



PLANNING AND ZONING COMMISSION
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:
[CAFO-AK FEEDERS, LLC] – [Case #CU2022-0036]

The Canyon County Planning and Zoning Commission considers the following:

AK Feeders, LLC, represented by Matt Wilke, is requesting a conditional use permit for a Confined Animal Feeding Operation (CAFO) for 3700 head of beef cattle. The proposed facility will be located on approximately 80 acres of parcel R37348010 (163.23 ac) at 21696 State Line Road, Wilder, ID further described as a portion of the NW quarter of Section 14, Township 4N, Range 4W, BM, Canyon County, ID. The property is zoned “A” (Agricultural).

Summary of the Record

1. The record is comprised of the following:

A. The record includes all testimony, the staff report, exhibits, and documents in Case File CU2022-0036.

Applicable Law

- (1) The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §08-01 (Confined Animal Feeding Operations), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures)
 - a. Notice of the public hearing was provided pursuant to CCZO §07-05-01, Idaho Code §67-6509 and 67-6512. Agencies were notified October 3, 2023 and October 4, 2023, Property Owners were notified October 4, 2023, the site was posted 10/16/23, publication to the newspaper on October 6, 2023.
 - b. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code §67-6512.
 - c. Every use which requires the granting of a conditional use permit is declared to possess characteristics which require review and appraisal by the commission to determine whether or not the use would cause any damage, hazard, nuisance or other detriment to persons or property in the vicinity. *See* CCZO §07-07-01.
 - d. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development;(6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. *See* Idaho Code §67-6512, CCZO §07-07-17, and 07-07-19.

- e. In accordance with CCZO §07-01-15 The applicant conducted a neighborhood meeting on July 11, 2022 at 6 p.m. having provided notice to property owners within 600 feet of the subject property and having met the minimum 10-day notification period. The sign-in sheet indicates 19 people were in attendance. (Exhibit 22)
- (2) The commission shall have those powers and perform those duties assigned by the board that are provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCZO §07-03-01, 07-07-01.
- (3) There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
- (4) The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
- (5) In accordance with CCZO §08-01-14: GRANT OR DENIAL OF CAFO SITING PERMIT:
 - (1) If the commission finds that the applicant has carried the burden of persuasion that the proposed expanding or new CAFO complies with the criteria set forth in this article, the commission shall grant the CAFO siting permit requested. The CAFO siting permit shall be in the form of findings of fact, conclusions of law and order. If the commission does not find that the applicant has shown that the proposed expanding or new CAFO meets the criteria set forth herein, the commission shall deny the CAFO siting permit in writing setting forth reasons for the denial and the relevant law relied upon and action that may be taken by the applicant to attempt to obtain a conditional use permit. In making such decision, the commission may use information and consider recommendations received from the state of Idaho CAFO advisory team or any other similar group.
- (6) Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles, and factual information contained in the record.
- (7) The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

The application (CU2022-0036) was presented at a public hearing before the Canyon County Planning and Zoning Commission on (November 16, 2023). Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Canyon County Planning and Zoning Commission decide as follows:

CONDITIONAL USE PERMIT HEARING CRITERIA – CCZO §07-07-05

1. Is the proposed use permitted in the zone by conditional use permit?

Conclusion: The proposed use, a Confined Animal Feeding Operation (CAFO) for up to 3700 head of cattle in the “A” (Agricultural) zone is permitted in the zone by Conditional Use Permit (CUP).

- Findings:**
- (1) The subject property, parcel R37348010, containing approximately 163.23 acres is zoned “A” (Agricultural) see Exhibit 1.
 - (2) The proposed use as a feedlot exceeding 1000 head of cattle meets the definition and requirements of a confined animal feeding operation (CAFO) [CCZO §07-02-03 and §08-01-06] and requires a conditional use permit per CCZO §07-10-27 Land Use Regulations Matrix-CAFO in the agricultural zone.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0036.

(4) Evidence includes associated findings and evidence supported within this document.

2. What is the nature of the request?

Conclusion: AK Feeders, LLC is requesting a conditional use permit (CUP) for a Confined Animal Feeding Operation (CAFO) for up to 3700 head of beef cattle. The proposed agricultural CAFO facility will be located on approximately 80 acres of parcel R37348010 (163.23 ac) at 21696 State Line Road, Wilder, ID further described as a portion of the NW quarter of Section 14, Township 4N, Range 4W, BM, Canyon County, ID. The property is zoned "A" (Agricultural). This application is proposing to expand an existing feedlot that does not currently meet the criteria to require a CAFO permit or CUP. This request is for a new CAFO facility permit.

- Findings:**
- (1) The feedlot facility currently exists and existed prior to the adoption of the current CAFO ordinance (1-18-2007) as evidenced by Google Earth Pro aerial photos (1994 to present) of the property which show existing barns, feed pens, forage stockpiling such as hay and silage, cattle in the pens [dependent upon seasonal image dates], the applicant testimony, and written testimony by former property owner, Andy Bishop (Exhibits 6, 7 & 22).
 - (2) The applicant may operate a feedlot with up to 999 head of cattle without a conditional use permit (CUP) for a feedlot operation on the property by entitlement of animal units and acreage supporting the cattle operations in accordance with the zoning code. AK Feeders, LLC owns approximately 346 acres in the Arena Valley area of Canyon County that support the animal operations as evidenced in the staff report and Canyon County Assessor records, and property owner map (Exhibits 28 & 29). The cattle operation (grazing & feedlot) may not exceed four (4) animal units [2 cows per animal unit] or eight (8) cows per acre without exceeding the requirements for a Large Animal Facility which would then require a conditional use permit per CCZO §07-10-27 Land Use Regulations Matrix and §07-02-03 Definitions. Calculation: 346 acres x 8 head (4 units/acre) = 2768 head
 - (3) The request for a 3700 head feedlot, if approved, meets the definition of a CAFO (§07-02-03 Definitions) requiring a conditional use permit for the feedlot operation. The application states that animals will be confined and fed for a total of ninety (90) or more days in a calendar year. The area will be devoid of crops/vegetation, and it will be a facility designed to confine and exceed the minimum animal numbers as contained in chapter 8 Confined Animal Feeding Operations (1000 or more beef cattle).
 - (4) The applicant made improvements to the feedlot facility in the fall of 2022 in compliance with the entitled (less than 1000) number of cattle allowed in a feedlot for the AK Feeders' cattle operations. A notice was sent by DSD staff to the applicant indicating that site improvements could be made in conformance with the allowed animal units but that construction on pens to expand facility to accommodate the CAFO request should cease until proper approvals are obtained (Exhibits 25-27). The applicant complied.
 - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0036.
 - (6) Evidence includes associated findings and evidence supported within this document.

3. Is the proposed use consistent with the comprehensive plan?

Conclusion: For case file CU2022-0036 the Planning and Zoning Commission finds that the proposed use and conditional use application for a Confined Animal Feeding Operation (CAFO) is consistent with the 2020 Canyon County Comprehensive Plan adopted by County Resolution No. 11-098, as amended. The Plan contains the planning Components as required by I.C. § 67-6508. The commission need not examine each goal and policy but consider the Plan as a whole. The applicable plan, the 2020 Comprehensive Plan, designates the proposed CAFO application area as Agriculture.

The Commission when reviewing the Plan as a whole, finds and concludes that the use and application are consistent with the Plan based on the evidence and review of the Plan components. The Plan directs the hearing body to utilize measures, like the conditional use permit and/or a development agreement, to mitigate potential interference with existing residential use and potential impacts on ground and surface water, which the Commission believes is accomplished here. The Plan also directs expansion of agricultural uses and economic opportunities, which are accomplished in this use and application.

Findings: (1) The 2020 Plan describes the land use classification ‘Agriculture’ as follows: The agricultural land use designation is the base zone throughout Canyon County. It contains areas of productive irrigated croplands, grazing lands, feedlots, dairies, seed production, as well as rangeland and ground of lesser agricultural value.

(2) **Chapter 1: Property Rights Component:**

The Property Rights Component of the Plan is intended to ensure that land use hearing procedures do not violate individual property rights and that individual property rights are not burdened by unnecessary technical limitation (see Goal no. 1 in this component). The Commission places conditions that aim to protect the life, health and safety of the property owners and citizens of Canyon County in compliance with state, federal, and county regulations as appropriate and as provided for in the Conditional Use permitting process of the Canyon County Ordinances.

Goal no. 2 states, “the community goal is to acknowledge the responsibilities of each property owner as a steward of the land, to use their property wisely, maintain it in good condition to preserve it for future generations.” The Commission finds that the testimony provided on behalf of the applicant, proposed use, and application is an effort by the applicant to meet this goal. The application, testimony, aerial photos and a letter submitted by a former owner of the property indicate that the property has been in use as a cattle operation with a feedlot for many years. The ranch is currently in use as a cow/calf operation with a feedlot component (Exhibits 22, 13, and 7). The applicant has made improvements to the cultivated farmland and to the cattle operations at this facility and surrounding properties owned by AK Feeders and the DeBenedetti family and continues to improve the facilities. The applicant will be required to meet state, federal, and county laws and ordinances as improvements and expansion of the cattle operations occur at this location.

