

No. 1 - REQUEST FOR REVIEW: LA23003 / JD Feeders

Filed By:

**Cody Metheral on behalf of
Joshua and Deborah Denbok**

Deadline for RFRs:

October 30, 2023

Date RFR received:

October 30, 2023

Status of Party as per Decision Summary:

Directly Affected Party (operator)

October 30, 2023

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

Attention: Ms. Friend,

Re: Decision LA23003 – Request for Board Review
Josh and Deborah Denbok

Mr. Cody Metheral, P.Eng. of Linkage Ag Solutions (LAS) has been retained by the Denboks to support their request for a Natural Resources Conservation Board (NRCB) Board review of approval officer (AO) decision LA23003. It is understood that Cailyn Wilson, Approval Officer (AO) with the NRCB, has denied the application for a confined feeding operation (CFO), as indicated in the Decision Summary LA23003 dated October 6, 2023.

Pursuant to Section 20(5) of the Agricultural Operations Practices Act (AOPA), this submission constitutes a formal request for a Board Review of decision LA23003. Under Section 25(1), the application for review must provide reasons to the NRCB Board as to why a review of an Approval Officers decision is warranted.

In Summary

The AO has indicated that the Denbok application does not meet Lethbridge County's Land Use Planning provisions; specifically, that the proposed and existing beef pens are within existing internal property line setbacks, and therefore the AO must deny the application under Section 20 (1) of the Agricultural Operations Practices Act (AOPA).

The Denbok's understood the AO must consider Lethbridge County's municipal development plan (MDP) and land use bylaws (LUB), however, they proposed adding a permit condition regarding the consolidation of the two properties, which would have removed the property line setback concerns.

Throughout the application process, the NRCB Field Staff indicated that the application would be denied due to the distance of the facility to the Mennonite church. The Denbok's believed this was the main barrier to receiving their permit, and were reluctant to consolidate their properties, should the application be denied. The Denbok's provided the AO with justification as to why consolidation of the property, prior to the AO issuing the decision, was a risk to their operation.

Decision LA23003 – Request for Board Review

Josh and Deborah Denbok

It is understood the AO denied the application citing an inconsistency with a Lethbridge County land use planning provision. The NRCB Board is asked to grant a review of the decision in order to address the following points:

- 1) Is a property line setback a proper planning provision that an AO must consider under AOPA section 20(1) **or** is it a test or condition related to the construction of a CFO site and therefore should not be considered by the AO under AOPA 20(1.1)?
- 2) Does the definition and intent of Lethbridge County's Land Use By-law (RA 4.1 – Side Yards) clearly suggest this provision must be considered by the AO as indicated in the Municipal Development Plan?
- 3) Did the written submission by Denboks (to consolidate the property) address the requirements for LUB RA 4.1 – Side Yards?
- 4) If Lethbridge County's Land Use By-law (RA 4.1 – Side Yards) is considered an appropriate land use provision, then the Board is asked to grant a review of the decision in order to consider why the Denboks choose to proceed with the application, while not meeting the County requirements

Review Discussion Points

- 1) Is a property line setback a proper planning provision that an AO must consider under AOPA section 20(1) **or** is it a test or condition related to the construction of a CFO site and therefore should not be considered by the AO under AOPA section 20(1.1)?

The AO has determined that the MDP Section 3.7 requiring the location of a CFO to be on a parcel size greater than 80 acres to be a test related to the site and therefore must not be considered under AOPA Section 20(1.1).

Similar to the parcel size determination, a property line setback is a test related to the construction of a CFO on a parcel of land. It is a point in time measurement that follows a logical expression resulting in 'yes' or 'no'. Therefore, it's possible to consider LUB RA 4.1 as a test related to the construction of the CFO and should not have been considered under AOPA section 20(1.1).

Should the Board agree property line setbacks are not to be considered by the AO, then the application is consistent with AOPA section 20(1). For terms and conditions deemed important by the Municipality, it is still possible to add them to the permit under AOPA, section 20(3)(b). In this approach, the Board may reduce the chance for further Board reviews related to LUB provisions

- 2) Does the definition and intent of Lethbridge County's Land Use By-law (RA 4.1 – Side Yards) clearly suggest this provision must be considered by the AO as indicated in the Municipal Development Plan?

