

NO 8 - REQUEST FOR REVIEW: LA24002 / Van Huigenbos Farms Ltd.

Filed By:

Linda Maclean

Deadline for RFRs:

August 14, 2024

Date RFR received:

August 14, 2024

Status of Party as per Decision Summary:

Directly Affected Party

Request for Board Review (RFR) of an Approval Officer CFO Application Decision

Instructions

1. **Eligibility.** Only those parties listed as “directly affected” in the approval officer’s CFO application decision, or those parties requesting reconsideration of their status (see section #3), are eligible to request a Board review (RFR).
2. **Jurisdiction.** The Board’s jurisdiction in Alberta to review a decision by an approval officer is set out in sections 20(5), 22(4), and 23(3) of the [Agricultural Operation Practices Act](#) (AOPA).
3. **Deadline.** The NRCB must receive an RFR by the deadline specified in the approval officer’s decision cover letter. The AOPA Administrative Procedures Regulation does not allow consideration of time extension requests or late submissions.
4. **Public Documents.** RFRs and attachments are public documents.
5. **Submission.** Submit this form and any attachments by email to Laura Friend, Manager of Board Reviews at laura.friend@nrcb.ca. Contact her at 403-297-8269 for assistance.

1. Confined Feeding Operation (CFO) Application Details

NRCB Application No.	LA24002
Name of Owner/Operator or Operation	Van Huigenbos Farms Ltd.
Type of application (if known)	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Registration <input type="checkbox"/> Authorization
Location (legal land description)	SE 21-9-26 W4M
Municipality	MD of Willow Creek

2. Status Declaration

I hereby request a Board review of the approval officer’s decision:
(You must check one)

- I am the owner/operator (directly affected party)
- I represent the owner/operator

- I represent the municipality (directly affected party)
- 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 therefore I am requesting my status be reconsidered (see section #3)

3. Request for Reconsideration by Board of "Not" Directly Affected Status

Instructions. Only those parties **not** listed as directly affected in the approval officer's decision are to complete this section.

- The Board can only consider RFRs submitted by "directly affected" parties. Those parties not listed as directly affected in the approval officer's decision must first request the Board to reconsider their status. If the Board grants a party "directly affected" status, it will then consider their RFR.
- Upon receipt of a CFO application, the approval officer sends a notification letter to the "affected" parties. Affected parties are owners or occupants of land residing within a designated distance from the applied-for CFO. Operators and the municipalities located within the designated distance always have "directly affected" status.
- An affected party must apply for "directly affected" status by providing a written response to the approval officer's notification letter by the deadline specified. The Board cannot reconsider the status of a party unless they had first responded to the approval officer.
- The approval officer determines the "directly affected" parties to the application based on the responses received, and includes this determination in their decision.

My grounds for requesting a reconsideration of my "not" directly affected status are:

4. Request for a Board Review (RFR)

All parties or their representative must complete this section. If you need more space, include an attachment.

- Approval officers must ensure that a CFO application meets the Alberta legislative requirements before they approve it. Conversely, approval officers must deny an application if the requirements are not met. (Sections 20 and 22 of the [Agricultural Operation Practices Act](#) (AOPA)).
- If you believe the **approval officer failed to adequately address an issue** (or issues), state the issue(s) and provide your reasoning below.
- The issue(s) must have been in front of the approval officer at the time they made the CFO application decision; the Board will not consider any new issues.
- Include how the decision affects you, such as any damage or bias you believe would occur to you because of the approval officer's decision.

My grounds for requesting a Board review of the approval officer's decision are:

Please see attached.

5. Board Action Requested

If the Board grants a review of the approval officer's decision (either an approval, denial, cancellation, amendment, or deemed permit), only the "directly affected" parties are eligible to participate (see section #3). A review will be in the form of either a hearing or a written review.

If the Board grants a review, I would like it to:

- Reverse the approval officer's decision
- Amend or vary the approval officer's decision

If the Board decides to grant a review on a permitted decision, it may decide to amend or vary the permit terms and/or conditions.

Are there any new conditions, or amendments to existing conditions, that you would like the Board to consider?

No.

