

NO 2 - REQUEST FOR REVIEW: LA23050 / Ivy Ridge Colony

Filed By: Chelsey Hurt

Deadline for RFRs: February 11, 2025

Date RFR received: February 11, 2025

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 page 2, 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.	LA23050
Name of Owner/Operator or Operation	Hutterian Brethren of Ivy Ridge
Type of application (if known)	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Registration <input type="checkbox"/> Authorization
Location (legal land description)	NW 30-14-26 W4
Municipality	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
- I represent the owner/operator
- I represent the municipality
- 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 page 2, section #3)

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 letter

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?

Please see attached letter

6. Contact Information of Person Submitting the RFR

Name Chelsey Hurt

Street/Box Address [REDACTED]

Town/City/Postal Code Lethbridge, AB

Legal Land Description NW 30-14-26 W4

Telephone Number [REDACTED]

Email Address [REDACTED]

Date February 10, 2025

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

Name

Address

Telephone Number

Email Address

Date: February 11, 2025

To: Natural Resources Conservation Board (NRCB)
Agriculture Centre, 100, 5401 1 Avenue S
Lethbridge, Alberta T1J 4V6
Email: laura.friend@nrcb.ca

Subject: Request for Board Review – **Application LA23050**

Pursuant to the Agricultural Operation Practices Act (AOPA) and the NRCB's established procedures, as a directly affected party, I hereby submit this appeal requesting a Board review of the approval decision for Application LA23050 regarding the approval of a confined feeding operation (CFO) for the Hutterian Brethren of Ivy Ridge.

Grounds for Appeal

1. Procedural Fairness and Public Interest Not Considered

The NRCB's approval process lacked meaningful public representation and did not adequately consider public interest beyond technical compliance.

Officer Peddle stated in her decision that she has "nothing before me to overturn a presumption of the proposed development having an acceptable effect on the community". (pg. 36) A collective 749 individuals signed petitions opposing the development. A multitude of pages of written responses were provided clearly indicating opposition for many reasons. What is the threshold that Officer Peddle requires to indicate unacceptable effects on the community?

Legal Basis:

- Failure to ensure procedural fairness under **AOPA Section 20(1)(b)**
 - The restrictive and outdated definition of "directly affected" **excludes individuals with legitimate concerns**, such as environmental impacts beyond 0.5 miles.
- NRCB's lack of public interest representation violates **principles of their own administrative fairness**
 - **The NRCB has failed to Consider Broad Public Interest** due to their **assumption that meeting technical standards equals public interest** is flawed.
 - NRCB policies **systematically ignored** broad community concerns, and therefore we will be exploring grounds for a judicial review based on **unreasonable exclusion** of public input.

2. Failure to Assess Cumulative Environmental and Community Impacts

The decision did not address the cumulative effects of the CFO's expansion on surrounding ecosystems, particularly with respect to water source depletion of Mosquito Creek.

- The NRCB Board ruled that cumulative effects are not within its regulatory mandate, but this will be challenged as an incomplete environmental assessment under broader regulatory principles since NRCB Decision RA21045 (Pigeon Lake) set precedent that the effects on the community, economy, and environment must be taken into consideration. Specifically the approval officer for that decision stated the following:
 - “the presumption of acceptability [of the MDP] is rebutted by the significance, variety, and substance of the concerns expressed by the directly affected parties”
 - “I am denying this application in part due to materially negative and long-lasting effects on the community”
- Officer Peddle stated “In a 2011 decision, the NRCB Board stated that consideration of cumulative effects is “not within the Board’s regulatory mandate. As a statutory decision maker, the Board takes its direction from the authorizing legislation. AOPA does not provide for cumulative effects assessment.” (*Zealand Farms*, RFR 2011-02 at page 5).
- These two differing decisions, demonstrates that there is inconsistent application by the NRCB for when they choose to consider cumulative effects.
- Officer Peddle and the larger NRCB organization as a whole failed to adequately address:
 - why AOPA 20(1)(b)(vi) stating that the NRCB approval officer must consider the CFO’s effects on the environment, the economy and the community and the appropriate use of land, has been dismissed as not relevant, given that legislation trumps operating policy?
 - Under what legislation can the NRCB choose to ignore/dismiss the Alberta Environmental Protection and Enhancement Act (AEPEA) Section 49(d) which states that cumulative effects must be considered to discern potential positive and negative environmental, social, economic, and cultural impacts of the proposed activity, including cumulative.
- The NRCB’s decision dismisses concerns about odor, noise, and health effects, despite documented evidence of significant odor complaints in similar CFOs per the NRCB’s own reporting. The **MDS calculations used are outdated (2006 standards)** and do not reflect current research on community health impacts of CFOs.
- Lastly 6 separate emails were sent to Officer Peddle, all time-stamped and received with acknowledgement prior to the submission deadline that show there were 727 individuals, not counting DAPs and others that submitted a longer letter, that submitted an opposition notification for this application. Officer Peddle only indicated in her decision that there were 397 responses received. This clerical disorganization is significant because it indicates that the opposition to this application is nearly double than what was considered.

Legal Basis:

- **AOPA Section 20(1)(b)(ix)** requires consideration of cumulative effects to ensure community well-being.
- **Alberta Environmental Protection and Enhancement Act, Section 49(d)** mandates assessment of environmental risks, and requires consideration of cumulative environmental effects.
- **Alberta Environmental Protection and Enhancement Act, Section 2** mandates the principle of sustainable development, which includes the activity of designated livestock operations defined in the AEPEA Schedule of Activities (5)(n).
- The joint EUB, Alberta Environment, and NRCB Publication titled “[Cumulative Effects Assessment in Environmental Impact Assessment Reports Required under the Alberta Environmental Protection and Enhancement Act](#)”, defines cumulative effects as “*the changes to the environment caused by an activity in combination with other past, present, and reasonably foreseeable human activities*”.
 - Officer Peddle did not undertake actions to identify the foreseeable cumulative effects that could harm the environment and community.
- **Procedural Unfairness:** The exclusion of hundreds of objections will be challenged.