The following three key paragraphs have been collected for comparison and comment:

- Lethbridge County's MDP (Section 3.6) is specific toward which facilities the AO should consider. The MDP Section 3.6 states (Bylaw 22-001, page 12): *No part of a CFO building, structure, corrals, compost area or stockpile is to be located within the established property line and public roadway setbacks, including provincial highways, as outlined in the municipal Land Use Bylaw.*
- Lethbridge County's LUB (RA Section 6.5 - MINIMUM SETBACKS FOR USES INVOLVING LIVESTOCK OR ANIMALS) states: *A confined feeding or intensive livestock operation shall be sited in consideration of prohibited areas and be able to meet required development setbacks in accordance with the Lethbridge County Municipal Development Plan.*

While these sections from the MDP and LUB reference to each other, there are no specific property line setbacks noted (for any of the mentioned livestock facilities) in either of these documents.

- Lethbridge County LUB RA 4.1 – Side Yards – states: *No building, structure (excluding fencing) or dugout banks shall be within 6.1 metres (20 ft.) of a property line not fronting on or adjacent to a municipal roadway.*

The Denbok's application does not include any buildings or structures (without fences). The livestock shelter is outside of the setback (approximately 15m from the property line, and corrals are exempt because they are fences. Finally, consideration for the dugout banks is not required because it was not included in the MDP criteria. Based on the definition of RA - Side Yard (LUB Part 8, page 28), this LUB is intended for yard subdivisions, not livestock facilities, and is not clearly defined as a provision for consideration by the AO.

- 3) Did the written submission by Denboks (to consolidate the property) address the requirements for LUB RA 4.1 – Side Yards?

The Denbok's provided the NRCB with a response to the statement of concerns identified by the affected parties, including a commitment to consolidate their properties to address the LUB setback issue.

The Board is asked to comment on the flexibility of the AO to consider submission that make future commitments. Inflexible government process, that can not accommodate solutions that meet the regulations, is not likely the intent of AOPA.

- 4) If Lethbridge County's Land Use By-law (RA 4.1 – Side Yards) is considered an appropriate land use provision, then the Board is asked to grant a review of the decision in order to consider why the Denboks choose to proceed with the application, while not meeting the County requirements.

A summary of the key events includes:

- Initial Approval Officer, Carian Weisbach (July, 2022 – May, 2023). On-site July, 2022 meeting to discuss the possibility of converting the cow-calf facility into feedlot pens and construct additional feeding corrals. The proximity of the feedlot pens to the Mennonite Church was discussed. Concerns regarding MDS to the church identified (see Appendix below)
- September, 2022 emails (see Appendix below): The email discussion included two pen options (1000 hd and 5000 hd beef finishers). Ultimately, a 1000 hd facility was proposed close to the yard. AO was asked if effects on church would be an issue. Only request that applicant re-submit a new application (Part 1) with updated animal numbers.
- Based on feedback from the AO, the producer proceeded with a geotechnical investigation near the existing livestock corrals.
- New Approval Officer, Cailyn Wilson (May – Oct, 2023). NRCB Office meeting on May 8, 2023 to review application. AO indicated application would be denied based on proximity to the church. AO provided MDS calculation and land zoning information.
- May 12, 2023 emails (see Appendix below). Summary email based on discussion with AO after May 8, 2023 meeting. AO denies making comments on church and MDS. Request to meeting with NRCB field staff to further discuss MDS also denied.
- Josh Denbok met with Mennonite Church managers to discuss application and Effects on Community letter. Collected signatures and provided letter to NRCB.
- Statements of concern (SOC) provided by AO. Lethbridge County's setback requirements identified.
- September 12, 2023 - NRCB Field Staff Meeting (Andy Cumming, Cailyn Wilson) at Denbok site. Reviewed SOC submission with NRCB staff. Regarding the church letter, both AOs questioned signing authority of Mennonite members to represent the church. Both AOs re-iterated MDS to the church was an issue. Andy Cumming provided Denboks with ideas and options should the application be denied.
- September 15, 2023 emails (see Appendix below). NRCB provided response to SOC. Denbok committed to consolidation property if granted approval.
- September, 2023 – Josh Denbok call to AO to discuss signing authority letter. AO suggested new letter was no longer needed.

