

February 1, 2022

SENT BY EMAIL

To All Interested Parties:

**Preliminary Decision on Bryan Clifton Late Filing Request  
Board Review of Decision Summary LA21033  
Double H Feeders Ltd.**

The Natural Resources Conservation Board (the Board) received a request from Bryan Clifton to include an email from Logan Huscroft of Alberta Environment and Parks as part of his hearing submission. As this request was filed after the January 27, 2022 hearing submission deadline, the Board must consider whether to allow this late filing.

This letter reflects the Board's decision on Mr. Clifton's request. Normally the Board does not allow late filing of materials; however, the Board has made a preliminary decision to allow this late filing. The Board considered:

- Did Mr. Clifton exercise reasonable effort and take appropriate steps that could have avoided a late filing situation?
  - The Board is satisfied that Mr. Clifton made his request to AEP on a timely basis. Mr. Clifton advised the NRCB when he filed his hearing submission that Mr. Huscroft was on annual leave and would be returning shortly after the filing deadline.
- Was Mr. Clifton directly responsible for the late filing?
  - The Board is satisfied that the primary cause for the late filing was that Mr. Huscroft could not be expected to respond until he returned from his AEP annual leave.
- Would the late filing of the email prejudice Double H Feeders by surprising them with an issue or facts that they would not have sufficient time to prepare and provide a response?
  - The Board expects that the contents of Mr. Huscroft's email do not raise issues that were not previously known by Double H Feeders, given the existence of an AEP compliance file on Double H Feeder land. Also, the Double H Feeder submission mentions that Logan Huscroft has toured the site to review concerns about the drainage work done.

- The Board will extend the **rebuttal** deadline for the issue of (contaminated) surface water run-off until 12:00 noon on Monday, February 7, 2022. The rebuttal deadline remains as February 3 for all other issues.

The Board recognizes that it has made this preliminary decision without providing an opportunity for other hearing participants to make representations. The Board did this in the interests of expediency given the February 10, 2022 hearing date. As such, if any party wishes to submit representations related to the Board's preliminary decision, do so on or before 4:30 p.m. February 3, 2022.

If you have any questions related to the process described, please contact me at 403-297-4304 or by email at [bill.kennedy@nrcb.ca](mailto:bill.kennedy@nrcb.ca).

Sincerely,

*(original signed by Bill Kennedy)*

Bill Kennedy  
General Counsel