6. Contact Information of Person Submitting the RFR

Name Linda Maclean

Street/Box Address [REDACTED]

Town/City/Postal Code Fort Macleod, T0L 0Z0

Legal Land Description NE 22-9-26 W4M

Telephone Number [REDACTED]

Email Address [REDACTED]

Date August 14, 2024

7. Contact Information of Legal Counsel or Representative (if applicable)

Name _____

Address _____

Telephone Number _____

Email Address _____

Re: Request for Board review regarding Application LA24002, Van Huigenbos Farms LTD.

I am writing in opposition to the recent NRCB's approval of the large, confined feeding operation named above. I plead that the decision be reversed for the following substantial reasons:

- I feel my concerns about surface contamination of water in my well and the Willow Creek have been trivialized. My household well is a surface well approximately 9m deep and 30m away from the Willow Creek. There is already preliminary evidence suggesting the existing facility is negatively impacting the water quality and safety of the Willow Creek (see attached water analysis reports from Blue Sky Analytical Labs, report date 2024-05-10) from manure runoff. A water sample was obtained from the Willow Creek one mile upstream (at RR264) of the current CFO (identified in report as W240509-006) and compared with a water sample taken from one mile downstream (at RR262) of the current CFO (identified in report as W240509-005). The samples show water downstream of the facility has almost TEN times more fecal coliforms per unit and more than double the E. coli CFU than water upstream of the facility. It will only get worse once the facility expands by 660%.
- I believe my well is fed by the water table in Willow Creek, and thus over time, my drinking water will also be at risk. Thirty meters is not enough of a setback when runoff can build up in low spots, which will eventually make its way to the creek. Policy 9.2 (e) states CFO is not located in a floodplain or flood prone area, but because it is perched on the edge of a hill overlooking the creek, the runoff is prone to contributing to contamination in the event of heavy rain. I believe this makes my concerns very relevant in requesting the reversal of the approval. Van Huigenbos states that manure mixing with runoff is not intentional, but it is happening currently nonetheless, even prior to expanding the number of feeders by so many. If they are oblivious and negligent of their impact on the surrounding water bodies now, how can it be expected to improve after allowing an expansion of this size? Given this preliminary evidence, I request the approval be reversed until further investigation into current and future impacts on surrounding water quality can be completed.
- Not only is contamination of my water supply a concern, but the level of water required to sustain 16500 head of calves is as well. The Willow Creek had almost no water running through it in the summer of 2023. Thus, if even more water needs to be diverted for animal usage, less water will be available for irrigation users. Irrigation users existed well before this expansion for decades. It is not fair to allow such a large facility to be established, causing water supply issues for everyone where there were none prior. According to the 2015 ERST, the water table was listed as low due to years of irrigation. The irrigation demands are ongoing, and yet it is expected to also sustain the substantial demands of a large-scale feedlot operation?
- The existing estimate of the water table was based on a dated Environmental Screening Tool in 2015. Since then, the property has been changed and upgraded substantially. According to the

NRCB's approval of the original facility, the study needs to be updated prior to approval of any changes to the property, especially considering the scale of expansion proposed. According to the NRCB's approval process this needs to be fulfilled prior to approval, NOT after approval.