3. Approval Without Secured Water Rights

The approval stated that water licenses were under review, yet approval was granted without securing a legal and sustainable water source because NRCB hides behind their policy to approve prior to securing water sources, for efficiency. Alberta Environment and Protected Areas (EPA) confirmed that Ivy Ridge Colony **does not have a legal water source**.

Ivy Ridge Colony has publicly stated that this will be a daughter colony. Even ignoring the high probability that this colony will expand its feedlot operation, knowing that a colony will be built, which requires significant water resources should be acknowledged. In completing a basic search of water usage data in Edmonton, the average household water use was 186 litres per person per day (data.edmonton.ca). In Calgary, the average was approximately 350 litres per person per day in 2023 (calgary.ca).

Using the more conservative Edmonton figure of 186 litres per person per day, the annual water consumption for one person is $186 \text{ litres/day} \times 365 \text{ days/year} = 67,890 \text{ litres/year}$

For 100 people, this equates to $67,890 \text{ litres/year} \times 100 \text{ people} = 6,789,000 \text{ litres/year}$

Converting litres to cubic feet: $6,789 \text{ cubic metres} \times 35.3147 \text{ cubic feet/cubic metre} \approx 239,670 \text{ cubic feet}$

Therefore, approximately 239,670 cubic feet of water are required annually to support 100 people. Mr. Cheng of the EPA has stated that license amendments will transfer a combined total of 70,009

cubic metres to support the livestock. This comes nowhere close to being able the water necessary to support livestock, a colony, and likely expansion of the feedlot.

Legal Basis:

- **Approval Without Proven Water Access:** The CFO was **approved despite having no confirmed legal water source**, which could be **grounds for revocation** under Alberta's Water Act.
- **Failure to Conduct Independent Environmental Review:** The NRCB relied on an **internal assessment** rather than an **independent hydrological study**.
- **Violation of Public Trust Doctrine:** If groundwater resources are depleted or misallocated, there could be legal action based on the **mismanagement of public water resources**.
- Approval violates **AOPA Section 20(1)(b)(vi)**, which mandates consideration of environmental sustainability.

4. Misclassification of the CFO as an Agricultural Operation Instead of a Commercial Enterprise

Legal precedents from the **Supreme Court of Canada** have classified Hutterian Brethren CFOs as commercial operations rather than traditional farms. The approval failed to address this classification, which would require different zoning and regulatory compliance.

Legal Basis:

- **Alberta v. Hutterian Brethren of Wilson Colony (SCC)** established CFOs as commercial enterprises.
- The NRCB's failure to apply commercial zoning laws violates the **Municipal Government Act (MGA)** and established case law.

5. Municipal Development Plan (MDP) Consistency Dispute

The Municipal District (MD) of Willow Creek claims the application is inconsistent with its MDP in sections regarding agriculture, transportation, and development criteria and formally opposed this application.

- The approval officer ruled that only "land use provisions" of the MDP were relevant under AOPA and dismissed most of the MD's concerns, stating them as irrelevant.

Legal Basis:

- Violation of **AOPA's requirement to ensure community well-being (Section 20(1)(b))** If the MDP was improperly analyzed, we may be challenging this on administrative law grounds.

- **Misinterpretation of MDP:** The NRCB selectively applied only certain aspects of the MDP, dismissing all sections relating to **economic impact, transportation, and environmental concerns**.
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Summary of Critical flaws in Officer Peddle's decision-making

1. **Procedural Unfairness:** The exclusion of hundreds of objections, and exclusion of incorporating into the decision-making process the stated cumulative effects to the community and environment.
2. **MDP Interpretation:** The NRCB's selective application of the MDP contradicts its legal duty to fully consider municipal planning documents. There was improper analysis and failure to classify the CFO as a commercial operation.
3. **Environmental Issues:** Water access and environmental risk assessments were insufficient. Approval was granted despite no confirmed legal water source. There has been an utter lack of failure and deliberate willful decision to ignore statutory environmental protection obligations, such as sustainability of water resources.

Based on the concerns outlined above, I respectfully request that the NRCB:

1. **Turnover approval of Application LA23050** due to a lack of completing a cumulative environmental impact assessment, with a confirmed abundant water supply, as well as the high number of individuals opposing this development.
2. **Conduct an independent review** of the approval process that the NRCB chooses to undertake, ensuring fair consideration of public interest concerns and removal of bias in decision-making, particularly to address the imbalance in stakeholder representation for future decisions.
3. **Reassess the classification of the CFO** as a commercial enterprise, requiring it to adhere to applicable municipal zoning laws.
4. **Require an updated MDS standard** to align with current scientific research and regulatory standards.
5. **Establish an independent panel for public representation** in future CFO approval processes to improve transparency and fairness.
6. **Judicial Review:** If the NRCB's policies systematically ignore public concerns, a **court review of its decision-making process** may be warranted, and this will be an avenue of exploration.

For the reasons stated above, I urge the NRCB to grant this request for a Board review. The approval of Application LA23050 without addressing these fundamental concerns undermines environmental sustainability and the rights of directly affected parties.

Sincerely,
Chelsey Hurt