

ELMORE COUNTY PLANNING AND ZONING COMMISSION
War Memorial (American Legion Hall), 515 East 2nd South Street, Mountain Home, ID
83647

Wednesday, June 15, 2016 at 7:00pm

Agenda

PLEASE SILENCE CELL PHONES

CALL TO ORDER

ESTABLISH QUORUM

- | | |
|---|--|
| <input type="checkbox"/> Chairperson Patti Osborn | <input type="checkbox"/> Vice-Chairman K.C. Duerig |
| <input type="checkbox"/> Dave Holland | <input type="checkbox"/> Sue Fish |
| <input type="checkbox"/> Ed Oppedyk | <input type="checkbox"/> Shane Zenner |
| <input type="checkbox"/> Jeff Blanksma | |
|
<input type="checkbox"/> Attorney of Record Phil Miller | |

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

- **Cat Creek Energy, LLC for a Conditional Use Permit for transmission lines in the Agriculture and Area of Critical Concern Overlay Zones. Case Number: CUP-2015-03.** The site is located in portions of Sections 26 and 35, Township 1N, Range 9E, B.M., Sections 2, 3, 10, and 11, Township 1S, Range 9E, B.M. A common way of locating the property is from Mountain Home travel US 20 north for 25.4 miles to Wood Creek Road. Center of projects is approximately 3.2 miles north on Wood Creek Road.

- **Cat Creek Energy, LLC for a Conditional Use Permit for pump storage hydro electrical generating facility in the Agriculture and Area of Critical Concern Overlay Zones. Case Number: CUP-2015-04.** The site is located in portions of Sections 26, 27, 35, and 36, Township 1N, Range 9E, B.M., and portions of Sections of 1 and 2, Township 1S, Range 9E, B.M. A common way of locating the property is Mountain Home travel US 20 north for 25.4 miles to Wood Creek Road. Center of projects is approximately 3.2 miles north on Wood Creek Road.

- **Cat Creek Energy, LLC for a Conditional Use Permit for a PV solar electrical generating facility in the Agriculture Zone. Case Number: CUP-2015-05.** The site is located in portions of Sections 2, 3, 10, and 11, Township 1S, Range 10E, B.M. A common way of locating the property is Mountain Home travel US 20 north for 25.4 miles to Wood Creek Road. Center of projects is approximately 3.2 miles north on Wood Creek Road.

- **Cat Creek Energy, LLC for a Conditional Use Permit for a wind turbine electrical generating facility in the Agriculture and Area of Critical Concern Overlay Zones. Case Number: CUP-2015-06.** The site is located in portions of Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 21, 22, 28, 29, 30, 31, 32, and 33, Township 1S, Range 10E, B.M., Sections 19, 20, 28, 29, 30, 31, 32, and 33, Township 1N, Range 10E, B.M., Sections 25, 26, 27, 35, and 36, Township 1N, Range 9E, B.M., Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, and 24, Township 1S, Range 9E, B.M. A common way of locating the property is Mountain Home travel US 20 north for 25.4 miles to Wood Creek Road. Center of projects is approximately 3.2 miles north on Wood Creek Road.
- **Cat Creek Energy, LLC for a Conditional Use Permit for a substation in the Agriculture Zone. Case Number: CUP-2015-07.** The site is located in portions of Sections 2 and 11, Township 1S, Range 9E, B.M. A common way of locating the property is Mountain Home travel US 20 north for 25.4 miles to Wood Creek Road. Center of projects is approximately 3.2 miles north on Wood Creek Road.

ITEMS FROM THE PUBLIC

MINUTES AND RECCOMENDATION

- Minutes from 06-01-2016
- Recommendation for ZDA-2016-01

INFORMATION ITEMS

- Upcoming P & Z Schedule

MEETING ADJOURN at 10:00 pm



Elmore County Land Use and Building Department

520 East 2nd South Street
Mountain Home, Id. 83647
Phone: (208) 587-2142 ext. 254
Fax: (208) 587-2120
www.elmorecounty.org

Alan Christy
Director

Tell Riley
Building Official

Beth Bresnahan
Planner I

Kacey Ramsauer
Administrative
Assistant

Staff Report to the Elmore County Planning and Zoning Commission

Meeting/Hearing Date: 6/15/16

Date Report Compiled: 6/8/16

Report Number: Commission 1

Agenda Item(s) and Zoning:

- Conditional Use Permit for transmission lines in the Agriculture and Area of Critical Concern Overlay Zones. Case Number: CUP-2015-03. The site is located in portions of Sections 26 and 35, Township 1N, Range 9E, B.M., Sections 2, 3, 10, and 11, Township 1S, Range 9E, B.M.
- Conditional Use Permit for pump storage hydro electrical generating facility in the Agriculture and Area of Critical Concern Overlay Zones. Case Number: CUP-2015-04. The site is located in portions of Sections 26, 27, 35, and 36, Township 1N, Range 9E, B.M and portions of sections of 1 and 2, Township 1S, Range 9E, B.M.
- Conditional Use Permit for a PV solar electrical generating facility in the Agriculture Zone. Case Number: CUP-2015-05. The site is located in portions of Sections 2, 3, 10, and 11, Township 1S, Range 10E, B.M.
- Conditional Use Permit for a wind turbine electrical generating facility in the Agriculture and Area of Critical Concern Overlay Zones. Case Number: CUP-2015-06. The site is located in portions of Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 21, 22, 28, 29, 30, 31, 32, and 33, Township 1S, Range 10E, B.M., Sections 19, 20, 28, 29, 30, 31, 32, and 33, Township 1N, Range 10E, B.M., Sections 25, 26, 27, 35, and 36, Township 1N, Range 9E, B.M., Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, and 24, Township 1S, Range 9E, B.M.
- Conditional Use Permit for a substation in the Agriculture Zone. Case Number: CUP-2015-07. The site is located in portions of Sections 2 and 11, Township 1S, Range 9E, B.M.

Applicant: Cat Creek Energy, LLC
1989 South 1875 East
Gooding, ID 83330

Case Number(s): CUP-2015-03 (Transmission Lines)
CUP-2015-04 (Pump Storage Hydro – Electrical Generating Facility)
CUP-2015-05 (Solar – Electrical Generating Facility)
CUP-2015-06 (Wind – Electrical Generating Facility)
CUP-2015-07 (Substation)

Staff: Alan Christy, Director,
Beth Bresnahan, Planner 1

Location: A common way of locating the property for all the CUP's is from Mountain Home travel US 20 north for 25.4 miles to Wood Creek Road. Center of projects is approximately 3.2 miles north on Wood Creek Road.

Parcel Numbers:

CUP-2015-03

RP 01N09E265410 A, RP 01N09E350010 A, RP 01S09E020010 A, RP 01S09E039010 A, RP 01S09E10010 A, RP 01S09E110040 A

CUP-2015-04

RP 01N09E265410 A, RP 01N09E277210 A, RP 01N09E350010 A, RP 01N09E360010 A, RP 01N09E010610 A, RP 01S09E020010 A, RP 01S09E039010 A, RP 01S09E100010 A, RP 01S09E110040 A, RP 01S09E120040 A

CUP-2015-05

RP 01S09E020010 A, RP 01S09E039010 A, RP 01S09E100010 A, RP 01S09E110040 A

CUP-2015-06

RP 01N09E250010 A, RP 01N09E251210 A, RP 01N09R265410 A, RP 01N09E277210 A, RP 01N09E350010 A, RP 01N09E360010 A, RP 01N09E191840 A, RP 01N10E200010 A, RP 01N10E283010 A, RP 01N10E290010 A, RP 01N10E300010 A, RP 01N10E320010 A, RP 01N10E310010 A, 01N10E330610 A, RP 01S09E010610 A, RP 01S09E020010 A, RP 01S09E039010 A, RP 01S09E100010 A, RP 01S09E110040 A, RP 01S09E120040 A, RP 01S09E130040 A, RP 01S09E140040 A, RP 01S09E157810 A, RP 01S09E220010 A, RP 01S09E230010 A, RP 01S09E243010 A, RP 01S10E30010 A, RP 01S10E040010 A, RP 01S10E051210 A, RP 01S10E060640 A, RP 01S10E070010 A, RP 01S10E080010 A, RP S10E090610 A, RP 01S10E102410 A, RPS10E160040 A, RP 01S10E170010 A, RP 01S10E180010 A, RP 01S10E190610 A, RP 01S10E303010 A, RP 01S10E159010 A, RP 01S10E210040 A, RP 01S10E220020 A, RP 01S10E280085 A, RP 01S10E290020 A, RP 01S10E301840 A, RP 01S10E310500 A, RP 01S10E320020 A, RP 01S10E332410 A

CUP-2015-07

RP 01S09E020010 A, RP 01S09E110040 A

BACKGROUND:

Cat Creek Energy, LLC (the "Applicant") submitted five conditional use permit applications (the "Applications") on February 26, 2015. The Applicant is proposing a project that consists of five uses that each require a conditional use permit ("CUP").

The Applications consist of the following:

- Conditional use permit application for Transmission Lines. ("CUP-2015-03")
- Conditional use permit application for Pump Storage Hydro ("CUP-2015-04")
- Conditional use permit application for PV Solar ("CUP-2015-05")
- Conditional use permit application for Wind Power ("CUP-2015-06")
- Conditional use permit application for a Substation ("CUP-2015-07")

Collectively the Applications are referred to as: the "Project". Collectively all properties within the Project are referred to as the "Site".