- I have grown up and lived here peacefully for decades in the Willow Creek Valley, enjoying the natural environment and the community of rural people. As a child I used to fish and swim in the Willow Creek; my children and grandchildren still do the same. Given the land's natural beauty nestled in the unique ecology of the Alberta coulees, this area has attracted many people to settle here, expecting the natural state to stay beautiful, pure, and clean. At least twenty-six current residents have sent in letters of concern and are directly affected by the CURRENT dust, smell, and garbage that blows from Van Huigenbos Farms. For a farm so large a scale as Application LA24002, to suddenly established amidst a densely populated, yet rural area, it disrupts everyone currently settled here from peaceful enjoyment of their homes and the landscape. If the foul odors coming from the feedlot are multiplied by the same factor as the expansion, 660%, my life, health and those of my neighbors, will be severely and negatively impacted, well above a mere nuisance. This will also affect the resale value of our properties, making the impact economical as well.
- Furthermore, there is significant doubt whether it meets the Minimum Distance Separation (MDS) from a residence. The approval officer states the Kostelansky residence is APPROXIMATELY 526m from feedlot pens and the MDS for this expansion is 530m. This is far too close to leave to "approximate". This is based on measurements made from Google Earth, and not by a formal land survey. The proximity of the CFO to the nearest residence is within a +/- 2 meter margin of error from Google Earth. Google Earth can have a 10 meter error margin, so a legal survey is necessary prior to approval to confirm if it is within the MDS requirements. Google Earth states absolute accuracy is more in the region of 15 – 30 meters. I request that a formal land survey be performed by a third party to establish the exact distance prior to approval from the NRCB.
- The CFO being first permitted in 1977, under an MD permit, should have no influence on whether the current application is approved. The original CFO was much smaller, and with fewer neighbours. Small CFO's have much less impact on quality of life for everyone close to them.
- I find it difficult to believe the ecological health of the creek, so close to such an expansive facility, will be preserved by the minimal measures outlined in the application. I have several acres of creek frontage that will be heavily contaminated by fecal coliforms from the feedlot and thus will not be safely useable in any meaningful recreational way. Alberta Environment should be involved in discussions regarding impacts on the important riparian habitat within the Willow Creek watershed prior to approval.
- NRCB has deemed that the property is not within a wetland or riparian area, however the manure run off (intentional or not) directly affects these adjacent ecologically sensitive areas. The wetlands and riparian areas are just under the cliff which are inhabited by endangered

and/or at-risk species such as the Great Blue Heron, Bald Eagles, and Peregrine Falcons to name a few.

- The burden of evidence is on NRCB and Van Huigenbos Farms Ltd. to show the expansion will DEFINITELY not have a significant impact on the surrounding neighbours and environment. It has not been demonstrated adequately by the current application in my opinion. Language within the approval regarding specific requirements is often vague and non descriptive, using words such as “may” and “should”. It is important that prior to approval, these issues are identified as a definite “is” or “is not”. For example, is it truly an adequate distance from neighbouring homes, and is the spread of manure truly far enough away from people’s residences?
- The current road network is not suitable for such a factory farm. The amount of dust generated from its constant use will negatively impact the surrounding homeowners. The current gravel road will require such an increased amount of maintenance, that I suggest approval be withheld until a proposal to have the road network paved can be considered.
- NRCB has deemed that the property is not in an area of Artesian flow, however I contest this decision. This needs further investigation PRIOR to approval.
- Their land base for spreading manure is too low given its low margin for error, estimated again based on Google Earth instead of a proper land survey. I am convinced that manure would be spread far too close to existing homes.
- I am concerned that the greater good is being compromised for the significant potential benefit of a very few individuals’. The existing residents will have to pay a significant and permanent price to allow Van Huigenbos Farms to expand for its sole benefit. This is not acceptable.



BLUE SKY ANALYTICAL LABS

Lab: Synbridge, Science Commons
Office: SA9446, Science Commons
4401 University Drive West
Lethbridge, AB T1K 3M4

Phone: 1-(403)-915-3881
Email: info@blueskyanalytics.ca
Website: www.blueskyanalytics.ca

Customer Contact:
Down to Earth Labs Inc.
3510 6 Ave N, Lethbridge,
AB, T1H 5C3

Sample Received: 2024-05-09
Lab Activity: 2024-05-09
Report Date: 2024-05-10

Test: Microbiological Analysis -
Total Coliform and *E. coli*
(TCBE)

Additional Data

DTE Client Name	DTE Client Project Name
Linda Maclean	

RESULTS

Microbiological Analysis - Total Coliforms and *E. coli*

Sample	Description (e.g., Site ID)	Total Coliforms (MPN/100mL)	<i>E. coli</i> (MPN/100mL)
W240509-005	RR 262 – 240509O001	95.9	2
W240509-006	RR 264 – 240509O002	17.5	<1.0

Sample Notes:

Methodology and Information

Method Name	Reference	Method
Total Coliforms and <i>E. coli</i> - Colilert	SMEWW 9223B	BSAL-SOP-001

SMEWW - American Public Health Association - Standard Methods for the Examination of Water and Wastewater

1. Results relate only to the sample tested (Where relevant).
2. Results apply to the sample as received.
3. The report shall not be reproduced except in full without approval of the laboratory to provide assurance that parts of a report are not taken out of context.

Approved by: Luc Roberts, Ph.D.
Luc Roberts, Ph.D.