Risk and cost associated with consolidating the property

- The Denbok's determined the consolidation application cost to be \$1,200.
- The Denbok's determined the subdivision cost (to re-subdivide the property) to be \$6,000

The Denbok's believe it is important that the Board understand their efforts during the NRCB application process. Their main challenge focused on NRCB Field Staff's conflicting messages and comment that the application would be denied due to MDS to the church. Based on the communications from the NRCB, the Denboks were reluctant to proceed with the consolidation process without better understanding how the church would be addressed. The Denboks committed to addressing the property line issue should the application be approved.

Decision LA23003 – Request for Board Review

Josh and Deborah Denbok

It is understood the Board is not bound to follow Lethbridge County's MDP and can consider other factors related to an AO decision. The use of this authority is requested due to Denbok's commitment to the NRCB application process. The application was deemed complete, and meets all technical requirements outlined in AOPA and the Denboks would have consolidated their property earlier had the AO provided proper clarification that MDS is not measured to a church.

In Conclusion

The Board is asked to grant a review of LA23003 in order to discuss key issues associated with the Approval Officers decision. Specifically, the Board is asked to determine:

- 1) Is a property line setback a proper planning provision that an AO must consider under AOPA section 20(1) **or** is it a test or condition related to the construction of a CFO site and therefore should not be considered by the AO under AOPA 20(1.1)?
- 2) Does the definition and intent of Lethbridge County's Land Use By-law (RA 4.1 – Side Yards) clearly suggest this provision must be considered by the AO as indicated in the Municipal Development Plan?
- 3) Did the written submission by Denboks (to consolidate the property) address the requirements for LUB RA 4.1 – Side Yards?
- 4) If Lethbridge County's Land Use By-law (RA 4.1 – Side Yards) is considered an appropriate land use provision, then the Board is asked to grant a review of the decision in order to consider why the Denboks choose to proceed with the application, while not meeting the County requirements

Ultimately, the Board is asked to review this decision and use its authority to approve the application.

Respectfully Submitted,



Cody Metheral, P. Eng.

Agricultural Engineer
Linkage Ag Solutions
(403) 635-6131

Attachments: Appendix A

Josh and Deborah Denbok

Oct 24, 2024

RE: Natural Resources Conservation Board Request for Board Review – LA23003
Producer Testimony, Timeline Summary, and Expense and Lost Revenue

The Denbok's would provide to the NRCB Board the following information to help better understand the key events and interactions with NRCB Field Staff prior to the Approval Officer (AO) decision LA23003.

Background

Comments from Josh and Deborah Interview (October 24, 2023)

We bought the property in August, 2018. The house, yard and livestock corral area were used by the previous owner. We had to clean up some old fencelines around the pasture and rebuild some corrals and remove old lumber and junk from the yard. Spread old manure in the field.

We also put down some concrete pads and rebuild waterbowl drinkers and installed portable bunks in the old corral area. The old corrals and season feeding and bedding area was used for the cow-calf herd and to background some light calves. We did this for several years until Karl Ivarson arrived to say we had been reported for un-authorized construction of a confined feeding operation.

Timeline of NRCB Engagement Activities

July 15, 2022 – Karl Ivarson issued Compliance Directive on July 15, 2022.

July 22, 2022 – Carina Weisbach came for a site visit. Discussed permitting process and how to proceed. Discussed location of the Mennoite Church and yard. Suggested MDS waiver was required

July 26, 2022 – Carina Weisbach email. Discussed NRCB application process. Provided two MDS and landbase calculations. Noted distance from the school.

August 22, 2022 – Zoom meeting with Carina Weisbach, Josh Denbok, Cody Metheral. Discussed concerns, which were identified by Carina Weisbach during her summer site visit. Her was concerned about effects on the community and proximity to the church. We discussed a couple options during a zoom call in Aug (1000 hd and 5000 hd). She suggested the smaller expansion of 1000 hd would be acceptable next to the yard, but 5000 hd would likely have to be placed to meet MDS requirements (category 1) from the school to the new pens.

September 10-20, 2022 – Cody Metheral email correspondence with Carina. Josh conferred with Carina (via email), that he would proceed with the 1000 hd application and asked for feedback. Her only concern identified in her email was to include all animal numbers (including calf hutches) in the application.

January 11, 2023 – Chilako Drilling installed monitoring wells.

