

In the matter of a Request for Review  
under section 25(1) of the  
*Agricultural Operation Practices Act*, RSA 2000, c A-7  
of a decision by an Approval Officer set out in  
Decision Summary LA23003

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**SUBMISSION OF NRCB FIELD SERVICES**

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On behalf of NRCB Field Services

1. At its nub, in the view of NRCB Field Services, the RFR suggests that the Approval Officer should have included the requirement to consolidate property parcels as a condition in an issued permit, rather than denying the permit (see RFR #1 filed October 30, 2023 at PDF page 2/19).
2. NRCB Field Services does not take a position on whether or not the Board should schedule a Review of this decision, under section 25(1) of AOPA.
3. Without bolstering the reasons of the Approval Officer, NRCB Field Services points to the parts of Decision Summary LA23003 that relate to the nub of the RFR. Decision Summary LA23003 outlines:

Explanation	Parts of DS
Why the Approval Officer denied the application	<ul style="list-style-type: none"> <li>○ Part 5 “Municipal Development Plan consistency” at page 3</li> <li>○ Part 9 “Factors considered” at page 6, third paragraph</li> <li>○ Part 10 “Conclusion” at page 7</li> </ul>
Why the Approval Officer held the opinion that section 3.6 of the MDP was a land use provision.	<ul style="list-style-type: none"> <li>○ Appendix A at page 9, discussion of 3.6 of the MDP</li> </ul>
Why the Approval Officer held the opinion that the application was inconsistent with the land use provisions of Lethbridge County’s municipal development plan	<ul style="list-style-type: none"> <li>○ Appendix A at page 9, discussion of 3.6 of the MDP</li> <li>○ Appendix C at page 14, second paragraph</li> </ul>
That, under section 20(1)(a) of AOPA, an application inconsistent with the MDP’s land use provisions must be denied.	<ul style="list-style-type: none"> <li>○ Part 5 “Municipal Development Plan consistency” at page 3</li> <li>○ Appendix A at page 9, discussion of 3.6 of the MDP, last paragraph</li> </ul>
Why the Approval Officer did not make consolidation of property parcels a condition of an issued permit.	<ul style="list-style-type: none"> <li>○ Part 9 at page 6, third paragraph</li> <li>○ Appendix C at page 14, top half</li> </ul>

4. Under section 20(1)(a) of AOPA, an approval officer must deny an application that is inconsistent with the land use provisions of the MDP. This section does not allow an approval officer to grant an application and attach a condition.

5. NRCB Field Services also offers two additional records to assist the Board in carrying out its task under section 25(1) of AOPA:

a. Response dated August 24, 2023 from Lethbridge County

This is the second of three responses from the County. This second response outlines the County's views on the application in relation to the County's MDP. (note: the County's third response dated September 6, 2023 is included at the very last page 19/19 of the RFR package).

b. E-mail dated May 12, 2023 at 4:13 p.m. (MDT) from the Approval Officer to Mr. Metheral (copied to Mr. Denbok)

This e-mail was in response to the e-mail dated May 12, 2023 labelled as 12:57 p.m. from Mr. Metheral to the Approval Officer, at PDF page 15/19 of the Denboks' RFR. If the Board considers the 12:57 p.m. e-mail relevant, the subsequent response may also be relevant.

RESPECTFULLY SUBMITTED THIS 3<sup>rd</sup> DAY OF NOVEMBER, 2023.



Fiona N. Vance  
Legal Counsel, Approval Officer  
NRCB

August 24, 2023

Natural Resources Conservation Board  
Agriculture Centre, #100, 5401-1 Avenue S  
Lethbridge, AB T1J 4V6

Ms. Wilson:

RE: Application LA23003 (SE 20-11-23-W4)

With regards to the above referral Lethbridge County has the following comments:

- This application is not consistent with County's Municipal Development Plan.
  - Section 3.6 states that no part of a CFO building, structure, corrals, compost area or stockpile is to be located within the established property lien and public roadway setback. The corrals and dugout are within and straddle the property lines.
  - Section 3.7 states that CFO's are excluded from being established on parcels less than 80 acres (an exclusion area) as the stipulated minimum agricultural parcel size allowed within the "Rural Agricultural" district is 80 acres. The proposed application is located partially on a parcel that is 9.27 acres in size.
- The proposal does not meet the setbacks of the Rural Agricultural District.
  - It appears from the aerial imagery that the corrals straddle the property line (north and west property lines) and the dugout is over the west property line.
  - This can be remedied by relocating the pens and dugout or consolidating the two titles together.
- The application is not consistent with the AOPA standards as the proposed CFO is within the MDS to the school to the south.
- There are no other planning-type documents that would apply to the referred area.
- The land district of the proposed area is Rural Agriculture, the use is allowed under the Rural Agricultural District as a discretionary use.
- The lands within 1.5 miles of the proposed area are within the Rural Agriculture.