There are several policies in this component that the Commission finds applicable to this application. Policy 1: The Commission finds that the hearing and notifications were consistent with the requirements of the law and that the applicant and property owners were provided due process of law by the nature of these proceedings. Policies 2 through 7 do not appear to be specifically applicable to the CAFO permitting proceedings. Policies 8 through 13 are applicable to this use and application. These policies provide for orderly development and the minimization of conflict; provide that the property is maintained in the best possible condition; provide instruction to limit unnecessary conditions or procedures; provide that property owners not use their property in a manner that negatively impacts their neighbors; and finally, provides that the County will enforce its regulations and ordinances.

The applicant has applied for a conditional use permit which is subject to conditions to minimize conflict and the impact upon neighbors. The applicant is subject to all laws and

regulations including requirements and inspections by the ISDA in conformance with IDAPA 02.04.15 “Rules Governing Beef Cattle Animal Feeding Operations” and with other regulatory agencies including IDEQ and IDWR. Additional enforceable conditions are applied to mitigate concerns such as lighting which is also addressed as criteria for approval in CCZO §08-01-11 (1) C 4 requiring that lighting be placed and shielded to direct the light source down and inside the property lines of the new CAFO and that all direct glare from the lights be contained within the CAFO area. The Commission finds that the ability to place enforceable mitigating conditions allows the use and application to comply with these policies by minimizing the conflict and impact to neighboring residential uses in this predominantly agricultural area. The Commission acknowledges that there are residential properties in the area of the proposed CAFO as evidenced by the letters from area residents, aerial photos, property history and application (Exhibits 22, 28, 30, 31, 34, 40, 47-61, & 63). The Commission also acknowledges that testimony, the revised site plan moving the feeding operation away from the northern neighbors, and providing a buffer of agricultural pasture land between the operation and the neighbors to the south, along with reducing the animal head count from 6000 to 3700 offers evidence that the applicant does regard the impact to the neighbors and is willing and able to mitigate concerns of the neighbors while still meeting the agricultural business needs for AK Feeders, LLC and those of other cattle operators in the area. (Exhibits 3 & 22).

The Commission finds that due process of law was provided to all persons present to testify. The Commission states that individuals testifying but not standing for questions inhibits the Commission’s ability to ask questions, probe for pertinent details, and determine the validity of claims with regards to harm and injury and for the Commission to make findings based on the testimony presented.

- (3) **Chapter 2: Population Component:** The subject property and surrounding area is not located within an area of city impact and is not located within five or more miles of any Canyon or Owyhee County cities. The city of Adrian, Oregon is located approximate four miles to the northwest. Within a one-mile radius of the subject property there are 48 residential homes on 72 total agriculturally zoned land parcels with an average lot size of 25.92 acres. This component considers growth trends, encourages economic expansion and population growth that is guided to enhance the quality and character of the County. Policies 2 and 3 encourage future high-density development to locate within incorporated cities and/or areas of impact and encourage future population to locate in areas that are conducive for residential living and that do not pose an incompatible land use to other land uses. The predominant land use of properties within a one mile radius is agricultural production. There is no evidence to suggest that population growth trends are occurring in this area of the county. There are no platted subdivisions within one mile of the subject property as evidenced by the aerial photo and the subdivision map (Exhibits 41 & 42). The land use and zoning is agricultural and the proposed feedlot will support the agricultural beef industry providing the applicant and producers within the county a viable location to sell and feed out their beef crop.

(4) **Chapter 3: School Facilities and Transportation Component:** The focus of this component is primarily on ensuring the development of school facilities to support population growth. There are no schools located in Canyon County within five miles of the property. The Commission finds that the proposed use and application does not directly relate to this section of the plan as it does not create increase in population and/or affect development plans of the transportation systems in and around the area schools.

(5) **Chapter 4: Economic Development Component:**

This Plan component contains the following goals: 1. To diversify and improve the economy of Canyon County in ways that are compatible with community values; 2. To support the agriculture industries by encouraging the maintenance of continued agricultural land uses and related agricultural activities; 3. Create new jobs that are sustainable and lasting; 4. Provide and economically viable environment that builds and maintains a diverse base of business; and 5. To ensure that land use policies, ordinances, and processes allow for a viably economic environment for development. The applicant asserts that the CAFO will create jobs, support area farmers, ranchers, and support services having a secondary benefit in the way of utilization of local products and businesses. These claims are supported by numerous letters of support from local businesses, cattle producers, and farmers. (Exhibits 45 & 46 containing 155 individual submissions)

Additionally, the use and application support continued agricultural use and economic benefits through an existing business and is therefore consistent with policies 1, 2, 5 and 7 of the Plan. More specifically, policy 1 states, “Canyon County should encourage the continued use of agricultural lands, land uses, and recognize the economic benefits they provide to the community.”

(6) **Chapter 5: Land Use Component:** The County’s Land Use Component begins with a statement that “the County’s agricultural lands need to be monitored and maintained. The County’s agricultural agriculture must be protected from encroachment.” These statements are some of the most explicit direction in the Plan. The goals of this component are stated below:

1. To encourage growth and development in an orderly fashion, minimize adverse impacts on differing land uses, public health, safety, infrastructure and services.
2. To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area.
3. Use appropriate techniques to mitigate incompatible land uses.
4. To encourage development in those areas of the county which provide the most favorable conditions for future community services.
5. Achieve a land use balance, which recognizes that existing agricultural uses and non-agricultural development may occur in the same area.
6. Designate areas where rural type residential development will likely occur and recognize areas where agricultural development will likely occur.
7. To encourage livability, creativity and excellence in the design of all future residential developments.
8. Consider adjacent county land uses when reviewing county-line development proposals.

The Board in its future land use map has designated this area for future agricultural use. Although some residential uses exist in the area, the Commission believes the Plan directs the hearing body to mitigate conflicts between those two uses--not to exclude agricultural uses where residential uses exist. The conditional use process allows for the Commission to apply

enforceable conditions with the intent of mitigating conflicts by restricting and monitoring the use of the subject parcel as a feedlot where existing residential uses exist in the agricultural zone. These include, but are not limited to, shielded lighting, setbacks, animal numbers, protection of water sources, compliance with odor and pest control plans, and compliance with state and federal and other county regulations related to the CAFO permit. The Commission believes that the goals as stated encourage the County to find a balance between the uses and that the conditions have accomplished that. The Commission also recognized that it should be mindful that imposed conditions should not violate the Idaho Right to Farm Act by restricting agricultural activities normally protected by the Right to Farm Act. The applicant indicated in testimony that they were not opposed to the conditions as written.

This Land Use Component includes eleven (11) general policies directed at the review process for land use applications. Policy No. 2 says to “Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate”. The Commission acknowledges that conditions can be placed through the CUP process affecting similar compliance and review requirements as a development agreement. Policy 6 requires review of proposals in areas that are critical to groundwater recharge and sources to determine impacts, if any, to surface and groundwater quantity and quality. The County requested a CAFO Siting Team Review of the property and proposal. The Siting Team evaluated the property as “High Risk” for environmental impacts to the water sources on the property. The Commission acknowledges that the Siting Team, led by the Idaho State Department of Agriculture, Pradip Adhikari, PhD, indicates that the inherent risks can be mitigated through best management practices and compliance with the requirements of the ISDA and the nutrient management plan as approved and to be amended if the permit for the CAFO is approved. The facility is and would continue to be subject to IDAPA rules and regulations and subject to ISDA inspections and permitting. This is evidenced by the AK Feeders CAFO Site Advisory Team report, email responses to staff and applicants, and approved Nutrient Management Plan (Exhibits 8-8.3, 13, 20, 19). Policy 11 encourages the county to coordinate planning and development with applicable highway districts. The Commission finds that this has been accomplished as evidenced by the agency responses from Golden Gate Highway District and Oregon Department of Transportation (Exhibits 17 & 18).

The Land Use Component also includes a section specific to Agriculture. The Plan states that the “County’s policy is to encourage the use of these lands for agriculture and agriculturally-related uses...” with four additional policies including the protection of agricultural land for the production of food, voluntary mechanisms for the protection of agricultural land, support of the Idaho Right to Farm laws (Idaho Code §22-4501-22-4504), as amended. Policy 4 is of specific note and is as follows: Recognize that confined animal feeding operations (CAFOs) may be more suitable in some areas of the County than in other areas of the County. The Commission finds that the subject property has encompassed a feedlot component for many years and that this is a predominantly agricultural area of the county with limited residential development, no residential subdivisions or residential development trends as evidenced by written testimony, aerial maps, and lack of concentrated development. The Commission also finds that there are several feedlots and dairies in the vicinity within 1.5 to 5 miles in Canyon County and Owyhee County as evidenced by the Siting Team Map, aerial maps, and staff analysis. The Commission also finds that the Siting Team indicates that the noted environmental risks can and will be mitigated through compliance with the IDAPA 02.04.15

“Rules Governing Beef Cattle Animal Feeding Operations,” and finds that this predominantly agricultural area of the county is suitable for a feedlot operation (Exhibits 8-8.3, 10, 28, 34, 39, & 41).

The Commission does not find that the residential, area of city impact, or commercial and industrial sections of this component have policies that are directly applicable to this application in this area of the county.