Jan 11, 2023 – Karl Ivarson – Inspection report

January 12 (17 double check emails for date) , 2023 – Karl Ivarson (email) – submitted Part 1 for 1000 hd.

Jan 18, 2023 – Karl Ivarson – Inspection report

May 3, 2023 – Morgan Schindel – Inspection report – No Compliance Issues identified.

May 8, 2023 – Carina Weisbach – phone call with Carina to notify Josh that new AO is Cailyn

May 8, 2023 – NRCB office meeting with Cailyn and Josh.

May 8 to May 12 email – Cailyn re: denial based on effect on community.

July, 2023 – Effects on Community Letter

September 12, 2023 – Site meeting with Cody Metheral, Andy Cumming, Cailyn Wilson. Discussed prepared notes on deficiency email.

Sept 15, 2023 – Cody Metheral – response to SOC email to Cailyn. Topics included Effects on Community Letter and Caretaker Confirmation Letter (signing authority for caretakers). Liner modifications and construction timeline for the fall. Verbal request to add Consolidation of property to address property line issue and verbal request for added

September, 2023 – Call with Cailyn to discuss confirmation letter that to confirm caretakers from Mennonite Church. Cailyn indicated that the confirmation letter was no longer needed.

Budget

Chilako Drilling = \$3,072.72

WSP Engineering Report = \$1,738.28

NRCB Application Support = \$2,500

NRCB Follow-up issues (Jan-Sept) = \$2,800 – Effects on Community Letter, SOC response, Site Visit

NRCB RFR Support = \$10,000

County Consolidation Application = \$1,200

County Subdivision Application = \$6,000

Construction Delays

Increase in Liner Material = \$20,000

Inflation and Rate Increase @ 5% = \$1,000

Increase in Construction Material

Hutches (\$900/unit x 500 calves / 2 calves/unit) = \$225,000

Group Pens (\$2000/unit x 700 calves / 5 calves/unit) = \$280,000

Concrete, Steel, Lumber, Waterbowl (estimate) = \$300,000

Inflation and Rate Increase @ 5% = \$40,000

Increase in Equipment Rate

Earthworks Estimate (Dutchie Dirt Works)

Hutch Area, Catch Basin, Existing Corrals = \$40,000

Inflation and Rate Increase @ 5% = \$2,000

Lost Income

Custom Feeding (January - June, 2024)

Income (\$0.60/day/calf x 3000 head x 150 days) = @270,000

Fw: NRCB permit application

From: Josh denBok [REDACTED] a>

Sent: Tue, Oct 24, 2023 at 2:17 pm

To: cody@linkage.ag

Sent from Yahoo Mail on Android

----- Forwarded message -----

From: "Carina Weisbach" <Carina.Weisbach@nrcb.ca>**To:** "Josh denBok" <[REDACTED]>**Cc:****Sent:** Tue., 26 Jul. 2022 at 11:10 a.m.**Subject:** NRCB permit application

HI Josh

Our application forms can be found on our website. You will need Part 1 to start with. Followed by Part 2 Technical requirements and Part 2 Solid manure storage (either natural occurring protective layer – page 1, or compacted clay liner – page 2+3) and Part 2 Runoff control catch basin (also page 1 or page 2-3 – depending on liner type)

I calculated the minimum distance separation (MDS) you would need for 3,300 finisher cattle: 588 m and the minimum available land base for manure spreading is 505 acres irrigated land. For 2000 calves and 2000 finishers, the MDS is 539 m and you will need 380 acres irrigated land. The current corrals are 156 m away from the school.

You can use google earth to measure the distances and see where this takes you. Please remember, there are setbacks to property lines and road allowances. You will also need a catch basin for the feedlot for runoff control. The size of the catch basin depends on the size of the contributing area which at times can be larger than the actual pen area.

The most important thing is to figure out how many animals you would like to confine. The next thing is to find an appropriate location.

Hope that helps for now.

Carina

Carina Weisbach PhD
Approval Officer

Natural Resources Conservation Board
Southern Region
#100, 5401 1st Avenue South
Lethbridge, Alberta
T1J 4V6
Phone: 403-892 0408

This communication, including any attachments, is intended for the recipient to whom it is addressed, and may contain confidential, personal, or privileged information. If you are not the intended recipient of this communication, please contact the sender immediately and do not copy, distribute, or take any action in reliance on it. Any communication received in error, or subsequent reply, should be double-deleted or destroyed without making a copy.