The Applicant's narrative for the Applications states:

"Above the existing Anderson Ranch Dam reservoir, approx. 800ft, a 50,000 acre ft. upper reservoir, penstocks between the two reservoirs, a concrete and steel powerhouse consisting of water turbines, approximately 39-2.85MW wind

turbines, approximately 170,000 photovoltaic single axis solar panels, underground and overhead 34.5kV and 230kV transmission lines connecting to an onsite substation, a 230kV transmission line off-site which connect to the BPA Anderson Ranch-Mountain Home transmission corridor. A 10,000sq ft O&M building and facilities. All appurtenant fixtures like septic, water well, roads, pad transformers, inverters, etc. associated with the generators shall also be constructed. Up to 600MW nameplate of total electrical power generation.”

The Elmore County Land Use and Building Director (the “Director”) notified the Applicant at a pre-application meeting on January 15, 2015 and via email on February 2, 2015 that an Environmental Impact Statement (“EIS”) would be required. The Applicant submitted the Applications without completing an EIS. The Director sent a letter on March 27, 2015 stating that an EIS, along with other Application deficiencies, are required to be completed prior to the Director determining the Applications complete. An additional letter was sent to the Applicant on April 10, 2015 requiring an EIS and contains additional deficiencies identified by the Elmore County Engineer. The Director sent status reports on July 16, 2015 and October 1, 2015. The Director sent a complete letter of the Application deficiencies on October 21, 2015. During this time the Director had researched other environmental study options for the Applicant that could be submitted in lieu of an EIS.

The Applicant appealed the Director’s decision that an EIS is required for the Applications. Five appeal applications were filed with the Department on November 2, 2015 (the “Appeal Applications”). An appeal hearing was scheduled for December 16, 2015. The Applicant submitted a Wildlife Mitigation Plan (the “WMP”) on December 11, 2015. The appeal hearing was tabled on December 16, 2015 to allow the Department time to review the WMP. The appeal hearing was tabled until February 17, 2016.

The Director accepted the WMP on February 10, 2016 as part of completing the Applications. The Applicant desired to still have the appeal hearing on February 17, 2016. The Commission concurred that the appeal hearing was not necessary on February 17, 2016.

The Director met with Applicant representatives on February 18, 2016 to discuss outstanding deficiencies. Additional information was supplied on March 7, 2016 and March 16, 2016. The Director deemed the application complete on March 21, 2016 and scheduled the public hearings for June 15, 2016.

Notice of the public hearings and record was sent to agencies and political subdivisions on March 24, 2016. Notice of public hearings was sent to surrounding properties on March 24, 2016. Notice of public hearings was posted on the Site on June 6, 2016. The Director increased the notification distance to one (1) mile pursuant to Ordinance Section 6-4-5 C and remain consistent with Ordinance Section 6-8-94 A.7. Notice of public hearings was published in the Mountain Home News on May 25, 2016.

RECORD:

The record has been previously provided to the Commission in chronological order on May 26, 2016. Page numbers in the record may be referenced in this report. Additional attachments to this report have not been sent to the Commission. The attachments to this report were numbered as they were received by staff. Staff will continue to provide updated table of contents for the record.

24X36” County map(s) of the area and Site will be presented to Commission members at the hearing on June 15, 2016.

ADDITIONAL ATTACHMENTS AND LETTERS FOR THE RECORD:

1. Table of contents for the record as of June 8, 2016.
2. Site and public hearing notice posting photos.
3. Email correspondence.
4. Cat Creek Comments to U.S. Fish and Wildlife Service, Aspen Engineers, Boise Project Board of Control.
5. Elmore County Consultant review of Cat Creek Energy's Wildlife Mitigation Plan. (Record pages 007023-007050)
6. Letter from Idaho DEQ.
7. Letter from Wendi and John Combs.

ZONING ORDINANCE

Definitions

The Ordinance defines the following items in Chapter 2:

***ELECTRICAL TRANSMISSION LINES:** Those lines carrying from 138 kV, 230 kV to 500 kV of electricity from a power generation site to a substation.*

***PUBLIC OR QUASI-PUBLIC USE:** Public or quasi-public uses shall include, but not be limited to, public buildings and/or public infrastructure facilities and other types of uses such as, churches; Sunday schools; parochial schools; hospitals; convalescent or retirement homes; colleges and other facilities of an educational, religious, charitable, philanthropic or non-profit nature.*

***ELECTRICAL GENERATING FACILITIES:** Any facility generating electrical power through the use of natural gas, solar cells, water or wind power. The use of diesel fuel is allowed only for emergency generation of electricity for fire suppression or the winding down of turbines.*

***PUBLIC INFRASTRUCTURE FACILITY:** Shall include, but not be limited to: a) pumping station for water, sewer, or gas; b) power substation, electric substation, grid switching site, electric transmission line, electric sub transmission line, electric distribution line, or any major structure connected to a public utility; c) municipal wastewater collection and treatment facility or interim wastewater treatment system; d) utility shop, garage, or storage facility; e) park and ride lot; f) water reservoir and water tank; and g) storm drainage facility and storm detention facility.*

***AREA OF CRITICAL CONCERN:** The area designated by the Elmore County Board of County Commissioners for special protection and special land use regulations. The area is shown on the zoning map for Elmore County."*

Zones

The following items are the description and intent found in Ordinance Section 6-8-5 for the zones and overlay zones that comprise the Project. The following items should also be utilized in making the required findings, namely the required finding in Ordinance Section 6-27-7 A.3.

***"A. General Agriculture:** The purpose of the Ag district is to preserve and protect the supply of agriculture and grazing land in Elmore County until development is appropriate. This district will also control the infiltration of urban development and other uses into agriculture areas, which will adversely affect agricultural operations. Uses that are compatible with farming, ranching, grazing, forest products, and limited mining may be considered in this district. Residential land use is allowed in the Ag zone subject to site development standards and*

compatibility with agricultural operations. The "Ag" land use designation is the base zone throughout Elmore County. It contains areas of productive irrigated croplands, grazing lands, forestland, mining lands, public lands as well as rangeland and ground of lesser agricultural value.

N. Area of Critical Concern Overlay Zone: The purpose of the ACC designation is to preserve and protect natural areas that are critical to the County's water and land resources. Because the base zoning is Agriculture, traditional farming and ranching and related agricultural uses will continue. Residential and commercial uses may also be allowed; however, technical studies and an Environmental Impact Assessment may be required. Land use, lot size and density restrictions may be imposed if warranted.

P. Wildfire Urban Interface (WUI) Overlay Zone: The purpose of the WUI is to give additional land development requirements and protection to specific land areas that are threatened by potential for wildfire. The WUI is superimposed over the general zoning designations of specific areas."

Area of Critical Concern Overlay District ("ACC")

The following sections of the Ordinance Section 6-8-26 pertain to those Applications that fall within the ACC. The Commission should utilize the following section when making decisions on those Applications that fall within the ACC:

"A. Residents of Elmore County have requested supplemental regulations in the form of a Community Development Overlay (CDO) regulation to allow a greater opportunity to manage land use development within the Boise River drainage areas consistent with community values. These are areas with unique environmental qualities that need environmental protection. Development within this area is allowed; however, to insure that it is compatible, requirements may be made such as environmental assessments and technical studies. The Elmore County Zoning Development Regulations includes a CDO provision specifically for areas along the Boise River. Please refer to the Elmore County Zoning map for the Area of Critical Concern Overlay CDO boundaries. The Area of Critical Concern Overlay provides a special land use review process and therefore supplements the county's agriculture zoning within these areas, subject to approval through the Conditional Use Permit.

B. In reviewing any proposed development requests in the Area of Critical Concern (ACC), the Director, Hearing Examiner, Commission or Board will follow these development standards:

- 1. Proposed land use must demonstrate a compatibility with the natural surrounding environment; and*
- 2. Technical studies, funded by the applicant, may be required at the discretion of the Director, Commission or Board to identify impacts and to determine the feasibility of the proposed use; and*
- 3. Agriculture and ranching operations may be developed or expanded. Natural and scenic environment should be protected; and*
- 4. Single-family dwellings and all structures must be built to fit into the natural terrain with little or no gouging of hillsides or altering of the landscape. Grading of roads that are used as access to property will be kept to a minimum to prevent erosion and the destruction of scenic value.*

G. *Historical character shall be maintained as much as possible.*

I. *All development shall comply with the Subdivision and other requirements of this Chapter and Title as applicable.*

J. *Conditional Use Permits are required for all uses unless otherwise indicated in the Elmore County Land Use Table contained in this Chapter.”*

Additional Requirements

The following sections of Ordinance deal with specific requirements for each of the Application's proposed uses:

“Section 6-8-94: Electrical Generating Facilities:

A. *Additional standards or requirements for this use. Certain types of electricity generation facilities are permitted as conditional uses in zones as specified in Table 6-8-11 (c) and must adhere to the following conditions:*

1. *The facility shall use only natural gas, solar cells, water (hydroelectric) or wind power to produce electricity for sale. The use of diesel fuel is allowed only for emergency generation of electricity for fire suppression or winding down turbines.*

2. *The owner or operator of the facility shall show compliance with all applicable Idaho Public Utility, and Federal Agency rules and regulations before receiving a zoning permit and shall operate the facility in conformance with those same regulations.*

3. *Facility improvements shall be at least 2,500 feet away from any residence existing at the time of the application for permit. This distance shall be measured from the centerline of the power producing turbine to the closest edge of the residence. The distance may be shortened if the applicant applies for and is granted a waiver using the standards and procedures contained in this ordinance. A distance waiver shall be granted by the Commission provided, the owner(s) of affected residence(s) waive, in writing, the 2,500 foot setback requirements. If such waiver(s) are submitted to the Administrator for each residence within the 2,500 foot setback no variance approval shall be required.*

4. *Operation of the facility shall not result in any noise louder than 58 decibels on the A-weighted decibel scale as measured from 750 feet from the centerline of the power producing turbine. A higher decibel reading would require a variance unless the Commission grants a noise waiver. The Commission may grant a noise waiver provided the owner(s) of affected property waive in writing the 58Db noise requirement.*

5. *The applicant, with its building permit application, shall submit and thereafter follow a landscaping, screening and noise control plan to comply with section 4 above. The plan's ability to comply with section 4 shall be certified by a licensed engineer employed by the applicant. All improvements on the facility shall be enclosed by an appropriate security fence.*

6. *The applicant shall demonstrate and maintain an adequate fire protection and fire fighting capacity, including entering into an agreement with a public*

firefighting agency when the applicant's project is within the jurisdiction of such an agency.