(7) Chapter 6: Natural Resources Component:

The Commission finds that the Plan recognizes the attributes of agricultural land as a natural resource in the county and that the Agricultural / residential interface areas often create conflicts between residents. The Commission recognizes that one of the most significant policy directives of this Plan is supporting, protecting, and development of the County’s agricultural resources.

This component includes a separate Agricultural Land section with specified goals and policies. The first goal in this section is “To support the agricultural industry and preservation of agricultural land.” The policies in this section include the protection of agricultural activities from land use conflicts or undue interference created by non-agricultural development, that development should not be allowed to disrupt irrigation structures and associated rights-of-ways, and to protect agricultural activities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development. The Commission finds that these goals and policies support the expansion of the agricultural use as a CAFO feeding operation on the property and that the component encourages the Commission to mitigate the conflicts with the residential uses through meaningful and enforceable conditions in the CUP process that can ensure that the waterways are protected (ISDA jurisdiction), irrigation systems are not disrupted, and that the applicant must actively manage the proposed plans for dust, odor, pests, and waste management at the facility. (Exhibits 3, 8, 12, 22)

The Natural Resources component also contains a water section that recognizes that water is an essential and limited natural resource that should be preserved and protected. The County CAFO ordinances recognize this and require that the county request a CAFO Site Advisory Team (inclusive of agencies with jurisdiction expertise in these areas) review the proposed facilities to evaluate the environmental risks as they relate to water use and sources of potential contamination at a facility. The siting team provided specific mitigation measures that will address the high risk areas identified in the report including, soil components, discontinuous clay layers, depth to groundwater and sand & gravel aquifer. The Commission recognizes that the mitigation techniques and best management practices fall under the jurisdiction of the state and federal agencies but also recognizes that the County can place meaningful and enforceable conditions to ensure applicant compliance through the CUP process. The Commission also recognizes that the area is close to the Snake River, that there is high groundwater as indicated through testimony and the siting team report, also that the property lies 3300 feet west of, but down gradient of, an identified nitrate priority area. The Commission finds that the risks can be mitigated through required IDAPA rules, best management practices, and conditions of development in the CUP process. (Exhibits 8, 12 & 12.2, 39 & 44)

The Commission finds that including a modification to Condition #11 to include language that clearly states that there shall be no discharge of effluent to the Snake River from the proposed CAFO is appropriate to mitigate concerns for that existing water way.

There is no indication in the record that the Fire District is concerned with availability of water for fire protection for the proposed use or that the goals and policies of the Fish and Wildlife Habitat, Air, or Mineral Resources are implicated here. The Commission does recognize that the proximity to the Snake River and the vast open cultivated agricultural fields in this region of the county promote the presence of wildlife including the snow geese as indicated in public testimony and pictures. The Commission does not find overwhelming evidence that the presence of an expanded feedlot operation on 80 acres would sufficiently reduce or disrupt the current migratory conditions in this area of Canyon County, Idaho and on the Oregon properties adjacent to the facility as evidenced by the expanse of open cultivated fields in the predominantly agricultural area in the aerial maps as part of the record. (Exhibit 3, 30, 32, 50, &47)

(8) Chapter 7: Hazardous Areas Component

The hazardous areas component focuses primarily on floodplain and hillside development in the county. The Commission finds that the subject property is not in a hazardous area, near a landfill, and it is located within the Wilder fire protection district. The Commission acknowledges that the property lies near the Snake River and that it is an area that has a high water table; however, the property is not in a mapped flood hazard area as evidenced by the siting report and floodplain case map (Exhibits 32).

(9) Chapter 8: Public Services, Facilities and Utilities Component

This component contains goals and policies to ensure that public services are adequate for the proposed use. Among those services considered in the component text are water, wastewater, storm water, solid waste, public safety, and utilities and energy. The goals of the component are broadly intended to direct the County's planning in a manner where appropriate services are available for a proposed use and more specifically as it relates to residential and commercial/industrial development. Policy 4 states, "Encourage activities to promote the protection of groundwater and surface water." The Commission acknowledges that the proposed use has potential to impact water quality as evidenced by the "high risk" score in the Siting Team report. The Commission also finds that evidence has been presented by the entities having jurisdiction (ISDA, IDEQ, and IDWR) that the risk can be effectively mitigated through appropriate permitting, construction, inspections, and best management practices (BMPs) typically utilized for the proposed use (see Exhibits 8-8.3, 13, 20, 21). The Commission also acknowledges that this component discusses solid waste management in the context of the Canyon County Landfill. The component does not address agricultural nutrient management. For the purpose of an agricultural facility, solid waste is managed through the Nutrient Management Plans (NMP) required for animal facilities that are composting or land applying 'nutrients' to area properties and regulated by the IDAPA rules and regulations. These plans are reviewed by the Idaho Department of Agriculture with conditions noted and BMPs that help to promote protection of area water sources. (Exhibit 13).

(10) Chapter 9: Transportation Component

The Plan's transportation component has many broad goals and policies as well as specific goals and policies for various types of development. The county is reliant on the highway districts, the Idaho Transportation Department, and other agencies with jurisdictional authority to provide comment on any impacts to the County's roadways. In this case, Golden Gate Highway District No. 3 (GGHD) and the Oregon Department of Transportation (ODOT) are the transportation agencies with jurisdiction over the roadways in the area of this project. The GGHD and the ODOT have reviewed and provided comment in response to the application information (Exhibit 17 & 18). The Commission acknowledges that area residents are concerned about an increase in truck traffic to and from the proposed facility and as evidenced in the aerial maps there are a number of ninety degree or 'sharp' turns in Peckham and Red Top Roads (Exhibit 33 and 48 & 52). The Commission also

acknowledges that this is an agricultural area that is expected to have agricultural traffic including tractors, harvesting equipment, semi-trucks and trailers as well as residential vehicles. The applicant estimates that if approved there could be a net increase of eleven (11) daily vehicle trips in the traffic analysis (provided to GGHD inclusive of employees, trucks and service providers. Consistent with Policy No. 13 the site has access to maintained public roads, State Line Road and Peckham Road, for fire protection and emergency services access. The applicant must comply with GGHD access requirements (Exhibit 15 & 16). The Commission finds the application and noticing processes consistent with applicable goals and policies in this component.

(11) Chapter 10: Special Areas, Sites, and Recreation Component:

This component considers the many important aspects of our rivers, parks and recreation opportunities in Canyon County. The Commission acknowledges that area residents were concerned with impacts to the Snake River and that there is wildlife including snow geese that migrate through this region as evidenced by aerial photo and provided pictures (Exhibits 47 & 50). The southwest corner of the subject property (measured from the irrigation pivot) is located within approximately 250 feet of the Snake River however, the proposed CAFO facility (80-acre site) delineated on the site plan is buffered by approximately 750-800 feet of irrigated pasture land. The concerns with seepage and water contamination are proposed to be mitigated through the state agency required permitting processes as outlined in the Siting Team report and IDEQ letter (Exhibit 8 & 20). The Commission also acknowledges that the applicant has provided a lighting plan (Exhibit 14) and must comply with the requirement for downward facing shielded lighting at the facility in accordance with CCZO §08-01-11(1)C4 addressing (Exhibit 47 Glenis Christopherson) concerns for light pollution and potential impact to the wildlife. With these considerations the Commission finds that the property is agricultural, in agricultural production, and that the other goals and policies of this component of the Plan are not directly applicable to the proposed facility.

(12) Chapter 11: Housing:

As stated elsewhere herein the County's future land use map designates the future land use of this property as agriculture. The property is not located within an area of city impact and is more than four (4) miles from the nearest city where services can be provided for housing development. This area is not designated for housing, the application does not include a housing component and therefore the Commission finds that the goals and policies in this component of the Plan are not applicable.

(13) Chapter 12: Community Design Component:

This component focuses on design features and appearances and the visual impact from the transportation system and scenic by-way corridors. The subject property is bounded by Peckham Road and State Line Roads, the roads in this area are not designated as scenic by-ways. Fargo Road, approximately 4.4 miles to the east is the nearest scenic by-way to this location. The site plan is consistent with the setback requirements as defined in the CAFO ordinances. The property and surrounding properties are predominantly pasture and cultivated agricultural uses. The facility is buffered by an approximate 45 acres of an irrigated pasture used for grazing as evidenced by Cardoza photos in Exhibit 51 on the south to Peckham Road. The Cardoza residence is the nearest residence to the facility and that a visual buffer may be necessary to lessen the impact of the agricultural facility to this property. Again, the Commission recognizes that this area of the county is designated agriculture on the future land use map and that agricultural uses inclusive of Policy 3, encourage development design that accommodates topography and promotes conservation of agricultural land. Policy 5 encourages each development to address concerns regarding roads, lighting, drainage, stormwater runoff, landscaping, re-vegetation of disturbed areas, underground utilities and weed control (see Exhibits 12, 14, 8). Through conditions placed in the CUP that the development must abide by, alongside other applicable state and federal

laws and regulations, the Commission finds that the applicant meets the overall purpose of the goals and policies of the Community Design component applicable to this site.