RE: Denbok Application

From: Carina Weisbach <Carina.Weisbach@nrcb.ca>

Sent: Mon, Oct 17, 2022 at 2:03 pm

To: cody@linkage.ag

Cc: Josh denBok

Good morning Cody

Could you please ask Josh to fill out a new Part 1 with all the animal numbers so we can start the process. I would suggest to include the calves. This way he can operate as he wants without restrictions (moving the calf hutches ...)

Thank you. Please don't hesitate to call should you have questions – same to you Josh.

Carina

Carina Weisbach PhD
Approval Officer

Natural Resources Conservation Board
Southern Region
#100, 5401 1st Avenue South
Lethbridge, Alberta
T1J 4V6
Phone: 403-892 0408

This communication, including any attachments, is intended for the recipient to whom it is addressed, and may contain confidential, personal, or privileged information. If you are not the intended recipient of this communication, please contact the sender immediately and do not copy, distribute, or take any action in reliance on it. Any communication received in error, or subsequent reply, should be double-deleted or destroyed without making a copy.

From: cody@linkage.ag <cody@linkage.ag>

Sent: October 13, 2022 9:17 PM

To: Carina Weisbach <Carina.Weisbach@nrcb.ca>

Cc: [REDACTED]

Subject: RE: Denbok Application

Hi Carina,

I understand that Josh Denbok will be applying for the following livestock numbers:

1000 hd beef finisher in 4 pens (feedlot corrals).

In addition, there will be non-permit structures:

450 hd calves in portable hutches (west of feedlot corrals)

270 hd calves in portable shelters (west of feedlot corrals)

Your thoughts would be greatly appreciated. The Denbok's would like to proceed with the soil investigation if there are no issues with the proposed livestock numbers.

Regards,
Cody

-----Original Message-----

From: "Carina Weisbach" <Carina.Weisbach@nrcb.ca>

Sent: Wednesday, October 12, 2022 1:42pm

To: "cody@linkage.ag" <cody@linkage.ag>, [REDACTED]

Subject: RE: Denbok Application

Hi Cody

What numbers are you thinking about (finisher and calves included)?

Thank you

Carina

Carina Weisbach PhD

Approval Officer

Natural Resources Conservation Board

Southern Region

#100, 5401 1st Avenue South

Lethbridge, Alberta

T1J 4V6

Phone: 403-892 0408

This communication, including any attachments, is intended for the recipient to whom it is addressed, and may contain confidential, personal, or privileged information. If you are not the intended recipient of this communication, please contact the sender immediately and do not copy, distribute, or take any action in reliance on it. Any communication received in error, or subsequent reply, should be double-deleted or destroyed without making a copy.

From: cody@linkage.ag <cody@linkage.ag>

Sent: October 7, 2022 3:21 PM

To: Carina Weisbach <Carina.Weisbach@nrcb.ca>; [REDACTED]

Subject: Denbok Application

Hi Carina,

Josh Denbok requested that I send you a rough outline of where his proposed feedlot could be placed. The attached drawing puts the expansion North of the existing yard. The layout is a 2 x 2 row of pens (250 hd beef finisher per pen). He is uncertain of road and cattle alley orientation at this time, however, the processing area and barn will likely be south of the pens

Based on the current footprint, the catch basin is sized for 30m x 40m x 3m deep. These dimensions may change based on field conditions (ie depth to water table).

If this location is acceptable, we will proceed with the soils investigation. Your thoughts are greatly appreciated.

Regards,

Cody

RE: NRCB Application LA23003

From: cody@linkage.ag <cody@linkage.ag>

Sent: Wed, May 10, 2023 at 3:44 pm

To: Cailyn Wilson

Cc: [REDACTED] Andy Cumming, Sylvia Kaminski

Hi Cailyn

I have been working to update the site and area maps as you have identified. Additionally, Josh would like to update the water license page - it would be more appropriate to go with option 2 - good catch!

While your formal decision has not been issued, we disagree with your position that this application would have to be denied based on the effects on the community (proximity to a church). We believe the application meets AOPA requirements and the growth of agricultural operations have a positive impact on the community. We would like the opportunity to discuss this further in a more structured dispute resolution process.