7. Before a zoning permit is granted, the applicant shall hold at least two (2) public meetings. Notice of those meetings shall be by publication in local newspaper and by mail to property owners within one (1) mile of the proposed facility.

8. The Administrator shall cause the applicant to provide information detailing possible adverse impacts and require mitigation of same.

9. Towers and structures that seek to exceed the building height restrictions from Table 6-8-12 (C) must be compatible with the flight operations of MHAFB and the City of Mountain Home and Glenns Ferry public airport operations. The proposed plan should be coordinated and approved by local, state, federal and military aviation officials.

10. Towers and height variances shall not be granted within 5 miles of Mountain Home AFB or along depicted flight corridors.

11. Within the Mountain Home or Glenns Ferry airport influence areas overlay district, the height limits on the tower or facility structures shall be as required by the Code of Federal Regulations 14 CFR 77.

12. Notification distance shall be increased at the discretion of the Director to accommodate for visual impacts.

Section 6-8-170: Public or Quasi-Public Use:

E. Power Distribution Facilities:

1. Electric distribution lines shall be principal permitted uses. Master site plan approval is not required.

2. Electric sub transmission lines shall be principal permitted uses. Master site plan approval shall be required.

3. Electric transmission lines and substations shall require conditional use approval.

4. All electric transmission, sub transmission, and distribution line rights of way shall be exempt from the landscaping regulations of this Title.

5. Electric substations and other utility structures shall be deemed outdoor storage areas and shall meet the standards in this Chapter.

6. Towers for the purpose of communicating from the substation to remote devices shall be deemed an accessory use to an approved substation, provided that the pole and antenna are no taller than the existing towers.

7. All wire fences, metal structures, and metal objects shall be grounded as required by this Title."

Conditional Use Permit Standards and Findings:

“Section 6-27-4: Conditional Use Standards:

In addition to the specific use standards set forth in this Chapter, the following standards shall apply:

- A. The applicant shall agree to comply with the approved plans and specifications.*
- B. The applicant shall have a continuous obligation to maintain adequate housekeeping practices so as not to create a nuisance.*
- C. Prior to review of the proposed conditional use, the applicant or owner shall obtain the written approval of the appropriate fire authority with regard to the location specifications of any proposed structure, facility, or use.*
- D. No structure or facility (excluding signs) shall be located within twenty (20') feet of a residential district unless a sound wall or screen as approved by the Director is provided.*
- E. A sound wall shall be included in the landscape plan for any parking areas abutting a residential district.*
- F. The owner and/or operator shall maintain sanitary practices so as not to create a public nuisance and to reduce noise and odor.*
- G. The owner and/or operator shall furnish evidence that any dangerous characteristics of the proposed use have been or shall be eliminated or minimized so as not to create a nuisance or be detrimental to the public health, safety, or welfare.*
- H. If abutting a residential district or within a residential district, the facility hours may be limited by the decision making body.*
- I. If abutting or within an Agricultural district, the proposed use shall not cause detrimental impacts to agriculture.*
- J. The decision making body may require additional conditions to mitigate impacts. The conditions may include, but shall not be limited to, any or all of the following:*
 - 1. Standards related to the emission of noise, vibration, and other potentially objectionable impacts; and*
 - 2. Limits on time of day for the conduct of the specified use; and*
 - 3. The period within which the permit shall be exercised or otherwise lapse; and*
 - 4. Other standards necessary to protect the public health, safety, and welfare and mitigate adverse effects on surrounding property.*

Section 6-27-7: Required Findings:

- A. The decision making body shall make the following required findings:*

1. *The proposed use shall, in fact constitute a Conditional Use as determined in Chapter 8, Table 6-8-11 (C), Elmore County Land Use Table, as contained in this Ordinance;*
2. *The proposed use shall be in harmony with and in accordance with the Comprehensive Plan and this Ordinance (Title 6);*
3. *The proposed use complies with the purpose statement of the applicable base zone and with the specific use standards as set forth in this Chapter;*
4. *The proposed use shall comply with all applicable County Ordinances;*
5. *The proposed use shall comply with all applicable State and Federal regulations;*
6. *The proposed use shall be designed, constructed, operated, and maintained in such a way as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; and that such use shall not change the essential character of said area;*
7. *The proposed use shall not be hazardous or disturbing to existing neighboring uses or impede their normal development;*
8. *The proposed use shall be served adequately by available public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, or that the person responsible for the establishment of the proposed conditional use shall be able to provide adequately any such services;*
9. *The proposed use shall not create excessive additional requirements at public cost for public facilities and services and the proposed use shall not be detrimental to the economic welfare of the County;*
10. *The proposed use shall not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general we*
11. *The proposed use shall have vehicular approaches which shall be so designed as not to create an interference with traffic on surrounding public or private roadways;*
12. *The proposed use shall not result in the destruction, loss or damage of a natural or scenic feature of major importance."*

COMPREHENSIVE PLAN

The following goals and objectives on the 2014 Comprehensive Plan (the "Plan") should be utilized in making a decision on the Applications. The following items should also be utilized in making the required findings, namely the required finding in Ordinance Section 6-27-7 A.2. The Commission should utilize the follow goals and objectives of the Plan and determine if the Applications are in harmony with and in accordance with the Plan.

"Goals are defined as statements, which indicate a general aim or purpose to be achieved. *Goals reflect countywide values.*

Objectives are defined as guidelines, which establish a definite course to guide present and future decisions.

Private Property Rights Objectives

1. Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.
9. Property owners must recognize they are only temporary stewards of the land, and shall preserve and maintain their property for the benefit of future generations.
10. Property owners acknowledge and expect that Elmore County will preserve private property rights and values by enforcing regulations that will ensure against incompatible and detrimental neighboring land uses.

Economic Goal Statement 1

Diversify and improve the economy of Elmore County in ways that are compatible with community values.

Economic Objectives

2. Encourage broad-based economic development programs that include:
 - a. Natural resources such as mining, timber, and agriculture from both federal and private lands.
 - b. Commercial Development
 - c. Industrial Development
 - d. Tourism Expansion and Development
 - e. Military Expansion and Development
5. Set aside suitable sites for economic growth and expansion that is compatible with the surrounding area.
11. Recognize the need for electric utility facilities that are sufficient to support economic development.

Land Use Objectives

8. Review all commercial and industrial development proposals to determine the land use compatibility and impact to surrounding areas.
9. Review all development proposals in areas that are critical to groundwater recharge and sources to determine impacts, if any, to surface and groundwater quantity and quality.
17. Evaluate all development proposals in terms of land use and environmental compatibility. Discourage development proposals, which negatively impact land use patterns and negatively impact the human and natural environment.

Water Goal 1

To protect, develop, and maintain the quality and quantity of our water resource.

Water Objectives

1. *Encourage land management and development of soil and water resources for economic growth of the County.*

5. *Water quality should be protected and preserved in all proposed developments.*

7. *Work with the Idaho Department of Water Resources and seek approval to study and construct necessary water development projects in the Boise River drainage system in order to transfer water into arid portions of Elmore County.*

Fish and Wildlife Goal 2

Recognize the economic contributions that fish and wildlife-based recreation contribute to Elmore County.

Fish and Wildlife Goal 3

Sustain the fish and wildlife habitats necessary to provide quality fish and wildlife-related recreation.

Fish and Wildlife Goal 4

Recognize that fish and wildlife are public resources to be managed for the benefit of all and promote ongoing proper management of fish and wildlife resources.

Fish and Wildlife Objectives:

- 1. Request public agency input on proposed land and water development projects potentially impacting fish and wildlife habitat.*
- 2. Consider ordinances and conditions of approval aimed at avoiding and mitigating adverse impacts to fish and wildlife resources as a result of development.*
- 3. Encourage protection of water quantity and quality and multiple uses that are complementary to fish and wildlife populations.*

Scenic Areas Goal 1

To promote the preservation of natural scenic areas for the use and benefit of both present and future generations.

Scenic Area Objectives

- 1. Encourage the preservation of scenic areas for their natural beauty.*
- 2. Natural areas should be preserved through proper planning and /or density transfer procedures or development rights transfer procedures.*
- 3. Encourage development in localities that will not degrade scenic areas within the County.*

Hazardous Area Objectives

2. Discourage development in or near natural hazardous areas, such as airports, power line corridors, electrical substations, flood plains, unstable soil areas and steep slopes, high velocity wind and storm prone areas, except for industries, which may require these conditions.