(14) Chapter 13: Agriculture Component:

The goals and policies of this component are specific to agriculture. The reviews of the other specific agriculture sections in the Land Use Component and Natural Resources Component are also pertinent to this section as well. The first statement in this component reads, “Canyon County is a highly productive agricultural area as a result of good soils, a long growing season, and the delivery of water by irrigation districts and canal companies. Agriculture and farming provide the economic and social foundation of our communities. It is therefore essential for the county to support agriculture through the land use planning process. Canyon County’s policy is to support agricultural use of agricultural land and to protect agricultural lands from inappropriate and incompatible development.” The following goals and policies in this component address the needs and expectations for agriculture and agricultural activities.

Goals:

1. Acknowledge, support and preserve the essential role of agriculture in Canyon County.
2. Support and encourage the agricultural use of agricultural lands.
3. Protect agricultural lands and land uses from incompatible development.

Policies:

1. Preserve agricultural lands and zoning classifications.
2. Develop and implement standards and procedures to ensure that development of agricultural land is compatible with agricultural uses in the area.
3. Protect agricultural operations and facilities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development.
4. Development shall not be allowed to disrupt or destroy irrigation canals, ditches, laterals, drains, and associated irrigation works and rights-of-way.
5. Recognize that confined animal feeding operations (“CAFO’s”) may be more suitable in some areas of the county than in other areas of the county.

The Commission finds that the proposed use is an agricultural use in an agricultural zone and that agriculture is important to the economic and social foundation of our county. The Commission also recognizes that there are existing residential homes on agricultural properties in this region of the county as evidenced by testimony and maps. The Commission also acknowledges that there are other diaries, feedlots, and a sheep farm in the five-mile radius of the proposed new CAFO as evidenced in the staff report, siting team map, and is also identified herein in the Land Use Component review. The Commission acknowledges that agricultural operations and facilities can create conflict with new and existing residential and commercial development and that our agricultural base drives our economy. Mitigation measures to address odors, pests, lighting, and environmental concerns are conditioned and will be implemented by the operator in accordance with state and federal regulations including grading and retention of drainage water in lined evaporation ponds. The applicant must protect the waterways and irrigation structures which is appropriately addressed in the Siting Team Report, the site plan and NMP requirements as well as meaningful and enforceable conditions placed in the CUP (Exhibits 1, 3, 6, 7, 8, 10, 12, 13, 14, 15, 16, 32, 34, 35, and 4).

The Commission also finds that the Siting Team indicates that the noted environmental risks can and will be mitigated through compliance with the IDAPA 02.04.15 “Rules Governing Beef Cattle Animal Feeding Operations,” and finds that the agricultural area of the county is suitable for a feedlot operation (Exhibits 8-8.3).

(15) Chapter 14: National Interest Electric Transmission Corridors Component:

The purpose of this component is to address electrical transmission corridors. There is no evidence in the record to indicate that this application relates to or will impact the County’s electric transmission corridors and therefore the Commission finds that this component of the Plan not applicable to the application or applicants use as a CAFO.

- (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2002-0036.
- (3) Evidence includes associated findings and evidence supported within this document.

4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: The Commission finds and concludes that the proposed confined animal feeding operation (CAFO) is proposed in an agricultural zone and area with predominantly agricultural uses. As conditioned the use will not negatively change the predominantly agricultural character of the area and will not be injurious to properties in the immediate vicinity and regulated by state, federal, and local regulations.

- Findings:**
- (1) The property is located in an “A” (Agricultural) zone (Exhibit 1). The character of the area is predominantly agricultural and the property has contained a feedlot element for many years (Exhibits 6, 7, 22). Expansion of the feedlot portion of the agri-business is an “A” (Agricultural) zone does not alter the agricultural character of the area.
 - (2) The applicant modified the site plan of the facility to construct the expansion area of the feedlot to buffer the existing residential properties with open agricultural fields as evidenced by the site plan. The applicant shall conform to the site plan as conditioned. (see FCO Conditions of Approval #3,4, & 5)
 - (3) Mitigation measures to address odors, pests, lighting, and environmental concerns are conditioned and will be implemented by the operator in accordance with state and federal regulations including grading and retention of drainage water in lined evaporation ponds and as regulated by ISDA.
 - (4) The applicant possesses ownership of the majority of properties in the immediate vicinity of the proposed feedlot expansion as identified in County Assessor records and presented in area map (Exhibit 28).
 - (5) There are multiple feedlot and dairy operations in the near vicinity of the proposed facility including a feedlot/dairy operation 1.5 miles to the east at 21351 Arena Valley Road, Wilder, ID. Three feedlot/dairies located within three (3) miles or less in Owyhee County on the south side of the Snake River and a large 145 acre sheep/lambing operation approximately 2.5 miles northeast of the subject property at 23503 Roswell Road as evidenced by the Siting Team map and aerial review of county properties. (Exhibits 10 & 35)

- (6) The proposed facility is not located in an identified nitrate priority area. The Ada Canyon nitrate priority area as identified on the case map is located approximately 3300 feet (more than a half mile) to the east of the subject property. State regulatory agencies require mitigation measures and best practice management to protect the surface and groundwater as outlined in the Siting Team Advisory Report (Exhibits 8, 13, 20, 39).
- (7) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0036.
- (8) Evidence includes associated findings and evidence supported within this document.
- (9) The Commission did not find that evidence was presented in written or oral testimony from those individuals testifying in opposition supporting the claims of injury including loss of property value or enjoyment of their properties as a result of the proposed CAFO siting. Individuals chose to not stand for questions specific to their concerns and testimony. The Commission probed individuals standing for questions to glean evidence of harm, loss, injury—understanding of their specific concerns and potential opportunity for mitigating those concerns. More specifically Commissioner Sheets indicated that, “me personally, knowing how to present evidence of property values being decreased, I did not see that tonight and so it was difficult for me to take statements imploring us to have common sense that this was necessarily going to decrease property values-- I did not find that tonight and I’m making that finding right now—there was not evidence in this record that demonstrated a loss of property values.”

5. Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use?

Conclusion: The Commission finds and concludes that adequate facilities and systems for the use will be provided as regulated and conditioned at the time of expansion.

- Findings:**
- (1) The applicant has applied for and obtained approval for additional stock water rights for the facility to be accessed from a new agricultural well on the subject property. The property currently has approved irrigation and stock water rights from the Allen Drain and surface water rights from Riverside Irrigation District as evidenced in Exhibits 21 & 22.
 - (2) Drainage and stormwater retention areas are to be designed and constructed in compliance with the requirements of the Idaho Department of Agricultural (ISDA) regulations and as specified in the Siting Team Advisory Report. Said facilities are regulated and regularly inspected by the ISDA to ensure compliance with the applicable standards (Exhibits 8, 8.2, 20).
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0036.
 - (4) Evidence includes associated findings and evidence supported within this document.

6. Does legal access to the subject property for the development exist or will it exist at the time of development?

Conclusion: The Commission finds and concludes that legal access currently exists to the subject property and that Golden Gate Highway District No. 3 (GGHD) will require improvements to the approach apron from State Line Road into the subject property.

- Findings:**
- (1) The property has frontage on State Line and Peckham Roads. The access for the proposed CAFO will be at the existing access location to the current agri-business and residence at 21696 State Line Road. The applicant is not proposing nor has GGHD approved a new access to Peckham Road.
 - (2) GGHD reviewed the application proposal and provided comment with conditions requiring a paved approach in accordance with ACCHD requirements as evidenced by Exhibit 18.
 - (3) The Oregon Department of Transportation as an affected agency also made comment indicating that permitting authority on the east side of State Line Road and they do not have specific concerns with the traffic generation estimated in the applicant's traffic narrative (Exhibits 17)
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0036
 - (5) Evidence includes associated findings and evidence supported within this document.

7. Will there be undue interference with existing or future traffic patterns?

Conclusion: The Commission finds and concludes that this is a rural agricultural area with expected agricultural traffic including but not limited to trucks, tractors, harvesting equipment, support services and residential vehicles will not create undue interference with existing or future traffic patterns. The roads are publicly maintained roads that provide for emergency vehicles including fire and police to access the property and surrounding area properties. The jurisdictional agencies referenced in criteria six (6) did not report that the addition of approximately eleven (11) vehicle trips (24 total per traffic analysis) per day would cause undue interference with existing or future traffic patterns.

- Findings:**
- (1) GGHD reviewed the application proposal and provided comment with conditions requiring a paved approach in accordance with ACCHD requirements as evidenced by Exhibit 18. As conditioned the applicant will comply with GGHD (condition #6)
 - (2) The Oregon Department of Transportation as an affected agency also made comment indicating that permitting authority on the east side of State Line Road and they do not have specific concerns with the traffic generation estimated in the applicant's traffic narrative (Exhibit 17)
 - (3) The subject property has road frontage on and access to a public road, State Line Road as evidenced by aerial map.
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0036.
 - (5) Evidence includes associated findings and evidence supported within this document.

8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

Conclusion: The Commission finds and concludes that essential services will be provided and this application will not negatively impact existing services or require additional public funding.

- Findings:**
- (1) The proposed CAFO is not anticipated to impact essential services as there is not expected to be a significant increase in population, residential development, or need for additional police, fire or ambulance response to the feedlot facility. Irrigation facilities will continue to be maintained and preserved on the subject property.