If the NRCB determines that the application meets the requirements of the Agricultural Operations Practices Act, please ensure that:

- No development is permitted within 38.1 metres feet of the centreline of the county road right-of-way or 6.1 metres from the side and rear property lines (as per the County's Land Use Bylaw 1404).
- The Minimum Distance Separation is adhered to, or the appropriate waivers obtained from impacted landowners.

Furthermore, the County requests that the NRCB refer to Section 3.0 of the Municipal Development Plan (Bylaw 22-001) for additional policy considerations with respect to CFO's.

If you have any questions regarding these comments, please contact me at 403-380-1580.

Regards,

A handwritten signature in blue ink, appearing to read "Hilary Janzen", is written over a horizontal line.

Hilary Janzen, MCIP, RPP  
Supervisor of Planning and Development

cc. Cole Beck, CAO  
Devon Thiele, Director of Municipal Services and Infrastructure

SE20-11-23-4

RGE RD 234

RGE RD 234



**From:** Cailyn Wilson  
**Sent:** Friday, May 12, 2023 4:13 PM  
**To:** 'cody@linkage.ag' <[cody@linkage.ag](mailto:cody@linkage.ag)>  
**Cc:** [joshdenbok@yahoo.ca](mailto:joshdenbok@yahoo.ca); Sylvia Kaminski <[Sylvia.Kaminski@nrcb.ca](mailto:Sylvia.Kaminski@nrcb.ca)>  
**Subject:** RE: LA23003 - NRCB Resolving Disputed Permit Information Requirements Policy

Hi again Cody,

Scheduling-wise, a meeting on Monday, May 15 does not work for me as I have other commitments. As I am the approval officer on this file, Carina will not be in the meeting, so that may make scheduling simpler if a meeting seems necessary.

At this point, I am still unclear what another meeting would be about. The list you have provided does not appear to identify anything that has not already been discussed and appears largely to be a reiteration of our meeting this past Monday.

I can address point 3) in your e-mail below, which was about deficiencies. I can confirm that there are no additional deficiencies that I can identify at this time, acknowledging that the application has not yet been deemed complete.

Relating to point 4), for clarity, I was not recommending that the site should be moved. Rather, I was allowing space for Mr. Denbok to explore options. This is his application.

In terms of your questions around NRCB policy, I can provide a couple of links to pages on our website, which might assist you and Mr. Denbok with understanding how approval officers have considered effects on community.

- 1) <https://www.nrcb.ca/public/download/files/97525> NRCB Approvals Policy, specifically at part 8.7.3, which discusses rebuttable presumptions in relation to considering effects on community (among other things).
- 2) <https://www.nrcb.ca/confined-feeding-operations/board-reviews-court-decisions-revamp/current-completed-board-reviews> These are NRCB Board decisions (under AOPA). The Board has provided some guidance in some of its decisions relating to effects on community. Please note that some of these files involve just an RFR decision, while others include both an RFR decision and a Review decision.

I trust this information helps. Once the Part Two application has been completed, please e-mail it to me for review.

Regards,  
Cailyn

**Cailyn Wilson, PAg**  
Approval Officer  
Natural Resources Conservation Board  
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Lethbridge, AB T1J 4V6

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**From:** [cody@linkage.ag](mailto:cody@linkage.ag) <[cody@linkage.ag](mailto:cody@linkage.ag)>  
**Sent:** Friday, May 12, 2023 10:57 AM  
**To:** Cailyn Wilson <[Cailyn.Wilson@nrcb.ca](mailto:Cailyn.Wilson@nrcb.ca)>  
**Cc:** [joshdenbok@yahoo.ca](mailto:joshdenbok@yahoo.ca); Sylvia Kaminski <[Sylvia.Kaminski@nrcb.ca](mailto:Sylvia.Kaminski@nrcb.ca)>  
**Subject:** RE: LA23003 - NRCB Resolving Disputed Permit Information Requirements Policy

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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](mailto:Cailyn.Wilson@nrcb.ca)>

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

To: "[cody@linkage.ag](mailto:cody@linkage.ag)" <[cody@linkage.ag](mailto:cody@linkage.ag)>

Cc: "[joshdenbok@yahoo.ca](mailto:joshdenbok@yahoo.ca)" <[joshdenbok@yahoo.ca](mailto:joshdenbok@yahoo.ca)>, "Sylvia Kaminski" <[Sylvia.Kaminski@nrcb.ca](mailto: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 10<sup>th</sup> 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

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