Public Service Objectives - Water Supply and Distribution

- 1. Encourage and promote water conservation to protect local water resources.*
- 3. Support water development and conservation projects on the Boise River and other watersheds within the County.*
- 4. Guide growth to areas of the County where there is adequate water for development.*

Public Service Objectives – Electrical Power

- 1. Work with Idaho Power Company to promote the development of energy services and public facilities to meet public needs.*
- 2. Encourage the enhancement of the electric system capacity and reliability.*
- 3. Encourage the enhancement of the capacity and reliability of renewable energy resources.*
- 4. Encourage the multiple-use of utility corridors by utility providers.*
- 5. Support siting of utility to ensure that they connect to similar facilities in adjacent jurisdictions.*
- 6. Recognize the need for long-range planning and build out of electrical infrastructure as detailed in the Eastern Treasure Valley Electrical Plan (ETVEP), developed by a local Community Advisory Committee. See Map #11A in the map appendix for the conceptual locations of future electrical infrastructure.*
- 7. Recognize that the ETVEP is a conceptual plan and is the first step in planning for new and upgraded transmission lines and substations. Each project will still require jurisdictional approval and will be subject to the public siting process.*
- 8. Support longer term (10 to 15-year) conditional use permits to enable utilities to purchase sites well in advance of needing to build the facility.*
- 9. Support siting of utility corridors within identified or designated transportation corridors and allow the appropriate placement of electric facilities on public rights-of-way.*
- 10. Support the protection of wetlands and other critical areas and recognize that electric facilities sometimes must cross these areas, and that access is essential for repair and maintenance of the facilities.*
- 11. Recognize other types and sources of energy beyond the existing electrical infrastructure have a role to play in the future of Elmore County (e.g. solar, wind, gas).*

18. Encourage the enhancement of the capacity and reliability of renewable energy resources.

Recreation Objectives

1. Encourage developments that will maintain the aesthetic and scenic value of the area with the least possible disturbance to soil, vegetation, and water.

4. Encourage equitable draw down of water levels of Anderson Dam consistent with irrigation and multiple-use management needs.

Areas of Critical Concern Goal 1

To protect and preserve the unique features and land characteristics in these areas that has been designated for additional consideration.

Areas of Critical Concern Goal 2

To implement a special land use review and hearing procedure following the CUP process to fully evaluate any development proposals in any Area of Critical Concern.

Areas of Critical Concern Objectives

1. Discourage encroachment on lands that contain important feeding grounds for wildlife.

3. To the extent possible, preserve the historical and natural resources within Areas of Critical Concern.

5. Recognize all areas of critical concern and promote better management of the soils, water, and environment.

8. Develop and administer a special permit evaluation procedure for all development applications within any "Area of Critical Concern".

Pine, Featherville and Fall Creek Communities Community Goals

6. Natural Resources

Protect the Anderson Ranch Reservoir, the South Fork of the Boise River and all waterways in the Pine / Featherville / Fall Creek community areas from incompatible land use encroachment and development.

11. Special Areas or Sites

Protect the South Fork of the Boise River watershed to preserve water quality."

REQUIRED CUP FINDINGS ORDINANCE SECTION 6-27-7:

1. The proposed use shall, in fact constitute a Conditional Use as determined in Chapter 8, Table 6-8-11 (C), Elmore County Land Use Table, as contained in this Ordinance;

Staff Response CUP-2015-03: Ordinance Section 6-8-170 D.3. under Public or Quasi-Public Use states:

“Electric transmission lines and substations shall require conditional use approval.”

Furthermore, Table 6-8-11 (C) requires a Conditional Use Permit for Public or Quasi-Public Use in the Agriculture zone (Ordinance page 153). Additional requirements are found in Ordinance Section 6-8-170.

Staff Response CUP-2015-04: Table 6-8-11(C) requires a Conditional Use Permit for Electrical Generating Facilities in the Agriculture (Ordinance page 149). Additional requirements are found in Ordinance Section 6-8-94.

Staff Response CUP-2015-05: Table 6-8-11(C) requires a Conditional Use Permit for Electrical Generating Facilities in the Agriculture (Ordinance page 149). Additional requirements are found in Ordinance Section 6-8-94.

Staff Response CUP-2015-06: Table 6-8-11(C) requires a Conditional Use Permit for Electrical Generating Facilities in the Agriculture (Ordinance page 149). Additional requirements are found in Ordinance Section 6-8-94.

Staff Response CUP-2015-07: Ordinance Section 6-8-170 D.3. under **Public or Quasi-Public Use** states:

“Electric transmission lines and substations shall require conditional use approval.”

Furthermore, Table 6-8-11 (C) requires a Conditional Use Permit for Public or Quasi-Public Use in the Agriculture zone (Ordinance page 153). Additional requirements are found in Ordinance Section 6-8-170.

2. The proposed use shall be in harmony with and in accordance with the Elmore County Comprehensive Plan and this Ordinance (Title 6);

Staff Response CUP-2015-03 Comprehensive Plan: In this staff report, staff has provided goals and objectives from the Plan that should be analyzed and used in making a decision for this finding.

The Site does not have transmission lines identified in the Utility Map (Map 11) and the Eastern Treasure Valley Electrical Plan Preferred Alternatives (Map 11A) of the Plan. Note 4 on Map 11 states:

“New Transmission line and upgrades to transmission lines should conform with the Eastern Treasure Valley Electrical Plan (“ETVEP”). Locations of upgrades can be found in the ETVEP.”

A portion of the Site is identified as “Recreation” on the “Future Land Use Map (Map 4) of the Elmore County Comprehensive Plan. The majority of site is identified as “Agriculture” on the “Future Land Map.”

Staff Response CUP-2015-03 Ordinance: To fully comply with the Ordinance the Application must make the required findings of Ordinance Section 6-27-7.

Because of potential impacts and because a portion of the project is located within the South Fork Boise Area of Critical Concern, the Director has requested that a Wildlife Mitigation Plan (“WMP”) be provided as an environmental study pursuant to Ordinance Section 6-8-26 B.2. The consultant for the County has provided feedback and comments to the WMP. The Commission should

consider if the WMP is adequate in identifying all potential impacts and development standards for Ordinance Section 6-8-26 B. The Commission can also consider requesting additional information and/or addition conditions of approval.

The master site plan appears to have a transmission line that does not terminate at a substation and/or power generation site. Staff is concerned this does not comply with the Ordinance Definition in Chapter 2. At a minimum staff has proposed a condition for additional applications, approvals and hearings upon determination of the final location.

Staff Response CUP-2015-04 Plan: In this staff report, staff has provided goals and objectives from the Plan that should be analyzed and used in making a decision for this finding.

A portion of the Site is identified as "Recreation" on the "Future Land Use Map (Map 4) of the Elmore County Comprehensive Plan. The majority of site is identified as "Agriculture" on the "Future Land Map."

Staff Response CUP-2015-04 Ordinance: To fully comply with the Ordinance the Application must make the required findings of Ordinance Section 6-27-7.

Because of potential impacts and because a portion of the project is located within the South Fork Boise Area of Critical Concern, the Director has requested that a Wildlife Mitigation Plan ("WMP") be provided as an environmental study pursuant to Ordinance Section 6-8-26 B.2. The consultant for the County has provided feedback and comments to the WMP. The Commission should consider if the WMP is adequate in identifying all potential impacts and development standards for Ordinance Section 6-8-26 B. The Commission can also consider requesting additional information and/or addition conditions of approval.

Staff Response CUP-2015-05 Plan: In this staff report, staff has provided goals and objectives from the Plan that should be analyzed and used in making a decision for this finding.

A portion of the Site is identified as "Recreation" on the "Future Land Use Map (Map 4) of the Elmore County Comprehensive Plan. The majority of site is identified as "Agriculture" on the "Future Land Map."

Staff Response CUP-2015-05 Ordinance: To fully comply with the Ordinance the Application must make the required findings of Ordinance Section 6-27-7.

Staff Response CUP-2015-06 Plan: In this staff report, staff has provided goals and objectives from the Plan that should be analyzed and used in making a decision for this finding.

A portion of the Site is identified as "Recreation" on the "Future Land Use Map (Map 4) of the Elmore County Comprehensive Plan. The majority of site is identified as "Agriculture" on the "Future Land Map."

Staff Response CUP-2015-06 Ordinance: To fully comply with the Ordinance the Application must make the required findings of Ordinance Section 6-27-7.

Because of potential impacts and because a portion of the project is located within the South Fork Boise Area of Critical Concern, the Director has requested that a Wildlife Mitigation Plan ("WMP") be provided as an environmental study pursuant to Ordinance Section 6-8-26 B.2. The consultant for the County has provided feedback and comments to the WMP. The Commission should consider if the WMP is adequate in identifying all potential impacts and development standards for Ordinance Section 6-8-26 B. The Commission can also consider requesting additional information and/or addition conditions of approval.

Staff Response CUP-2015-07 Plan: In this staff report, staff has provided goals and objectives from the Plan that should be analyzed and used in making a decision for this finding.

The Site does not have a substation or upgrade identified in the Utility Map (Map 11) and the Eastern Treasure Valley Electrical Plan Preferred Alternatives (Map 11A) of the Plan. Note 4 on Map 11 states:

“New Transmission line and upgrades to transmission lines should conform with the Eastern Treasure Valley Electrical Plan (“ETVEP”). Locations of upgrades can be found in the ETVEP.”

A portion of the Site is identified as “Recreation” on the “Future Land Use Map (Map 4) of the Elmore County Comprehensive Plan. The majority of site is identified as “Agriculture” on the “Future Land Map.”

Staff Response CUP-2015-07 Ordinance: To fully comply with the Ordinance the Application must make the required findings of Ordinance Section 6-27-7.