- (2) The City of Wilder, Canyon County Sheriff, Riverside Irrigation District, Canyon County Paramedics/EMT, and Wilder Fire Protection District were notified of the request and did not provide responses to indicate that the proposed use would have a negative impact. No mitigation measures are proposed at this time.
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0036.
- (4) Evidence includes associated findings and evidence supported within this document.

Canyon County Code §09-01-25, 09-03-07, 09-05-25, 09-07-09, 09-09-17, 09-11-25, 09-13-07, 09-15-07, 09-17-23, 09-19-12 (Area of City Impact Agreement) - AREA OF CITY IMPACT AGREEMENT ORDINANCE

Conclusion: The Commission finds and concludes that an area of city impact ordinance is not applicable to this application. The property is not located within the Wilder Area of City Impact. A courtesy agency notice was sent to the City of Wilder and the no response was received from the City of Wilder.

- Findings:**
- (1) The proposed CAFO facility and subject property is not located within the Wilder area of city impact. The impact area boundary is located approximately 3.73 miles east of the subject property at Rodeo Lane. (Exhibit 1)
 - (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0036.

Additional Criteria: 08-01-11: Criteria for approval and development standards for new facilities

A. General Requirements:

- 1. The new CAFO shall be within an area zoned A (agricultural), M-1 (light industrial), M-2 (heavy industrial) or IP (industrial park), where appropriate.**

Conclusion: The Commission finds and concludes that the proposed CAFO facility is within an area zoned “A” (Agricultural).

- Findings:**
- (1) Exhibit 1 Parcel Tool identifies the subject property R37348010 as being zoned Agricultural and designated “AG” on future land use map 2011-2022.
 - (2) Exhibit 34 Zoning and Classification Map.

- 2. The new CAFO shall comply with and not be in violation of any federal, state or local laws or regulatory requirements.**

Conclusion: The Commission finds and concludes that evidence provides that the current facility is in compliance with the Canyon County ordinances and as conditioned the CAFO shall comply with federal, state, and local laws and regulatory requirements. (Condition #1)

- Findings:**
- (1) The existing feedlot and cattle operation is in compliance with current Canyon County codes.
 - (2) The existing feedlot is operating under an approved Nutrient Management Plan (Exhibit 13).
 - (3) The existing feedlot and cattle operation has approved irrigation and stock water permits from the Idaho Department of Water Resources (Exhibits 21 & 22).
 - (4) Expansion of the existing feedlot facility will require an updated Nutrient Management Plan in compliance with ISDA (IDAPA) rules and regulations (Condition #1) and compliance with the CAFO requirements in the Canyon County Code as conditioned.

- 3. An applicant shall not begin construction of a new CAFO prior to approval of the CAFO siting permit.**

Conclusion: The Commission finds and concludes that the applicant made upgrades to the current cattle operations on the subject property including the addition of cattle feeding pens and alleys. Staff

indicated that the facilities could only be constructed to manage the entitled animal units (<1000 head) in the feedlot facility. The applicant complied and has not constructed facility improvements beyond the entitlement requirements for the current business operations.

- Findings:** (1) Courtesy notice and photos from DSD staff indicating construction restrictions. (Exhibit 26 & 27)
(2) Aerial photos showing evidence of site improvements (Exhibit 7)
(3) Evidence within the staff report and FCOs indicating the Canyon County Zoning Ordinances (CCZO) entitlement criteria and allowed units on the AK Feeders' properties.

4. A new CAFO shall comply with IDAPA rules governing dead animal disposal.

Conclusion: The Commission finds and concludes that the applicant has provided for a mortality pick-up location. The facility will comply with rules governing dead animal disposal. (Exhibits 3, & 12)

- Findings:** (1) A condition shall be placed to comply with dead animal disposal regulations as governed by the IDAPA and under the jurisdiction of ISDA. (Condition #18)

B. Animal Waste:

1. The new CAFO shall comply with the terms of its nutrient management plan (NMP) for land application.

Conclusion: The Commission finds and concludes that the applicant has submitted and received approval for the current facility NMP. The NMP and land application of waste is regulated and inspected by the Idaho Department of Agriculture as the entity with jurisdictional authority.

- Findings:** (1) See AK Feeders Site Advisory Team Report (Exhibits 8-10).
(2) See ISDA letter dated March 15, 2023 approval of AK Feeders NMP (Exhibit 13)

2. The new CAFO shall be in compliance with all applicable environmental regulations and requirements.

Conclusion: The Commission finds and concludes that the applicant will operate the CAFO in compliance with all applicable environmental regulations and requirements as conditioned and regulated by the agency having jurisdictional authority (Condition 1).

3. All new lagoons shall be constructed in accordance with state and federal regulations.

Conclusion: The Commission finds and concludes that the Idaho State Department of Agriculture has regulatory jurisdiction and authority of this criteria.

- Findings:** (1) See AK Feeders Site Advisory Team Report (Exhibit 8).

C. Site Setbacks:

1. The locating of animal waste systems, corrals, wells and septic systems shall conform to all applicable rules, regulations and specifications as required by those regulatory agencies with CAFO oversight.

Finding: *The facility shall comply with setbacks and will be conditioned to comply as required by regulatory agencies having oversight of CAFO permitting activities. Two feed pens constructed in September 2022 are not located 50 feet from the public right of way and condition no. 5 requires the applicant to reconstruct the pens to comply with the site plan and CAFO setback requirements.*

2. Any feed product resulting from the ensilage process shall be located at least three hundred fifty feet (350') from any existing residence not belonging to the owner or operator of the CAFO, unless the other owner gives written consent to a shorter distance.

Finding: *The facility is owned by AK Feeders. There is one house on the subject property and it is owned by AK Feeders. The nearest non-applicant owned residential property from the defined 80 acre CAFO boundary on the site plan (Exhibit 3) is more than 450 feet to the southeast on Peckham Road.*

3. **All agricultural buildings, feed bunks, feed racks, corrals, feed storage areas, or other improvements shall be set back a minimum of fifty feet (50') from the public rights-of-way (ROW).**

Finding: *The site plan for the CAFO facility identifies the appropriate setbacks for the proposed facility structures. Two of the existing feeder pens (constructed in September 2022) and located adjacent to State Line Road do not currently meet setbacks (approx. 30' from ROW) and will require modification to bring those pens into compliance with the submitted site plan and ordinance. A condition shall be placed to require the setback be met—50 feet from Stateline Road rights-of-way. (Condition #5)*

4. **Lights shall be placed and shielded to direct the light source down and inside the property lines of the new CAFO. All direct glare from the CAFO lights shall be contained within the CAFO facility area.**

Finding: *The applicant has provided a site plan and identified the location of the proposed lights at the facility. A condition is placed to require compliance with the C4 (Condition #7).*

5. **No new CAFO shall be approved unless the following questions are answered to the satisfaction of the commission or board:**

(A) Whether the proposed facility will be injurious to or negatively change the essential character of the vicinity.

Finding: *The proposed facility will not be injurious or negatively change the essential character of this predominantly agricultural area of Canyon County as conditioned. This criteria is also addressed in the eight (8) CUP criteria of review and more specifically criteria #4.*

(B) Whether the proposed facility would cause adverse damage, hazard and nuisance to persons or property within the vicinity.

Finding: *As conditioned, the facility will not cause adverse damage, hazard and nuisance to persons or property within the vicinity. This criteria is also previously addressed in the number eight (8) CUP criteria above. A condition is placed to require compliance with state and federal requirements (Condition #1), compliance with the provided Waste Management and Nuisance Control Plan - including waste, odor, pests, and dust (Condition #14). Conditions have also been placed to address weeds, dust, # of cattle housed in the feedlot facility, lighting, dead animal disposal, protection of irrigation facilities, parking on roadways, and more specifically Condition #12 addresses land application of nutrients setback of 300 feet from the Cardoza property and #13 a 500 foot setback not allowing for any current or future stockpiling or composting of waste from the residential properties immediately adjacent to the 163.23 acre subject property. The Commission did not find evidence in the testimony or case file to support injury, damage or harm to surrounding persons or property.*

(C) Whether studies should be ordered at the CAFO applicant's expense to aid the commission/board in determining what additional conditions should be imposed as a condition of approval to mitigate adverse damage, hazard and nuisance effects.