As you are aware, the application was discussed with Carina Weisbach from June to Sept of 2022. After sever phone calls, emails, and an on-line zoom meeting, Carina agreed that based on the animal numbers submitted, effects on the community would not be an issue. The location of the soil sampling, the engineer report, application, and animal numbers were based on feedback from Carina.

NRCB's Operational Policy 2016-4: Resolving Disputed Permit Information Requirements Between the Applicant and Approval Officer provides a process to discuss this issue. Please accept this written request to initiate a dispute resolution meeting. A moderator (of your choosing) would be appreciated. Due to Carina's past involvement with the application, it would be appropriate to hear her thoughts regarding effects on the community too.

A meeting on Monday, May 15, 2023 at 1pm at the NRCB office works for us.

Regards,
Cody

To confirm, I have requested a meeting

-----Original Message-----

From: "Cailyn Wilson" <Cailyn.Wilson@nrcb.ca>

Sent: Tuesday, May 9, 2023 1:23pm

To: [REDACTED] "cody@linkage.ag" <cody@linkage.ag>

Cc: "Andy Cumming" <Andy.Cumming@nrcb.ca>, "Sylvia Kaminski" <Sylvia.Kaminski@nrcb.ca>

Subject: NRCB Application LA23003

Josh & Cody,

Thank you for meeting yesterday to discuss your application LA23003. During our meeting Cody mentioned that he had questions or concerns regarding the NRCB permit applications process and asked for a meeting with my Director to discuss these. It would be useful if these questions or concerns could be clearly articulated before a meeting is set up. We will therefore wait to receive your list of questions or concerns before trying to arrange a meeting.

At our meeting we also discussed several potential next steps for your application as well as the list of identified deficiencies which need to be addressed before we can determine your application to be complete. Please let me know which of the potential next steps you would like to move forward with. Additionally, please provide the information to address the deficiencies to me by no later than July 17, 2023. If you are wanting to have this deadline extended, please send me a written extension request, including your reasons for seeking the extension, prior to July 17, 2023.

Regards,
Cailyn

Cailyn Wilson, PAg

Approval Officer

Natural Resources Conservation Board

100, 5401 1st Ave South

Lethbridge, AB T1J 4V6

Phone: 403-388-3168

cailyn.wilson@nrcb.ca

website: www.nrcb.ca

This communication, including any attachments, is intended for the recipient to whom it is addressed, and may contain confidential, personal, or privileged information. If you are not the intended recipient of this communication, please contact the sender immediately and do not copy, distribute, or take any action in reliance on it. Any communication received in error, or subsequent reply, should be double-deleted or destroyed without making a copy.

RE: LA23003 - NRCB Resolving Disputed Permit Information Requirements Policy

From: cody@linkage.ag <cody@linkage.ag>

Sent: Fri, May 12, 2023 at 12:57 pm

To: Cailyn Wilson

Cc: [REDACTED], Sylvia Kaminski

Hi Cailyn

I would respond to a couple of your points below, and again, ask for a meeting on Monday, May 15, 2023 at 1pm in order to further discuss this application. We would like Andy and Carina to attend this discussion too.

Specifically, we would like to discuss:

1) It is understood that you have not yet issued a formal decision on this application. However, Josh and I will attest that, within the first couple of minutes of our meeting, you clearly indicated that the application (as submitted) would be denied due to the proximity to the church/school. It's great to hear that you are willing to discuss this further. I'm not familiar with NRCB policy that provides an AO with guidance as to how effects on the community is judged (positively or negatively). We would like to better understand how an AO (and NRCB Policy) addresses this topic. Perhaps there is something that Josh can provide to support his application prior to deeming the application complete?

2) This site and application (in general) has been reviewed and discussed several times with Carina Weisbach. Extensive time, effort and expenses have been spent based on Carina's feedback and guidance (which included consideration for effects on community). Josh and I would like the opportunity to discuss the discrepancy between you and Carina on the effects on community issue. Perhaps, in order to maintain consistency, the application should be returned to Carina Weisbach to complete her review.

3) To confirm, the deficiencies that were identified include updated site and area maps, modification to the water license page (option 2) and printed name on page 1? You summarized your comments on the page at you provided me. Can you confirm if there are any additional deficiencies?