3. The proposed use complies with the purpose statement of the applicable base zone and with the specific use standards as set forth in this Chapter;

Staff Response CUP-2015-03: The specific use standards for conditional use permits is found in Ordinance Section 6-27-4. The purpose statements for zones is found in Ordinance Section 6-8-5.

Staff could find no conflict with purpose statement for the agriculture zone. The Area of Critical Concern states: “...*technical studies and an Environmental Impact Assessment may be required...*” The Applicant has provided a Wildlife Mitigation Plan (“WMP”). The Commission should consider if the WMP is adequate in identifying all potential impacts and development standards. The Commission can consider requesting additional information and/or additional conditions of approval.

Staff Response CUP-2015-04: The specific use standards for conditional use permits is found in Ordinance Section 6-27-4. The purpose statements for zones is found in Ordinance Section 6-8-5.

Staff could find no conflict with purpose statement for the agriculture zone. The Area of Critical Concern states: “...*technical studies and an Environmental Impact Assessment may be required...*” The Applicant has provided a Wildlife Mitigation Plan (“WMP”). The Commission should consider if the WMP is adequate in identifying all potential impacts and development standards. The Commission can consider requesting additional information and/or additional conditions of approval.

Staff Response CUP-2015-05: The specific use standards for conditional use permits is found in Ordinance Section 6-27-4. The purpose statements for zones is found in Ordinance Section 6-8-5.

Staff Response CUP-2015-06: The specific use standards for conditional use permits is found in Ordinance Section 6-27-4. The purpose statements for zones is found in Ordinance Section 6-8-5.

Staff could find no conflict with purpose statement for the agriculture zone. The Area of Critical Concern states: “...*technical studies and an Environmental Impact Assessment may be required...*” The Applicant has provided a Wildlife Mitigation Plan (“WMP”). The Commission should consider if the WMP is adequate in identifying all potential impacts and development

standards. The Commission can consider requesting additional information and/or additional conditions of approval.

Staff Response CUP-2015-07: The specific use standards for conditional use permits is found in Ordinance Section 6-27-4. The purpose statements for zones is found in Ordinance Section 6-8-5.

4. The proposed use shall comply with all applicable County Ordinances;

Staff Response CUP-2015-03: The sections of the Ordinance that pertain to the Applications are identified in this staff report. The Commission should review the sections of Ordinance when making a determination on this finding.

The master site plan appears to have a transmission line that does not terminate at a substation and/or power generation site. Staff is concerned this does not comply with the Ordinance Definition in Chapter 2. At a minimum staff has proposed a condition for additional applications, approvals and hearings upon determination of the final location.

Staff Response CUP-2015-04: The sections of the Ordinance that pertain to the Applications are identified in this staff report. The Commission should review the sections of Ordinance when making a determination on this finding.

Staff Response CUP-2015-05: The sections of the Ordinance that pertain to the Applications are identified in this staff report. The Commission should review the sections of Ordinance when making a determination on this finding.

Staff Response CUP-2015-06: The sections of the Ordinance that pertain to the Applications are identified in this staff report. The Commission should review the sections of Ordinance when making a determination on this finding.

Staff Response CUP-2015-07: The sections of the Ordinance that pertain to the Applications are identified in this staff report. The Commission should review the sections of Ordinance when making a determination on this finding.

5. The proposed use shall comply with all applicable State and Federal regulations;

Staff Response CUP-2015-03: State and Federal agencies have been notified of this public hearing. Staff has proposed conditions to ensure compliance with all state and federal regulations. Staff anticipates that the transmission lines will eventually have to cross federal land in order to be fully functional. The Commission can consider requesting additional information and/or approvals. Additional conditions should be considered. It is likely that additional conditional use permit public hearings will be required for transmission lines.

Staff Response CUP-2015-04: State and Federal agencies have been notified of this public hearing. Staff has proposed conditions to ensure compliance with all state and federal regulations. Staff anticipates that this use will ultimately have to utilize federal lands. The Commission can consider requesting additional information and/or approvals. Additional conditions should be considered.

Staff Response CUP-2015-05: State and Federal agencies have been notified of this public hearing. Staff has proposed conditions to ensure compliance with all state and federal regulations.

Staff Response CUP-2015-06: State and Federal agencies have been notified of this public hearing. Staff has proposed conditions to ensure compliance with all state and federal regulations.

Staff Response CUP-2015-07: State and Federal agencies have been notified of this public hearing. Staff has proposed conditions to ensure compliance with all state and federal regulations.

6. The proposed use shall be designed, constructed, operated, and maintained in such a way as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; and that such use shall not change the essential character of said area;

Staff Response CUP-2015-03: In order to make this finding the Commission should consider all the information in the record, Plan and Ordinance. Staff anticipates additional information being presented at the hearing for this finding. Staff has proposed conditions in an attempt to be harmonious with the surrounding area.

Staff Response CUP-2015-04: In order to make this finding the Commission should consider all the information in the record, Plan and Ordinance. Staff anticipates additional information being presented at the hearing for this finding. Staff has proposed conditions in an attempt to be harmonious with the surrounding area.

Staff Response CUP-2015-05: In order to make this finding the Commission should consider all the information in the record, Plan and Ordinance. Staff anticipates additional information being presented at the hearing for this finding. Staff has proposed conditions in an attempt to be harmonious with the surrounding area.

Staff Response CUP-2015-06: In order to make this finding the Commission should consider all the information in the record, Plan and Ordinance. Staff anticipates additional information being presented at the hearing for this finding. Staff has proposed conditions in an attempt to be harmonious with the surrounding area.

Staff Response CUP-2015-07: In order to make this finding the Commission should consider all the information in the record, Plan and Ordinance. Staff anticipates additional information being presented at the hearing for this finding. Staff has proposed conditions in an attempt to be harmonious with the surrounding area.

7. The proposed use shall not be hazardous or disturbing to existing neighboring uses or impede their normal development;

Staff Response CUP-2015-03: Staff has concerns that the proposed transmission line will have to be utilized by neighboring landowners to become effective. Staff is unaware of any approvals from the neighboring landowners allowing such use on neighboring properties. At a minimum staff has proposed conditions requiring additional hearings and approvals for a fully completed transmission line.

Staff Response CUP-2015-04: Staff has concerns with the proposed use as it utilizes water located on a neighboring federal property. Staff believes the use is dependent upon the neighboring federal landowners. Staff is unaware of any approval from the neighboring federal landowners allowing such use. At a minimum staff has proposed conditions to ensure the neighboring federal landowners approve the use of water. The Commission can consider requesting additional information and or approvals from neighboring federal land.

Staff Response CUP-2015-05: Staff has proposed conditions to ensure the solar panels are non-reflective therefor minimizing the impacts on neighboring land uses. The proposed use will have to comply with the setback requirements of Ordinance Section 6-8-94.

Staff Response CUP-2015-06: The proposed use will have to comply with the setback requirements of Ordinance Section 6-8-94. The Commission can consider conditions for future hearings or approvals on final siting locations to ensure wind tower locations will not be detrimental to neighboring uses.

Staff Response CUP-2015-07: Staff believes the substation is buffered from neighboring uses and therefor minimal impacts to neighboring landowners are anticipated.

8. The proposed use shall be served adequately by available public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, or that the person responsible for the establishment of the proposed conditional use shall be able to provide adequately any such services;

Staff Response CUP-2015-03:

Highways – The Site has access onto U.S. Highway 20. The Idaho Transportation Department was notified of the public hearing. Staff has proposed conditions to ensure compliance with all Idaho Transportation Department regulations.

Streets – Public roads on the Site are within either the Mountain Home Highway District or the Glens Ferry Highway District. Staff has proposed conditions to ensure all private roads meet Elmore County Standards. Staff has proposed conditions to meet all applicable highway district requirements.

Police – Police protection is provided by the Elmore County Sheriff.

Fire – The Project is located outside of all fire districts within Elmore County. The Elmore County Sheriff has jurisdiction over fire in this area. Staff has proposed conditions to ensure the requirements of Ordinance Chapter 12 are met and adequate fire-fighting capabilities are available onsite.

Drainage structures – Staff has proposed conditions to ensure the County Engineer reviews and approves all drainage structures on site.

Refuse disposal – Staff has proposed conditions to ensure the Site has adequate refuse disposal during construction and operation.

Water – Staff believes that water service is minimal for the intended use.

Sewer – Central District Health Department has signed the Applications. Staff has proposed conditions to ensure compliance with all applicable sewer regulations.

Staff Response CUP-2015-04:

Highways – The Site has access onto U.S. Highway 20. The Idaho Transportation Department was notified of the public hearing. Staff has proposed conditions to ensure compliance with all Idaho Transportation Department regulations.

Streets – Public roads on the Site are within either the Mountain Home Highway District or the Glens Ferry Highway District. Staff has proposed conditions to ensure all private roads meet Elmore County Standards. Staff has proposed conditions to meet all applicable highway district requirements.

Police – Police protection is provided by the Elmore County Sheriff.

Fire – The Project is located outside of all fire districts within Elmore County. The Elmore County Sheriff has jurisdiction over fire in this area. Staff has proposed conditions to ensure the requirements of Ordinance Chapter 12 are met and adequate fire-fighting capabilities are available onsite.

Drainage structures – Staff has proposed conditions to ensure the County Engineer reviews and approves all drainage structures on site.

Refuse disposal – Staff has proposed conditions to ensure the Site has adequate refuse disposal during construction and operation.

Water – Staff is unsure if water is available for the intended use. Staff is unaware of anything in the record from the Idaho Department of Water Resources allowing this use. The Commission may want to consider gathering additional information in regards to water rights for the proposed use. At a minimum staff has proposed conditions to ensure the use complies with all applicable water laws.