Finding: *The facility must comply with the IDAPA 02.04.15 "Rules Governing Beef Cattle Animal Feeding Operations," as regulated, permitted, inspected and enforced by the Idaho Department of Agriculture. A Siting Team review was conducted and a report was provided to the County with proposed mitigation requirements. The ISDA has also reviewed and provided an approval letter for the current AK Feeders' Nutrient Management Plan for the existing facility with required testing and identified best management practices. These items are under the jurisdiction of the ISDA.*

6. **The animal waste system shall not be located or operated closer than five hundred feet (500') from an existing residence belonging to someone other than the applicant, or be located and/or operated closer than one hundred feet (100') from the property lines, unless the other owner gives written consent to a shorter distance.**

Finding: *The animal waste systems as shown on the site plan are not within 500 feet of a residence belonging to someone other than the applicant. By scaling the site plan the nearest residence to the southeast corner of the waste pond is more than 900 feet.*

7. **No animal waste system shall be located and/or operated closer than one hundred feet (100') from a domestic or irrigation well.**

Finding: *No waste system shall be located and/or operated closer than one hundred feet from a domestic or irrigation well. (Condition #3)*

8. **No animal waste system shall be located closer than one hundred feet (100') from a public right of way.**

Finding: *No animal waste system existing or new is proposed to be less than 100 feet from a public right of way and a condition is placed to ensure compliance with set-backs. (Condition #3 and 4)*

9. **The setbacks contained herein shall not apply to land application.**

Finding: Land application is addressed in the Nutrient Management Plan reviewed and regulated by the ISDA. *However, to comply with criteria within the CAFO ordinance and CUP criteria mitigating land use conflicts; land application of nutrients shall not be allowed within 300 feet of the exterior boundaries of parcel R37348 (a 2 acre residential parcel located at 31252 Peckham Road, Wilder, ID.) Stockpiling and/or composting of animal waste shall not be allowed within 500 feet of the immediately adjacent properties located along Peckham Road and specifically identified in Conditions # 12 and # 13.*

CCZO §08-01-14: GRANT OR DENIAL OF CAFO SITING PERMIT:

- (1) If the commission finds that the applicant has carried the burden of persuasion that the proposed expanding or new CAFO complies with the criteria set forth in this article, the commission shall grant the CAFO siting permit requested. The CAFO siting permit shall be in the form of findings of fact, conclusions of law and order. If the commission does not find that the applicant has shown that the proposed expanding or new CAFO meets the criteria set forth herein, the commission shall deny the CAFO siting permit in writing setting forth reasons for the denial and the relevant law relied upon and action that may be taken by the applicant to attempt to obtain a conditional use permit. In making such decision, the commission may use information and consider recommendations received from the state of Idaho CAFO advisory team or any other similar group.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **approves** Case #CU2022-0036, a conditional use permit for AK Feeders, LLC requesting a Confined Animal Feeding Operation (CAFO) for a maximum of 3700 head of beef cattle on approximately 80 acres of parcel R37348010 (containing 163.23 acres) in substantial conformance to the specified CAFO boundaries on site plan received by DSD 4-25-23 and subject to the following conditions as enumerated:

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use. Including but not limited to:
 - a. Compliance with Idaho State Department of Agriculture
 - b. Compliance with Idaho Department of Environmental Quality
 - c. Compliance with Idaho Environmental Protection Agency
 - d. Compliance with Idaho Department of Water Resources
2. Pursuant to Canyon County Code Chapter 8, CAFO Regulations, §08-01-14: Construction of the new or expanding CAFO must commence within three (3) years of the issuance of the CAFO siting permit and be completed within five (5) years of the same date. If construction has not commenced within three (3) years and/or completed within five (5) years from the date the CAFO siting permit was approved, the permit holder may request an extension. Application for extension must be filed at least sixty (60) days prior to the expiration of the three (3) year or five (5) year period. A renewal extension, if granted, may be limited to three hundred sixty-five (365) calendar days,

which shall commence at the expiration of either period. The applicant bears the burden of persuasion on an extension request.

3. The development shall comply with all site setbacks as provided in the County CAFO Ordinance (Canyon County Code Section 08-01-012(1)C), as follows:
 - a. The locating of animal waste systems, corrals, wells, and septic systems shall conform to all applicable rules, regulations and specifications as required by those regulatory agencies with CAFO oversight.
 - b. Any feed product resulting from the ensilage process shall be located at least three hundred fifty feet (350') from any existing residence not belonging to the owner or operator of the CAFO, unless the other owner gives written consent to a shorter distance.
 - c. All agricultural buildings, feed bunks, feed racks, corrals, feed storage areas, or other improvements shall be set back a minimum of fifty feet (50') from the public rights of way.
 - d. The animal waste system shall not be located closer than five hundred feet (500') from an existing residence belonging to someone other than the applicant, or be located and/or operated closer than one hundred feet (100') from the property lines, unless the other owner gives written consent to a shorter distance.
 - e. No animal waste system shall be located closer than one hundred feet (100') from a domestic or irrigation well. *Definition of animal waste system: structure or system that provides for the collection, treatment, or storage of animal waste, including composting.*
 - f. No animal waste system shall be located closer than one hundred feet (100') from a public right of way.
 - g. The setbacks contained herein shall not apply to land application (except as provided for parcel R37348 specifically). *Land application is the spreading on or incorporation of liquid or solid waste into the soil mantle primarily for beneficial purposes.*
4. Prior to commencement of operation expansion, the feedlot shall be developed in substantial conformance the site plan dated 4-24-23 (Exhibit 3 and Attached hereto as Attachment A). If the site plan needs to be adjusted to meet the setback requirements of the CAFO ordinance, then a revised site plan meeting the setback requirement the other conditions contained herein shall be submitted to the Development Services Department prior to commencement of construction of the proposed improvements on the site. The facility shall be constructed in substantial conformance with and in conformance with all setback requirements for a CAFO facility as required in CCZO §08-01-11(1) C. *Note: Feedlot receiving and processing pens are noted to be reconfigured.*
5. Prior to expansion, lagoons shall be lined and constructed in accordance with state and federal regulations.
6. Two existing feedlot pens (*constructed in or around September 2022*) adjacent to Stateline Road shall be reconfigured to meet the required 50 foot setback from the public right of way and as shown on the CAFO site plan dated 4-24-23 from AGPRO in compliance with CCZO §08-01-012(1)C. (attached hereto as Attachment A) The identified pens must be reconfigured prior to the applicant expanding the current cattle numbers to accommodate the CAFO permit. The applicant shall provide proof of the reconfiguration and compliance with the CAFO setbacks to Development Services Department in the form of pictures and/or setback inspection before CAFO operations (>1000 head of cattle in feedlot) begin.
7. The applicant shall comply with applicable Golden Gate Highway District No. 3 access requirements. The applicant shall obtain a permit prior to expansion of the existing feedlot facility. The applicant shall provide proof of compliance by providing Development Services with an approved highway district permit for improvements. (Exhibit 18)
8. Lighting (existing and new) shall be placed and shielded to direct the light source down and inside the property lines of the new CAFO. All direct glare from the CAFO lights shall be contained within the CAFO facility area. CAFO facility lighting shall be utilized only on an as needed basis after dusk at the facility. Existing night sensor, photoelectric/photo cell light(s) typical for residential/farm/barnyard lighting may remain on throughout the night. Existing lighting must be shielded to direct the light down and inside the property.
9. The feedlot, waste systems, and support facility (barnyard) shall be kept weed free and/or maintained in compliance with CCCO Chapter 2 Article 1: Public Nuisances.
10. The applicant shall not impede or disrupt existing irrigation structures, i.e. drains, laterals, supply ditches, on and adjacent to the subject property.

11. The applicant shall not discharge CAFO process water or stormwater from the feedlot and/or settling lagoons to the Allen Drain or the Snake River. Comply with ISDA rules and regulations.
12. The operator shall process and dispose of waste in a manner consistent with the requirements of the Nutrient Management Plan for AK Feeders as approved and regulated by the Idaho State Department of Agriculture.
13. The operator shall not land apply nutrients within 300 feet of parcel R37348 (two acres) at site address 31252 Peckham Road, Wilder, Idaho.
14. The operator shall not place a composting facility or stage/stockpile nutrients within 500 feet of any existing residential parcel [R37351, R37351011, R37351010, R37350] along/near the southern boundary (Peckham Road) of subject property R37348010 (163.23 acres) inclusive of residential parcel R37348.
15. The CAFO shall comply with the odor, waste, dust, and pest best management practices in compliance with the approved nutrient management plan and shall be consistent with Idaho Department of Environmental Quality (DEQ) and Idaho State Department of Agriculture (ISDA) requirements.
16. Signage shall meet CCZO §07-10-13 requirements, and shall not exceed 32 sq. feet as proposed by the applicant unless an additional sign permit is applied for and approved by the Director.
17. The feedlot operation shall not exceed the maximum 3700 head of cattle at any given point in time within the feedlot facility without applying for and receiving approval through an amended or new conditional use permit.
18. The CAFO shall comply with the nutrient management plan as approved by the Idaho State Department of Agriculture.
19. Dust shall be controlled per applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to operations including but not limited to nuisance regulations (CCCO Chapter 2 Article 1: Public Nuisances) and shall be consistent with Idaho Department of Environmental Quality (DEQ) and Idaho State Department of Agriculture (ISDA) requirements
20. The CAFO shall also comply with Idaho State Department of Agriculture rules regarding dead animal disposal.
21. The facility shall comply with the recommendations in the Mitigation section of the CAFO Siting Team report, to minimize potential water source contamination (Exhibit 8 and attached hereto as Attachment B).
22. The CAFO shall comply with stock water and/or commercial water right requirements (Idaho Department of Water Resources).
23. All employee, delivery-including cattle trucks, facility-related parking of vehicles shall be onsite--not in the public right-of-way and/or along the shoulders of State Line Road in the vicinity of the facility.
24. Comply with all Fire District requirements by State adopted IFC and as evidenced by review and approval documentation prior to issuance of a certificate of occupancy.
25. The Applicant shall submit a copy of the annual inspection report provided by the Idaho State Department of Agriculture to the Development Services Department (DSD) commencing December 31, 2023. Each annual inspection report shall be submitted to DSD no later than December 31st of each calendar year unless the report is received by the Applicant after that date in which case the report shall be submitted to DSD within ten business days of its receipt.

