

June 21, 2023

The “5” Freedoms Ranch Rescue and Rehabilitation Society
Brenda Brandolini and Beverly Wilson
22054 Twp Rd 522
Sherwood Park, AB T8E 1G2

**RE: Board Decision RFR 2023-02
Extension Request
The “5” Freedoms Ranch Rescue and Rehabilitation Society, the “Operation”**

The Panel for RFR EO 23-02 consisting of Peter Woloshyn (Panel Chair), Sandi Roberts, Rich Smith and Darin Stepaniuk met on June 20, 2023 to consider Ms. Wilson’s June 14 and June 20 request for an extension to one element of the 23-02 Enforcement Order (EO). This letter 4.7 scrape and remove manure from pens #1 through #5 to June 25, 2023. The Board notes that the relief request is to effectively “suspend” the Enforcement Order (EO) until June 25. The Board notes that Ms. Wilson’s interim application does not seek relief beyond the RFR filing deadline of June 30, 2023.

The Board finds itself in an awkward position due to the fact that the Enforcement Order (EO) deadlines pre-date the RFR deadline. While Ms. Wilson may well have agreed to deadlines weeks or months ago, the imposition of EO conditions that precede the RFR filing deadline is unusual and procedurally problematic.

Under section 41(2) of AOPA, a request for review does not automatically suspend an enforcement order. However, under that section the Board “may, if it thinks fit,” suspend an order on a temporary basis, pending the Board’s final decision on the review. This is a broadly worded test that gives the Board wide discretion to decide whether a temporary suspension is “fit” or appropriate.

In making this decision, the Board generally considers:

- whether the review request has raised a “serious question” about the merits of the order;
- whether there is a reasonable expectation that the requestor will be irreparably harmed by the order while the review is pending; and/or
- the balance of convenience to the parties and the public interest more generally.¹

In considering the above “test” conditions for granting a suspension to EO 23-02 the Board, concluded the following:

1. There is a serious question to be tried – are the provisions of the enforcement order requiring action by June 15 appropriate?

¹ See *John Schooten and Sons Custom Feedyard Ltd. et al*, RFR 2021-01, pp.9-10.

2. There is a real potential for irreparable harm if a suspension of the order, at least in part, is not granted at this stage. If a suspension is not granted, the Operation faces the jeopardy of further enforcement action on the order potentially occurring before it has had the opportunity to argue the merits of its RFR before the Board.
3. The balance of convenience favours the Operator, as:
 - a. The Board finds that the purpose of EO 23-02 is to address an inappropriate disturbance resulting from improper manure management at the Operation. The EO makes no findings that the Operation poses a present or imminent risk to the environment;
 - b. On June 15, 2023 the NRCB Field Services responded to the Board regarding Ms. Wilson's request to temporarily suspend the EO and indicated that it was not prepared to grant an extension to the June 15 deadline since the operator has a history of missing deadlines in the past. Field Services provided no further information to indicate that suspension of the EO will result in a risk to the environment or materially change the inappropriate disturbance on adjoining properties; and
 - c. In the Board's view, suspending the EO until the end of June 25 does not materially impact the inappropriate disturbance on adjoining properties—and may allow the Operation to resolve condition #1 and #2 of the Order prior to the RFR deadline.
4. The Board sees no compelling public interest reason to not grant the suspension contemplated by the Operation.
5. For these reasons, the Board grants Ms. Wilson's request to suspend Enforcement Order EO 23-02 until the end of day, June 25, 2023.

For clarity, the Board finds that any further review of EO 23-02 beyond the aspects of the interim relief requested (and granted) would require a further RFR filing from the operator no later than June 30, 2023.

Yours sincerely,



Peter Woloshyn
Panel Chair

cc: Strathcona County (Lori Morgan, Livestock Inspector)
Fiona Vance, Chief Legal Officer NRCB