4) You suggested that the application could be approved if the site was moved to meet MDS setback (category 1) from the pens to the church/school. I am not aware of AOPA legislation that suggests MDS is an appropriate tool to address effects on the community issues. MDS is measured to a residence only. Could you please provide the legislation or reasoning behind your recommendation. This would be critical information in order for Josh have the confidence to continue to invest any additional time, effort and funds toward his expansion.

Thanks,

Regards,
Cody

-----Original Message-----

From: "Cailyn Wilson" <Cailyn.Wilson@nrcb.ca>

Sent: Friday, May 12, 2023 10:18am

To: "cody@linkage.ag" <cody@linkage.ag>

Cc: [REDACTED] "Sylvia Kaminski" <Sylvia.Kaminski@nrcb.ca>

Subject: LA23003 - NRCB Resolving Disputed Permit Information Requirements Policy

Hello Cody,

I am responding to the email you sent on May 10th at 1:44 p.m. In your email you noted that you are working with Mr. Denbok (the applicant, copied here) to address deficiencies in application LA23003. These deficiencies were identified to you and Mr. Denbok at our meeting on Monday. You also took issue with what

you saw as my position on the nearby school. On that point, you asked me to use the NRCB's Resolving Disputed Permit Information Requirements Policy, and for a meeting next week.

You will recall throughout the course of that meeting, I reminded you both that the proposed site for the confined feeding operation is very close to a school. I may have left the impression that I had already decided that proximity to the school would result in a denial due to effects on the community, which is one of the factors I am required to consider under AOPA.

I want to be clear that I have not made that decision yet, or any decision on the permit, except for the deficiencies we discussed. I felt it would be helpful to give you a courtesy heads-up that the proximity of the school might arise as an impediment in this permit application, so you could explore options. This application is still in early stages. I have not yet deemed it complete, nor has it gone to public notice.

I cannot make a decision on this permit until I have all the relevant information before me. I expect to eventually hear from directly affected parties, who may have information relating to the application. Directly affected parties may include neighbours, but certainly will include Lethbridge County as well as Mr. Denbok, the applicant. Mr. Denbok will get an opportunity to make a submission about effects on the community.

You have asked me to engage the NRCB's Resolving Disputed Permit Information Requirements Policy. I note that this Policy "provides processes to resolve disputes about whether the application information is sufficient" (p 1). This Policy applies when there is a dispute over information that an approval officer has asked for, and the applicant has declined to provide. I don't recall a refusal to provide information I've asked for. As such, I do not see how this Policy applies.

Having said that, I welcome open and respectful discussion throughout the application process. I am open to meeting with Mr. Denbok and yourself. However, I would want to know (in advance) the agenda for the meeting, and that it is not going to be a repeat of Monday's meeting. At that point, I can try to arrange a meeting at a time the works for everyone.

Regards,
Cailyn

Cailyn Wilson, PAg

Approval Officer

Natural Resources Conservation Board

100, 5401 1st Ave South

Lethbridge, AB T1J 4V6

Phone: 403-388-3168

cailyn.wilson@nrcb.ca

website: www.nrcb.ca

This communication, including any attachments, is intended for the recipient to whom it is addressed, and may contain confidential, personal, or privileged information. If you are not the intended recipient of this communication, please contact the sender immediately and do not copy, distribute, or take any action in reliance on it. Any communication received in error, or subsequent reply, should be double-deleted or destroyed without making a copy.

RE: FW: NRCB Application - LA23003 Additional comments

From: cody@linkage.ag <cody@linkage.ag>

Sent: Fri, Sep 15, 2023 at 10:39 am

To: Cailyn Wilson

Cc: [REDACTED]

[image001.png](#) (27.1 KB)

Images not displayed.

[SHOW IMAGES](#)| [ALWAYS SHOW IMAGES FROM THIS SENDER](#)

Hi Cailyn

Thank you for taking the time to discuss the statements of concern received for application LA23003. As mentioned, I have had the opportunity to review the submission with Josh Denbok and would provide the following response:

1) Water Availability

Mr. Denbok is aware that he must secure water for his livestock operation and has contacted LNID on this issue. If approved, he will be purchasing water through LNID for use at his livestock operation.