DATED this 21 day of December, 2023.

**PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO**



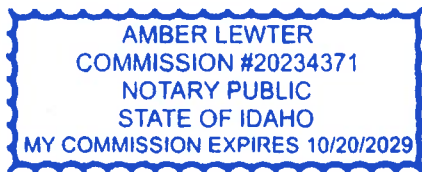
Brian Sheets, Vice Chairman

State of Idaho)

SS

County of Canyon County)

On this 21 day of December, in the year 2023, before me Amber Lewter, a notary public, personally appeared Brian Sheets, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.



Notary: Amber Lewter

My Commission Expires: 10/20/2029

Attachment A: Site Plan and Grading Plan



Attachment B: Siting Advisory Team Report



IDAHO STATE DEPARTMENT OF AGRICULTURE



CAFO SITE ADVISORY TEAM

September 14, 2023

Canyon County Board of Commissioners
Commissioner Leslie Van-Bee
Commissioner Brad Holton
Commissioner Zach Brooks
Canyon County, Caldwell Idaho

RE: CAFO Siting Advisory Team Review Report of AK Feeders

Dear Commissioners,

The Idaho State Concentrated Animal Feeding Operation (CAFO) Siting Team has completed its review of the proposed Livestock Confinement Operation expansion of AK Feeders located at 21696 Stateline Rd. Wilder, Idaho. This facility is proposing to extend the existing operation to 3700 head of beef cattle. The review was completed in response to a request made by Canyon County in accordance with IDAPA 02.04.30, subchapter B.

The Team, consisting of representatives from the Idaho Department of Environmental Quality (IDEQ), Idaho Department of Water Resources (IDWR), and the Idaho State Department of Agriculture (ISDA) performed a site evaluation on September 9, 2023.

The information evaluated for this facility included the application package provided by Canyon County, IDWR ground water information and water right records, IDWR Statewide Ambient Ground Water Quality Monitoring Program network data, IDEQ map and data, ISDA Regional Agricultural Ground Water Quality Monitoring Program data, Natural Resources Conservation Service soil data, well driller reports, discussions with county officials and the owner, and an onsite evaluation by the team.

According to IDAPA 02.04.30 subchapter B, CAFO Site Advisory Team is required to provide a site suitability determination that includes:

- **Risk Category.** A determination of an environmental risk category: high, moderate, low; or insufficient information to make a determination.
- **Description of Factors.** A description of the factors that contribute to the environmental risks.
- **Mitigation.** Any possible mitigation of the environmental risks.

I. Risk Category

The following determination is based on the information supplied to the team through the county and site-specific conditions at the time of the site visit. However, information used for evaluating the ground water,

"Serving consumers and agriculture by safeguarding the public, plants, animals and the environment through education and regulation."

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geology, and soils may be based on regional information and may not fully characterize the local conditions of the specific facility.

The Environmental Risk, as determined by the CAFO Site Advisory Team, is **High Risk**.

Any changes or modification in the application or at the site may alter the Environmental Risk. Risk is determined through a point-based scoring system (attached) that utilizes and accounts for a combination of environmental factors. Management and mitigation are not factored into this determination; it is a physical characterization of the site only.

II. Description of Factors

The Environmental Risk is based on physical characteristics of the site. The following technical factors contributed to the environmental risk rating:

High Risk Factors

- Dominant soil texture in the area is fine sandy loam, with high saturated hydraulic conductivity (K_{sat}) between 0.57 and 2 inches/hour.
- Clay layers in the unsaturated zone are discontinuous. Driller's reports indicate 0-10 ft. of clay layers in the unsaturated zone
- The depth to first encountered groundwater is generally shallow at 0-25 ft.
- The aquifer geology is composed of sand and gravel.

Moderate Risk Factors

- The average soil depth in the area is approximately 60 inches.
- The most recent mean nitrate level in groundwater within a 5-mile radius is 5.3 mg/L.
- The percentage of wells over 5 mg/L of nitrate within a 5-mile radius is 25%.
- Downgradient distance to the closest domestic well is cross-gradient, however less than 100 feet away.

Low Risk Factors

- The time of travel to the nearest downgradient spring is greater than 10 years.
- The CAFO site is not located within a source water delineation capture zone.
- Downgradient distance from the CAFO to the nearest surface water body (Snake River) is greater than 200 feet.
- The facility exports all manure off site to a third party, presenting low risk to downgradient surface water bodies from land application at the proposed CAFO site.
- The CAFO site is not within a 100-year floodplain.
- Surface run-on potential to the CAFO site is low due to moderately sloped topography next to CAFO site.
- NRCS run off index indicated low risk of surface runoff from the CAFO facility.
- The average annual precipitation is approximately 9.1 inches/year.

III. Mitigation

The CAFO Site Advisory Team's environmental risk assessment process is focused on water quality.

The facility will operate as a licensed CAFO. ISDA has regulatory jurisdiction over the facility per IDAPA 02.04.15 "Rules Governing Beef Cattle Animal Feeding Operations". The Nutrient Management Plan will be


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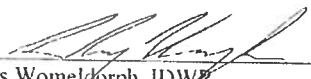
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The following individuals were present at the CAFO Site Advisory Team evaluation. The names depicted in bold type are the individuals responsible for the suitability determination.

1. **Pradip Adhikari**, Soil Scientist, ISDA
2. **Gus Womeldorph**, IDWR, Hydrogeologist
3. **Kathryn Elliott**, IDEQ, Ground Water Coordinator
4. Debbie Root, Canyon County Representative
5. David DeBenedetti, Facility Owner
6. Coortney Rueth, Owner Representatives
7. Valene Cauhorn, AgPro/Owner Representatives
8. Mat Wilke, Owner Representatives

If you require further information regarding this site determination, please feel free to contact us.


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(208) 332-8541


Gus Womeldorph, IDWR
(208) 287-4963


Kathryn Elliott, IDEQ
(208) 373-0191

ATTACHMENTS

1. CAFO Site Advisory Team Environmental Risk Form
2. IDEQ produced map (including animal units in the area, public water systems, residential wells, irrigated acres and population)

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666 Feeders

21696 Stateline RD, Wilder,

Map Legend

Dairy Locations (ISDA)

Feedlots (ISDA)

Schools (GIS)

Township and Range
PLS (Sections)

Public Water Systems

Source Water Delineations

Time of Travel

SWA 5 Year To T

SWA 6 Year To T

SWA 10 Year To T

Surface Water Buffer

Fixed Road

Watershed Boundary

ISDA Wells (Hale)

Deep Injection Wells (Non-Permit)

Deep Injection Wells (DWR)

State Monitoring Wells (DWR)

Domestic Wells (DWR)

Springs (HHD)

Atriate Priority Areas (2020)