Sewer – Central District Health Department has signed the Applications. Staff has proposed conditions to ensure compliance with all applicable sewer regulations.

Staff Response CUP-2015-05:

Highways – The Site has access onto U.S. Highway 20. The Idaho Transportation Department was notified of the public hearing. Staff has proposed conditions to ensure compliance with all Idaho Transportation Department regulations.

Streets – Public roads on the Site are within either the Mountain Home Highway District or the Glens Ferry Highway District. Staff has proposed conditions to ensure all private roads meet Elmore County Standards. Staff has proposed conditions to meet all applicable highway district requirements.

Police – Police protection is provided by the Elmore County Sheriff.

Fire – The Project is located outside of all fire districts within Elmore County. The Elmore County Sheriff has jurisdiction over fire in this area. Staff has proposed conditions to ensure the requirements of Ordinance Chapter 12 are met and adequate fire-fighting capabilities are available onsite.

Drainage structures – Staff has proposed conditions to ensure the County Engineer reviews and approves all drainage structures on site.

Refuse disposal – Staff has proposed conditions to ensure the Site has adequate refuse disposal during construction and operation.

Water – Staff believes that water service is minimal for the intended use.

Sewer – Central District Health Department has signed the Applications. Staff has proposed conditions to ensure compliance with all applicable sewer regulations.

Staff Response CUP-2015-06:

Highways – The Site has access onto U.S. Highway 20. The Idaho Transportation Department was notified of the public hearing. Staff has proposed conditions to ensure compliance with all Idaho Transportation Department regulations.

Streets – Public roads on the Site are within either the Mountain Home Highway District or the Glenns Ferry Highway District. Staff has proposed conditions to ensure all private roads meet Elmore County Standards. Staff has proposed conditions to meet all applicable highway district requirements.

Police – Police protection is provided by the Elmore County Sheriff.

Fire – The Project is located outside of all fire districts within Elmore County. The Elmore County Sheriff has jurisdiction over fire in this area. Staff has proposed conditions to ensure the requirements of Ordinance Chapter 12 are met and adequate fire-fighting capabilities are available onsite.

Drainage structures – Staff has proposed conditions to ensure the County Engineer reviews and approves all drainage structures on site.

Refuse disposal – Staff has proposed conditions to ensure the Site has adequate refuse disposal during construction and operation.

Water – Staff believes that water service is minimal for the intended use.

Sewer – Central District Health Department has signed the Applications. Staff has proposed conditions to ensure compliance with all applicable sewer regulations.

Staff Response CUP-2015-07:

Highways – The Site has access onto U.S. Highway 20. The Idaho Transportation Department was notified of the public hearing. Staff has proposed conditions to ensure compliance with all Idaho Transportation Department regulations.

Streets – Public roads on the Site are within either the Mountain Home Highway District or the Glenns Ferry Highway District. Staff has proposed conditions to ensure all private roads meet Elmore County Standards. Staff has proposed conditions to meet all applicable highway district requirements.

Police – Police protection is provided by the Elmore County Sheriff.

Fire – The Project is located outside of all fire districts within Elmore County. The Elmore County Sheriff has jurisdiction over fire in this area. Staff has proposed conditions to ensure the requirements of Ordinance Chapter 12 are met and adequate fire-fighting capabilities are available onsite.

Drainage structures – Staff has proposed conditions to ensure the County Engineer reviews and approves all drainage structures on site.

Refuse disposal – Staff has proposed conditions to ensure the Site has adequate refuse disposal during construction and operation.

Water – Staff believes that water service is minimal for the intended use.

Sewer – Central District Health Department has signed the Applications. Staff has proposed conditions to ensure compliance with all applicable sewer regulations.

9. The proposed use shall not create excessive additional requirements at public cost for public facilities and services and the proposed use shall not be detrimental to the economic welfare of the County;

Staff Response CUP-2015-03: Staff has proposed conditions to ensure that all improvements are funded by the Applicant to minimize the use of public funds and therefore be detrimental economic welfare of the County.

Staff Response CUP-2015-04: Staff has proposed conditions to ensure that all improvements are funded by the Applicant to minimize the use of public funds and therefore be detrimental economic welfare of the County.

Staff Response CUP-2015-05: Staff has proposed conditions to ensure that all improvements are funded by the Applicant to minimize the use of public funds and therefore be detrimental economic welfare of the County.

Staff Response CUP-2015-06: Staff has proposed conditions to ensure that all improvements are funded by the Applicant to minimize the use of public funds and therefore be detrimental economic welfare of the County.

Staff Response CUP-2015-07: Staff has proposed conditions to ensure that all improvements are funded by the Applicant to minimize the use of public funds and therefore be detrimental economic welfare of the County.

10. The proposed use shall not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

Staff Response CUP-2015-03:

Traffic – Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

Noise – Staff can find no evidence that the proposed use will create an excessive amount noise. The Commission may want to consider a condition incorporating this use into a noise control plan.

Smoke – Staff can find no evidence that the proposed use will create an excessive amount of smoke.

Fumes – Staff can find no evidence that the proposed use will create an excessive amount of fumes.

Glare - Staff can find no evidence that the proposed use will create an excessive amount of glare.

Odors – Staff can find no evidence that the proposed use will create an excessive amount of odors.

Staff Response CUP-2015-04:

Traffic – Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

Noise – A noise control plan and noise regulations are required under Ordinance Section 6-8-94 A.4-5. Staff has proposed a condition to ensure compliance.

Smoke – Staff can find no evidence that the proposed use will create an excessive amount of smoke.

Fumes – Staff can find no evidence that the proposed use will create an excessive amount of fumes.

Glare – Staff would anticipate additional glare due to the creation of a new reservoir. The Applicant has stated that the impact will be minimal due to the rural location.

Odors – Staff can find no evidence that the proposed use will create an excessive amount of odors.

Staff Response CUP-2015-05:

Traffic – Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

Noise – A noise control plan and noise regulations are required under Ordinance Section 6-8-94 A.4-5. Staff has proposed a condition to ensure compliance.

Smoke – Staff can find no evidence that the proposed use will create an excessive amount of smoke.

Fumes – Staff can find no evidence that the proposed use will create an excessive amount of fumes.

Glare – Staff has proposed a condition to ensure glare will be minimized and utilize non-reflective solar panels.

Odors – Staff can find no evidence that the proposed use will create an excessive amount of odors.

Staff Response CUP-2015-06:

Traffic – Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

Noise – A noise control plan and noise regulations are required under Ordinance Section 6-8-94 A.4-5. Staff has proposed a condition to ensure compliance.

Smoke – Staff can find no evidence that the proposed use will create an excessive amount of smoke.

Fumes – Staff can find no evidence that the proposed use will create an excessive amount of fumes.

Glare - Staff can find no evidence that the proposed use will create an excessive amount of glare.

Odors – Staff can find no evidence that the proposed use will create an excessive amount of odors.

Staff Response CUP-2015-07:

Traffic – Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

Noise – Staff can find no evidence that the proposed use will create an excessive amount noise. The Commission may want to consider a condition incorporating this use into a noise control plan.

Smoke – Staff can find no evidence that the proposed use will create an excessive amount of smoke.

Fumes – Staff can find no evidence that the proposed use will create an excessive amount of fumes.

Glare - Staff can find no evidence that the proposed use will create an excessive amount of glare.

Odors - Staff can find no evidence that the proposed use will create an excessive amount of odors.

11. The proposed use shall have vehicular approaches which shall be so designed as not to create an interference with traffic on surrounding public or private roadways;

Staff Response CUP-2015-03: Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

Staff Response CUP-2015-04: Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

Staff Response CUP-2015-05: Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

Staff Response CUP-2015-06: Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

Staff Response CUP-2015-07: Both the Mountain Home Highway District and the Glenns Ferry Highway District have signed the CUP Applications. A condition has been proposed to address concerns of the Glenns Ferry Highway District.

12. The proposed use shall not result in the destruction, loss or damage of a natural or scenic feature of major importance.

Staff Response CUP-2015-03: Staff believes the Project will change the visual landscape of the area. The Applicant has stated that the Project is located in a rural area and therefor have minimal impacts. The areas in and around Anderson Ranch Reservoir are considered scenic by those who utilize them. The Commission should consider all information and testimony when making this finding.

Staff Response CUP-2015-04: Staff believes the Project will change the visual landscape of the area. The Applicant has stated that the Project is located in a rural area and therefor have minimal impacts. The areas in and around Anderson Ranch Reservoir are considered scenic by

those who utilize them. The Commission should consider all information and testimony when making this finding.

Staff Response CUP-2015-05: Staff believes the Project will change the visual landscape of the area. The Applicant has stated that the Project is located in a rural area and therefor have minimal impacts. The areas in and around Anderson Ranch Reservoir are considered scenic by those who utilize them. The Commission should consider all information and testimony when making this finding.

Staff Response CUP-2015-06: Staff believes the Project will change the visual landscape of the area. The Applicant has stated that the Project is located in a rural area and therefor have minimal impacts. The areas in and around Anderson Ranch Reservoir are considered scenic by those who utilize them. The Commission should consider all information and testimony when making this finding.

Staff has proposed conditions for additional public hearings once final tower locations are determined.

Staff Response CUP-2015-07: Staff believes the Project will change the visual landscape of the area. The Applicant has stated that the Project is located in a rural area and therefor have minimal impacts. The areas in and around Anderson Ranch Reservoir are considered scenic by those who utilize them. The Commission should consider all information and testimony when making this finding.