2) Property Lines and Parcel Consolidation

Mr. Denbok has reviewed the County's requirements (Section 3.6 and 3.7) for property line setbacks and parcel consolidation. The County has identified that consolidating his properties will address these requirements. He understands that his property must be in compliance with all County and AOPA requirements.

It is understood that the NRCB must consider, and can adopt, requirements by the County. During our visit, Mr. Cumming stated that past NRCB decisions have included condition identified by Municipalities. Therefore, Mr. Denbok is prepared to accept a NRCB permit condition requiring him to consolidate his property in order to satisfy the county's bylaw requirements. He will contacted the County and will ensure the property is consolidated prior to the NRCB site inspection and populating the feedlot.

Mr Denbok has concerns that consolidating the two parcels prior to receiving a NRCB permit would put him in a financial and operational disadvantage. Should the application be denied, then Mr. Denbok would be required to re-subdivide the property (additional cost, time and stress) in order to return to his current arrangement. Mr. Denbok would like to initiate the consolidation process and feedlot construction this fall.

3) MDS to school, setback for Rural Agricultural District

AOPA does not stipulate setback distances from a confined feeding operation to a school or Rural Agricultural District.

4) Effects on the Community

It is understood the County approved the location and construction of the church/school and should have considered the proximity of the church buildings to the existing livestock corrals, shop and agricultural activities. While the County expresses concern about the expansion, they have not explain why this concern is warranted.

Additionally, the Effects on Community letter and declaration confirms that the leaders of the church/school do not believe their facility will be negatively impacted by this expansion. It is understood you have already contacted the church members to discuss this letter.

I trust this information helps to addressed the concerns from the community. Your prompt decision on this application would be greatly appreciated.

Regards,

Cody Metheral

Linkage Ag Solutions

-----Original Message-----

From: "Cailyn Wilson" <Cailyn.Wilson@nrcb.ca>

Sent: Tuesday, September 12, 2023 3:46pm

To: [REDACTED] cody@linkage.ag" <cody@linkage.ag>

Cc: "Sylvia Kaminski" <Sylvia.Kaminski@nrcb.ca>

Subject: FW: NRCB Application - LA23003 Additional comments

Hi Cody, Josh,

Thank you for meeting with Andy and I today to discuss application LA23003. Please see the attached clarification statement I discussed with Josh earlier this week regarding Lethbridge County's response to application LA23003.

Cody, as discussed today, I am looking forward to hearing your responses to the SOC's. Should Josh choose to amend his application, please notify me as soon as possible.

Thanks,

Cailyn Wilson, PAg

Approval Officer

Natural Resources Conservation Board

100, 5401 1st Ave South

Lethbridge, AB T1J 4V6

Phone: 403-388-3168

cailyn.wilson@nrcb.ca

website: www.nrcb.ca

This communication, including any attachments, is intended for the recipient to whom it is addressed, and may contain confidential, personal, or privileged information. If you are not the intended recipient of this communication, please contact the sender immediately and do not copy, distribute, or take any action in reliance on it. Any communication received in error, or subsequent reply, should be double-deleted or destroyed without making a copy.

From: Hilary Janzen <hjanzen@lethcounty.ca>

Sent: Wednesday, September 6, 2023 1:32 PM

To: Cailyn Wilson <Cailyn.Wilson@nrcb.ca>

Cc: Devon Thiele <dthiele@lethcounty.ca>; Cole Beck <cbeck@lethcounty.ca>

Subject: NRCB Application - LA23003 Additional comments

Hello Cailyn

With regards to NRCB Application 23003 I would like to clarify the following original comments made in the letter from Lethbridge County on August 24 2023:

- The application is not consistent with the AOPA standards as the proposed CFO is within the MDS to the school to the south.

This statement is retracted with the understanding that the MDS does not apply to schools under AOPA, and the County provides the following comment with regards the school:

- The County has a concern with the proximity of the proposed feedlot to the existing approved school located on the adjacent property and that the proposed feedlot would have a negative impact on the community and the current and future students that will attend the school.

If you have any questions regarding this matter, please let me know.

Regards,

Hilary Janzen, RPP, MCIP

Supervisor of Planning and Development

Lethbridge County

905 4th Ave S

Lethbridge, AB T1J 4E4

403.328.5525 office

403.328.5602 fax

www.lethcounty.ca