Animal Units Miles = 1174

Public Water System

Residential Well = 3

State Monitoring Wells = 0

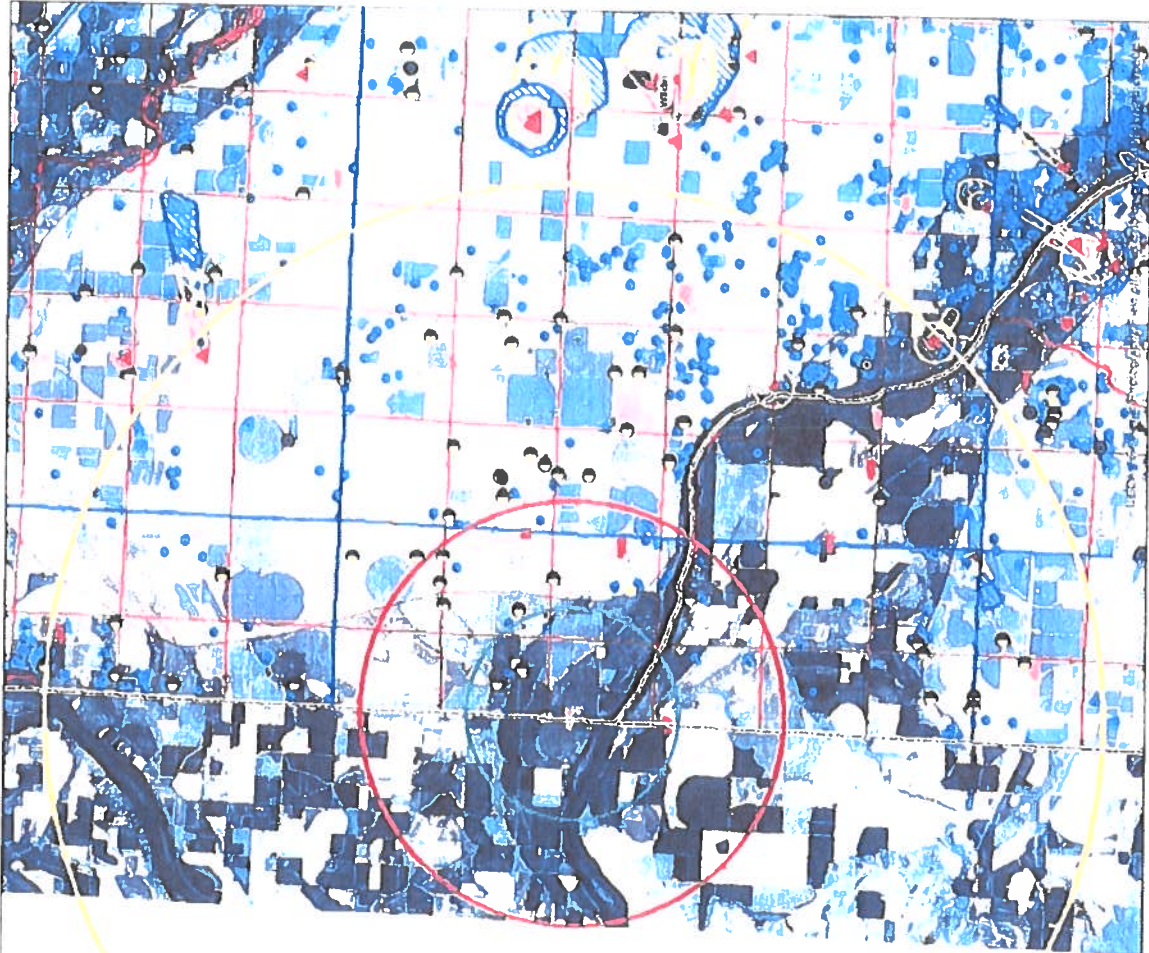
Deep Injection Wells = 1

Population 2020 = 669

Irrigated Acres = 27668

USGS/NHD Springs = 1

Schools = 1



The information on this map is derived from the State of Idaho's Geographic Information System (GIS) and is provided for informational purposes only. The State of Idaho does not warrant the accuracy or completeness of the information on this map. The State of Idaho is not responsible for any errors or omissions on this map. The State of Idaho is not liable for any damages, including consequential damages, arising from the use of this map. The State of Idaho is not responsible for any actions taken based on the information on this map. The State of Idaho is not responsible for any actions taken based on the information on this map.

State of Idaho CAFO Site Advisory Team Environmental Risk Form

Risk Scoring System
 1 = Low Risk = Ideal goal for environmental protection
 2 = Moderate Risk = Provides reasonable resource protection
 3 = High Risk = Poses a high risk for health and/or for contaminating ground or surface water

Name & Date of Site: AK Feeders, 9/6/2023

Category	Result	Risk Score
Soil		
1. Soil permeability	High. Fine sandy loam with Ksat 0.57 to 2.00 m/hr.	3
2. Soil depth	Moderate. Typical soil profile depth 60 inches.	2
3. Thickness of clay in unsaturated zone	High. Driller's reports indicate 0-10 ft of clay typical in unsaturated zone.	3
Ground Water		
4. Depth to first encountered water	High. Depth to first encountered water is generally shallow, 0-25 ft.	3
5. Mean nitrate level in ground water within a 5 mile radius	Moderate. Mean most recent nitrate levels are 5.3 mg/L within a 5-mile radius.	2
6. Percentage of wells over 5 mg/L nitrate within 5 miles	Moderate. 25% of wells within a 5 mile radius have a nitrate value over 5 mg/L.	2
7. Aquifer geology	High. Typical aquifer geology is sand and gravel.	3
8. Time of travel to a spring	Low. Time of travel to a spring is >10 years.	1
9. Downgradient distance to nearest domestic well	Moderate. Nearest domestic well is cross-gradient, but <100 ft away.	2
10. Within source water delineation area time-of-travel	Low. CAFO is not within a source water delineation area time-of-travel.	1
Surface Water		
11. Downgradient distance from CAFO to nearest surface water body	Low. Downgradient distance from CAFO to nearest surface water body (Snake River) is >200	1
12. Downgradient distance from land application to nearest surface water	Low. All manure is third-party export.	1
13. 100-year floodplain	Low. Not within the 100 year floodplain.	1
Nutrient Transport		
14. Run-on	Low. Run-on risk is low due to low to moderately sloped topography next to CAFO site.	1
15. Surface Runoff	Low. NRCS surface runoff index is low.	1
16. Annual precipitation	Low. Average annual precipitation is 9.1 inches.	1
	Index 1	40.00
	Index 2	3.00
Final Risk Score		High

Waste Management Plan

*Waste Management
and
Nuisance Control*

For

*AK Feeders
Canyon County, Idaho*

Prepared by



HQ & Mailing: AGPROfessionals
3050 67th Avenue
Greeley, CO 80634 (970) 535-9318

Idaho: 213 Canyon Crest Drive, Suite 100
Twin Falls, ID 83301 (208) 595-5301

Developed in Accordance with Generally Accepted Agricultural Best Management Practices

March 2023

i

Introduction

This *Management Plan for Waste and Nuisance Control (MPWNC)* has been developed and implemented to identify methods AK Feeders will use to minimize the inherent conditions that exist in confinement feeding operations. The management plan outlines management practices generally acceptable and proven effective at odor and pest management and minimizing nuisance conditions. This narrative is a proactive measure to assist integration into local communities. AK Feeders management will use practices to their best and practical extent.

Legal Description

The concentrated animal feeding facility described in this MPWNC is located directly on the Idaho and Oregon border, on the west side of State Line Road in Section 14, Township 4 North, Range 6 West.

Odor Control

Odors result from the natural decomposition processes that start as soon as the manure is excreted and continue as long as any usable material remains as food for microorganisms living everywhere in soil, water and the manure. Odor strength depends on the kind of manure, and the conditions under which it decomposes. Although occasionally unpleasant, the odors are not dangerous to health in the quantities one customarily notices around animal feeding operations and fields where manure is spread for fertilizer. AK Feeders will use the following methods and management practices for odor control:

1. Pen Management

○ *Drainage and Regular Manure Removal*

Dry manure is less odorous than moist manure. Standing water can increase microbial digestion and odor-producing by-products. AK Feeders will conduct proper pen maintenance and surface grading to reduce standing water. In between pen cleanings, the manure will be mounded in the pens prior to being exported.

2. Manure/Stormwater Pond Management

○ *Aerobic Designed Ponds*

The runoff ponds are designed to capture runoff only and be rather shallow to keep aerobic conditions. Ponds will be dewatered when needed in accordance with the *Nutrient Management Plan* for AK Feeders. The shallow nature and large surface area of the ponds will promote evaporation as well.

Dust Control

Dust from pen surfaces is usually controlled by intensive management of the pen surface by routine cleaning and harrowing of the pen surface. The purpose of intensive surface management is twofold - to keep cattle clean and to reduce pest habitat. The best management systems for dust control involve moisture management. Management methods AK Feeders will use to control dust are:

1. Pen Density
 - ☉ Moisture will be managed by varying stocking rates and pen densities. The animals' wet manure and urine keep the surface moist and control dust emissions. Stocking rates are considered in the management of dust.
2. Regular Manure Removal
 - ☉ AK Feeders will conduct regular manure removal. Manure removal and pen maintenance are conducted as needed.
3. Water Trucks
 - ☉ Should nuisance dust conditions arise, water tanker trucks or portable sprinkling systems will be used for moisture control on pens and roadways to minimize nuisance dust conditions.

If it is determined that nuisance dust and odor conditions persist, AK Feeders may increase the frequency of the respective management practices previously outlined, such as pen cleaning, surface grading and pen maintenance.

Pest Control - Insects and Rodents

Insects and rodents inhabit environments that have an adequate-to-good food supply and that foster habitat prime for breeding and living. AK Feeders will manage insect and rodent habitat and available food supply by minimizing the existence of such environments through practicing routine good housekeeping, commodity storage cleaning, site grading and maintenance. Traps and chemical treatments are effective control methods and will be used, as necessary.

1 Habitat Management

Regular Manure Removal and Lot Management

Proper manure management removes both food sources and habitat for flies. AK Feeders manure management consists of routine lot harrowing, lot scraping, cleaning of alleys and removal of manure for land application. All manure will be routinely third party. Exporting the manure will eliminate odors associated with the manure composting process.

2 *Reduce Other Fly Habitats*

Standing water, weeds and grass are all prime habitats for fly reproduction and protection. AK Feeders tends each field and mows the grass and weeds, as appropriate, to control fly breeding conditions. Where practical, AK Feeders management of these areas will consist of ditch burning, mowing along roadways and waterways, and grading lot, pasture, and roadways to reduce standing water.

2 Controls Biological and Chemical

3 *Biological Control*

Parasitic wasps make excellent biological fly control, and are widely used. AK Feeders will consider parasitic wasps as a biological control, as needed. This method will be warranted by the results of the other control measures previously outlined.

3 *Baits and Chemical Treatments*

Baits and treatments are generally very effective. If additional pest prevention is necessary, AK Feeders will use USDA approved fly sprays and baits, such as Pyganic. Application levels and methods of such will be warranted by the results of the other control measures previously outlined.

In the event it is determined that nuisance conditions from pests such as flies and rodents persist, AK Feeders will initially increase the frequency of the housekeeping and management practices outlined previously. If further action is necessary, AK Feeders will increase use of USDA approved chemical controls and treatments, such as fly sprays and baits, and rodenticide for pest control.