

NO 6 - REQUEST FOR REVIEW: LA23050 / Ivy Ridge Colony

Filed By:	Shauna Finlay on behalf of the Municipal District of Willow Creek No. 26
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.	
Name of Owner/Operator or Operation	
Type of application (<i>if known</i>)	<input type="checkbox"/> Approval <input type="checkbox"/> Registration <input type="checkbox"/> Authorization
Location (<i>legal land description</i>)	
Municipality	

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)

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:

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?

6. Contact Information of Person Submitting the RFR

Name _____

Street/Box Address _____

Town/City/Postal Code _____

Legal Land Description _____

Telephone Number _____

Email Address _____

Date _____

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

Name _____

Address _____

Telephone Number _____

Email Address _____

Schedule 1

This request for review concerns an approval for an expansion of an existing multi-species confined feeding operation. The approval provides for certain livestock numbers of milking cows, chickens, ducks and geese. It includes approval for a chicken barn, a dairy barn, a calf and dry cow shed, a chicken pullet barn, a mixed poultry barn, an above ground manure storage tank and a solid manure storage pad.

Location & Description

The site is located in Section 31-4-26 W4M in the Municipal District of Willow Creek ("Willow Creek"). As noted on page 2 of the Decision Summary, the location is in an area where the terrain is relatively flat with "some low lying, wetland areas in the west half of the section, with a general slope to the south-east". The Decision Summary notes "there is a registered marsh in the north-east quarter close to Highway 529 and two riparian areas in the south-east quarter along the edge of Range Road 265". These descriptions are supported by the attached screenshot of section 31 from the Canadian Wetland Inventory (see Schedule 2 - [Canadian Wetland Inventory](#)). This screenshot and the Applicant's site plans confirm that section 31 has areas of wetlands, marshland and open water.

Decision

The Approval Officer concluded that the application was consistent with the Willow Creek's MDP and the "land use provisions" therein.

Reason for Request to Review

Willow Creek is requesting this review on the basis that the application is not consistent with the Willow Creek's MDP for the following reasons:

1. The MDP for Willow Creek contains policies to guide land use decisions and provides direction on development in certain areas. In policies 1.7 and 9.2(f) directions are provided for the acceptability of development in specific areas. Specifically, s. 9.2(f) requires the restriction of development in any wetland or riparian area and s. 1.7 requires Willow Creek, to the best of the Willow Creek's abilities, to ensure wetlands and riparian areas are not compromised by developments. Given that the NRCB approves these CFO developments, note the municipality, this provision should have been considered by the Approval Officer as these provisions relate to the acceptability of development in areas that have riparian and/or wetland features. In the current case, the Approval Officer concluded that at page 11 of the Decision Summary that "Ivy Ridge's colony's proposed CFO is not located in a wetland or riparian area and it meets the AOPA setbacks to common bodies of water". Willow Creek notes this contradicts even the Approval Officer's commentary on the presence of wetlands at the location of the proposed CFO not to mention the site plan at p. 5 of the Technical Document which shows wetlands noted thereupon. Willow Creek queries why setbacks or other protections have not been included in the Approval.

2. Willow Creek notes that the revised site plan that has been provided to them as part of the materials underlying the Decision (p. 5 of the Technical Documents), does not outline the location of all proposed buildings and the applicable setbacks, including the setbacks that would apply to the Feed Mill and Hay Shed and between buildings per any applicable Safety Codes requirements. Without a thorough understanding of the location of the buildings and related setbacks, the MD queries how the Approval Officer arrived at the conclusion that all applicable setbacks are going to be met.

3. The site plan provided by the Applicant incorporates access to the proposed facility from a municipally controlled road. While the Approval Officer acknowledged that road use agreements and the control of roads are exclusively within Willow Creek's jurisdiction, given that the Applicant has not obtained or discussed access to the proposed facility from the municipally controlled road or the conditions that would be necessary in order to grant that access, Willow Creek suggests that it is premature to approve a site plan that incorporates access off that municipally controlled road. It is noted that Approval Officers must consider matters which may normally be considered as part of the development permit process. It would appear that approving a confined feeding operation that relies upon the use of a municipal road for access to it may be premature when other points of access may be more desirable from the perspective of the Municipality.

Outcome Requested

Willow Creek would request that additional conditions be added to the Approval to address the foregoing issue, including setbacks to wetlands, confirmation that all buildings will meet Willow Creek's setback requirements and that the Applicant be required to address road access with Willow Creek and confirm what access will be used.

Schedule 2