STAFF COMMENTS

The legal description used for CUP-2015-06 was the complete legal description supplied on the deed submitted with the Applications. Staff has noticed inconsistencies with the master site plan and legal description supplied for this portion of the Applications. In an effort to ensure the correct property was noticed and avoid any unforeseen delays staff along with legal counsel decided to notice the entire property identified on the supplied deed. The Applicant may want to provide a correct legal description that accurately matches the master site plan.

It is anticipated that county consultants and agencies will be at the public hearing to answer any questions the Commission may have.

Due to the size and scope of the Project. Staff anticipates supplemental staff reports prior to the hearing. Staff may provide revised and additional information for Ordinance and Plan analysis along with revised and additional conditions to consider.

STAFF RECOMMENDATIONS

Staff recommends combining the Applications into one public hearing. Staff recommends opening and conducting the public hearing.

Staff has provided the following conditions without taking into consideration any testimony that may be presented during the public hearing.

Conditions to consider for CUP-2015-03:

1. The Conditional Use Permit is valid for four (4) years. All improvements shall be completed and the use shall commence within this timeframe.
2. The applicable highway district shall have the right to request a formal road analysis done in advance and approved by the applicable highway district commissioners.

3. If restroom facilities are to be installed, then a sewage system shall be installed to meet Idaho State Sewage Regulations.
4. The proposed use will comply with all the requirements of section 6-8-97 of the Elmore County Zoning and Development Ordinance.
5. All outstanding fees, including county consultant fees, must be paid prior to the issuance of an Elmore County building permit.
6. Failure to comply with any of the conditions may result in revocation of the Conditional Use Permit.
7. The proposed use will be constructed in substantial conformance with the master site plan.
8. Prior to issuance of building permit, an overall site plan, stamped and signed by Applicant's engineer, must be approved by the County Engineer to ensure drainage and storm water management is adequate.
9. All roads shall meet Zoning and Development Ordinance Chapter 17 requirements.
10. The use shall comply with all applicable requirements of Zoning and Development Ordinance Chapter 12. All new structures shall comply with Elmore County Sheriff and/or Idaho State Fire Marshal requirements for fire suppression.
11. All solid waste, refuse and trash removal shall be the responsibility of the property owner to have removed by private hauler. The site shall remain clear of any public nuisance or accumulation of construction debris, trash and/or rubbish.
12. The use shall comply with all Idaho Department of Transportation regulations.
13. All improvements shall be funded and completed by the applicant.
14. Prior to any construction an additional conditional use permit application, landowner approval and subsequent public hearing(s) shall be required for the full construction of the transmission line.
15. All facilities and buildings shall be removed within 180 days of the expiration of the use. All footings and foundations shall be removed to a depth of three feet below the surface.
16. Prior to any construction, the developer will submit a decommissioning plan to the Land Use and Building Department estimating the cost of restoring the site to its original conditions. Developer will enter a bond with Elmore County for the net cost of the restoration. The amount and terms of the bond shall be approved by the Elmore County Board of County Commissioners. Developer shall submit an updated decommissioning plan every five years and will increase the amount of the bond if the net cost of restoration increases from the prior study.
17. Prior to any construction an updated Wildlife Mitigation Plan shall be submitted to Elmore County once the NEPA process is near completion. The Wildlife Mitigation Plan shall be reviewed and approved by the Commission for compliance with Elmore County Ordinances, including but not limited to standards for conditional use permits and environmental studies.

Conditions to consider for CUP-2015-04:

1. The Conditional Use Permit is valid for four (4) years. All improvements shall be completed and the use shall commence within this timeframe.
2. The applicable highway district shall have the right to request a formal road analysis done in advance and approved by the applicable highway district commissioners.
3. If restroom facilities are to be installed, then a sewage system shall be installed to meet Idaho State Sewage Regulations.
4. The proposed use will comply with all the requirements of section 6-8-97 of the Elmore County Zoning and Development Ordinance.
5. All outstanding fees, including county consultant fees, must be paid prior to the issuance of an Elmore County building permit.
6. Failure to comply with any of the conditions may result in revocation of the Conditional Use Permit.
7. The proposed use will be constructed in substantial conformance with the master site plan.
8. Prior to issuance of building permit, an overall site plan, stamped and signed by Applicant's engineer, must be approved by the County Engineer to ensure drainage and storm water management is adequate.
9. All roads shall meet Zoning and Development Ordinance Chapter 17 requirements.
10. The Applicant shall comply with all applicable water laws for the intended use, including but not limited to, the approval of a water right.
11. The use shall comply with all applicable requirements of Zoning and Development Ordinance Chapter 12. All new structures shall comply with Elmore County Sheriff and/or Idaho State Fire Marshal requirements for fire suppression.
12. All solid waste, refuse and trash removal shall be the responsibility of the property owner to have removed by private hauler. The site shall remain clear of any public nuisance or accumulation of construction debris, trash and/or rubbish.
13. The use shall comply with all Idaho Department of Transportation regulations.
14. All improvements shall be funded and completed by the applicant.
15. Prior to any construction taking place the applicable federal agency and/or landowner shall approve the use and/or cycling of water.
16. All facilities and buildings shall be removed within 180 days of the expiration of the use. All footings and foundations shall be removed to a depth of three feet below the surface.
17. Prior to any construction, the developer will submit a decommissioning plan to the Land Use and Building Department estimating the cost of restoring the site to its original conditions. Developer will enter a bond with Elmore County for the net cost of the restoration. The amount and terms of the bond shall be approved by the Elmore County Board of County Commissioners. Developer shall submit an updated decommissioning

plan every five years and will increase the amount of the bond if the net cost of restoration increases from the prior study.

18. Prior to any construction an updated Wildlife Mitigation Plan shall be submitted to Elmore County once the NEPA process is near completion. The Wildlife Mitigation Plan shall be reviewed and approved by the Commission for compliance with Elmore County Ordinances, including but not limited to standards for conditional use permits and environmental studies.
19. A security fence shall be installed around the electrical generating portion of the project.

Conditions to consider for CUP-2015-05:

1. The Conditional Use Permit is valid for four (4) years. All improvements shall be completed and the use shall commence within this timeframe.
2. The applicable highway district shall have the right to request a formal road analysis done in advance and approved by the applicable highway district commissioners.
3. If restroom facilities are to be installed, then a sewage system shall be installed to meet Idaho State Sewage Regulations.
4. The proposed use will comply with all the requirements of section 6-8-97 of the Elmore County Zoning and Development Ordinance.
5. All outstanding fees, including county consultant fees, must be paid prior to the issuance of an Elmore County building permit.
6. Failure to comply with any of the conditions may result in revocation of the Conditional Use Permit.
7. The proposed use will be constructed in substantial conformance with the master site plan.
8. Prior to issuance of building permit, an overall site plan, stamped and signed by Applicant's engineer, must be approved by the County Engineer to ensure drainage and storm water management is adequate.
9. All roads shall meet Zoning and Development Ordinance Chapter 17 requirements.
10. A security fence shall be installed around the entire project area.
11. The use shall comply with all applicable requirements of Zoning and Development Ordinance Chapter 12. All new structures shall comply with Elmore County Sheriff and/or Idaho State Fire Marshal requirements for fire suppression.
12. All solid waste, refuse and trash removal shall be the responsibility of the property owner to have removed by private hauler. The site shall remain clear of any public nuisance or accumulation of construction debris, trash and/or rubbish.
13. The use shall comply with all Idaho Department of Transportation regulations.
14. All improvements shall be funded and completed by the applicant.

15. All facilities and buildings shall be removed within 180 days of the expiration of the use. All footings and foundations shall be removed to a depth of three feet below the surface.
16. Prior to any construction, the developer will submit a decommissioning plan to the Land Use and Building Department estimating the cost of restoring the site to its original conditions. Developer will enter a bond with Elmore County for the net cost of the restoration. The amount and terms of the bond shall be approved by the Elmore County Board of County Commissioners. Developer shall submit an updated decommissioning plan every five years and will increase the amount of the bond if the net cost of restoration increases from the prior study.
17. Prior to any construction an updated Wildlife Mitigation Plan shall be submitted to Elmore County once the NEPA process is near completion. The Wildlife Mitigation Plan shall be reviewed and approved by the Commission for compliance with Elmore County Ordinances, including but not limited to standards for conditional use permits and environmental studies.

Conditions to consider for CUP-2015-06:

1. The Conditional Use Permit is valid for four (4) years. All improvements shall be completed and the use shall commence within this timeframe.
2. The applicable highway district shall have the right to request a formal road analysis done in advance and approved by the applicable highway district commissioners.
3. If restroom facilities are to be installed, then a sewage system shall be installed to meet Idaho State Sewage Regulations.
4. The proposed use will comply with all the requirements of section 6-8-97 of the Elmore County Zoning and Development Ordinance.
5. All outstanding fees, including county consultant fees, must be paid prior to the issuance of an Elmore County building permit.
6. Failure to comply with any of the conditions may result in revocation of the Conditional Use Permit.
7. The proposed use will be constructed in substantial conformance with the master site plan.
8. Prior to issuance of building permit, an overall site plan, stamped and signed by Applicant's engineer, must be approved by the County Engineer to ensure drainage and storm water management is adequate.
9. All roads shall meet Zoning and Development Ordinance Chapter 17 requirements.
10. The use shall comply with all applicable requirements of Zoning and Development Ordinance Chapter 12. All new structures shall comply with Elmore County Sheriff and/or Idaho State Fire Marshal requirements for fire suppression.
11. All solid waste, refuse and trash removal shall be the responsibility of the property owner to have removed by private hauler. The site shall remain clear of any public nuisance or accumulation of construction debris, trash and/or rubbish.
12. The use shall comply with all Idaho Department of Transportation regulations.

