkland have considerable land holdings on the South and North side of Highway 529. We believe a better, alternative site would be located directly south of the proposed site as shown in Appendix A]. This alternative seems much better suited to accommodate heavy traffic, village status, and poses a much smaller risk of impacting the water quality in the area.

In conclusion, it should be mentioned that after personal consultation with seven residents within 5 kms of the proposed CFO, not a single one said they would purchase the land they are currently on if the proposed CFO (or colony) already existed. Our family has farmed this land since 1912; 110 years. The proposed CFO is threatening the value in our land and the Quality of Life for where we call home. We are stewards of this land and take great pride in having called this land our home for many years. Our son and his family of 5, reside just outside of the Agriculture Operation Practices Act (AOPA)'s "affected party" distance from this proposed CFO and they too will be impacted as future generations continue to farm.

Your serious consideration of our concerns in regards to this application is appreciated. We will be forwarding a copy of this letter to our development office of the M.D. of Willow, Cindy Chisholm; our local MLA, Roger Reid; and our MP, John Barlow.

Thank you in advance for your consideration,



Thomas Berger



Loretta Berger

Appendix A - Alternative Location Recommendation