13. All improvements shall be funded and completed by the applicant.
14. The Commission shall conduct a public hearing and approve final tower locations to ensure compliance with all County Ordinances and to ensure the use will not be detrimental to neighboring landowners and uses.
15. All facilities and buildings shall be removed within 180 days of the expiration of the use. All footings and foundations shall be removed to a depth of three feet below the surface.
16. Prior to any construction, the developer will submit a decommissioning plan to the Land Use and Building Department estimating the cost of restoring the site to its original conditions. Developer will enter a bond with Elmore County for the net cost of the restoration. The amount and terms of the bond shall be approved by the Elmore County Board of County Commissioners. Developer shall submit an updated decommissioning plan every five years and will increase the amount of the bond if the net cost of restoration increases from the prior study.
17. Prior to any construction an updated Wildlife Mitigation Plan shall be submitted to Elmore County once the NEPA process is near completion. The Wildlife Mitigation Plan shall be reviewed and approved by the Commission for compliance with Elmore County Ordinances, including but not limited to standards for conditional use permits and environmental studies.
18. A security fence shall be installed around the electrical generating portions of the project.

Conditions to consider for CUP-2015-07:

1. The Conditional Use Permit is valid for four (4) years. All improvements shall be completed and the use shall commence within this timeframe.
2. The applicable highway district shall have the right to request a formal road analysis done in advance and approved by the applicable highway district commissioners.
3. If restroom facilities are to be installed, then a sewage system shall be installed to meet Idaho State Sewage Regulations.
4. The proposed use will comply with all the requirements of section 6-8-97 of the Elmore County Zoning and Development Ordinance.
5. All outstanding fees, including county consultant fees, must be paid prior to the issuance of an Elmore County building permit.
6. Failure to comply with any of the conditions may result in revocation of the Conditional Use Permit.
7. The proposed use will be constructed in substantial conformance with the master site plan.
8. Prior to issuance of building permit, an overall site plan, stamped and signed by Applicant's engineer, must be approved by the County Engineer to ensure drainage and storm water management is adequate.
9. All roads shall meet Zoning and Development Ordinance Chapter 17 requirements

10. The use shall comply with all applicable requirements of Zoning and Development Ordinance Chapter 12. All new structures shall comply with Elmore County Sheriff and/or Idaho State Fire Marshal requirements for fire suppression.
11. All solid waste, refuse and trash removal shall be the responsibility of the property owner to have removed by private hauler. The site shall remain clear of any public nuisance or accumulation of construction debris, trash and/or rubbish.
12. The use shall comply with all Idaho Department of Transportation regulations.
13. All improvements shall be funded and completed by the applicant.
14. All facilities and buildings shall be removed within 180 days of the expiration of the use. All footings and foundations shall be removed to a depth of three feet below the surface.
15. Prior to any construction, the developer will submit a decommissioning plan to the Land Use and Building Department estimating the cost of restoring the site to its original conditions. Developer will enter a bond with Elmore County for the net cost of the restoration. The amount and terms of the bond shall be approved by the Elmore County Board of County Commissioners. Developer shall submit an updated decommissioning plan every five years and will increase the amount of the bond if the net cost of restoration increases from the prior study.
16. Prior to any construction an updated Wildlife Mitigation Plan shall be submitted to Elmore County once the NEPA process is near completion. The Wildlife Mitigation Plan shall be reviewed and approved by the Commission for compliance with Elmore County Ordinances, including but not limited to standards for conditional use permits and environmental studies.

ADDITIONAL CONSIDERATIONS

If the Commission desires to continue the public hearing and/or deliberations staff would recommend the Commission continue a date certain of July 13, 2016. Due to the size of the record and anticipated testimony at the public hearing staff would recommend conducting deliberations only after all testimony has been given. The Commission does have the option to request additional information and testimony. When appropriate, staff would recommend legal counsel prepare any written findings and decision for the Commission to review.

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316	CUP-2015-06 Wind Power Application	CUP Folder
420	CUP-2015-07 Substation Application	CUP Folder
525	Letter to agencies 3-16-2015	Binder #1
526	Letter from Department 3-27-2015	Binder #1
536	Letter from Aspen Engineers 4-1-2015	Binder #1
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598	Letter from Pickens Cozaks, PA 6/30/2015	Binder #1
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South boundary of Site looking east.



South Boundary of Site looking West.



South Boundary of Site facing northwest.



North boundary of Site facing west.

007098



North boundary of Site facing southwest.



North boundary of Site facing north



Northern portion of Site facing proposed reservoir



Proposed reservoir facing east.



Proposed reservoir site



Proposed reservoir site



Proposed reservoir site



Proposed reservoir site, northwest corner of Site



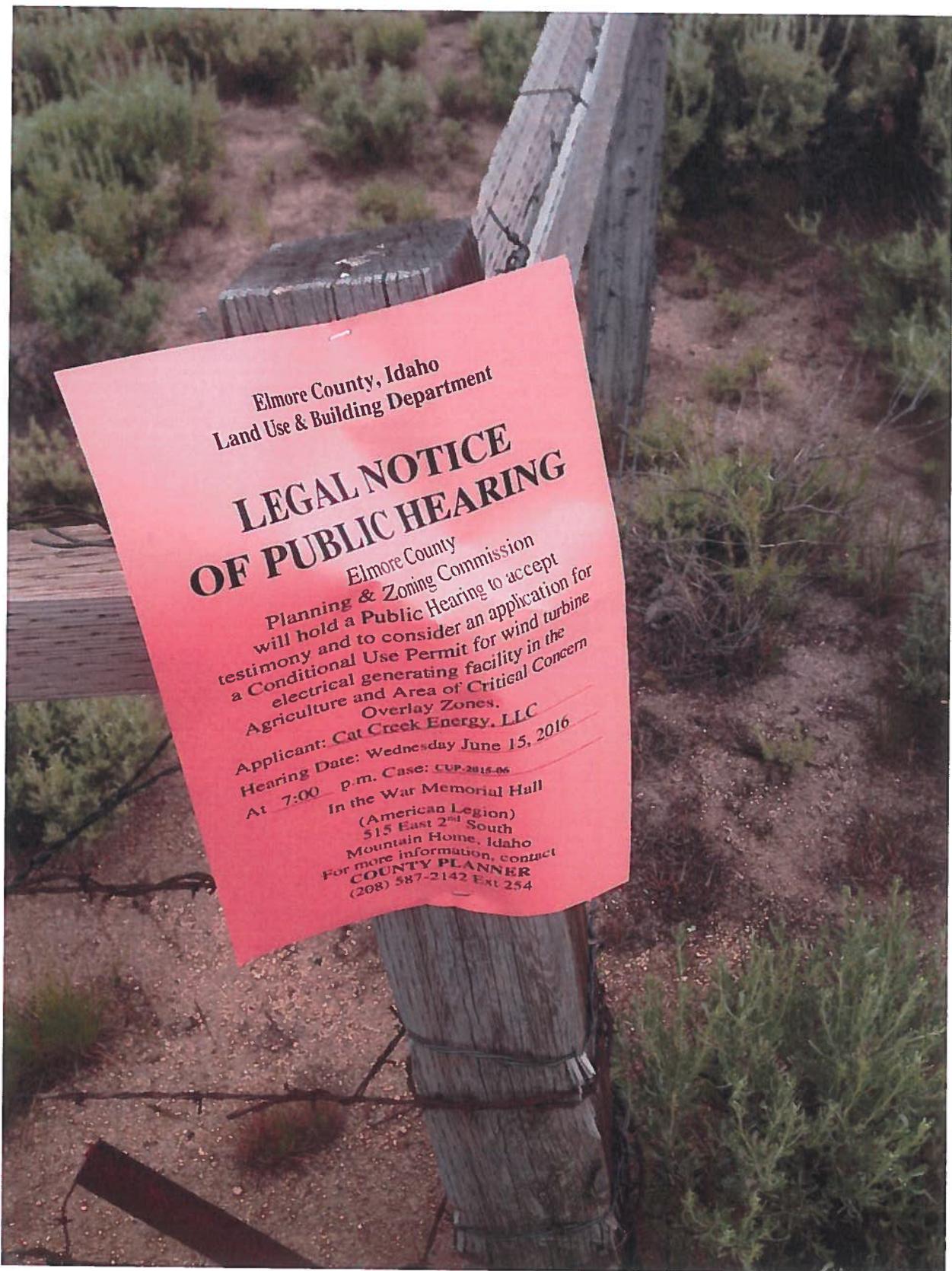
Northwest corner of Site.



Northwest corner of Site facing north.



Northwest corner of Site facing south.



Elmore County, Idaho
Land Use & Building Department

LEGAL NOTICE OF PUBLIC HEARING

Elmore County
Planning & Zoning Commission
will hold a Public Hearing to accept
testimony and to consider an application for
a Conditional Use Permit for wind turbine
electrical generating facility in the
Agriculture and Area of Critical Concern
Overlay Zones.

Applicant: Cat Creek Energy, LLC
Hearing Date: Wednesday June 15, 2016

At 7:00 p.m. Case: CUP.2015-06
In the War Memorial Hall
(American Legion)
515 East 2nd South
Mountain Home, Idaho
For more information, contact
COUNTY PLANNER
(208) 587-2142 Ext 254

Wind turbine public hearing posting off of U.S. Highway 20.



Wind Turbine site, U.S. Highway 20 facing south.

007111



Wind turbine site facing south.

007112

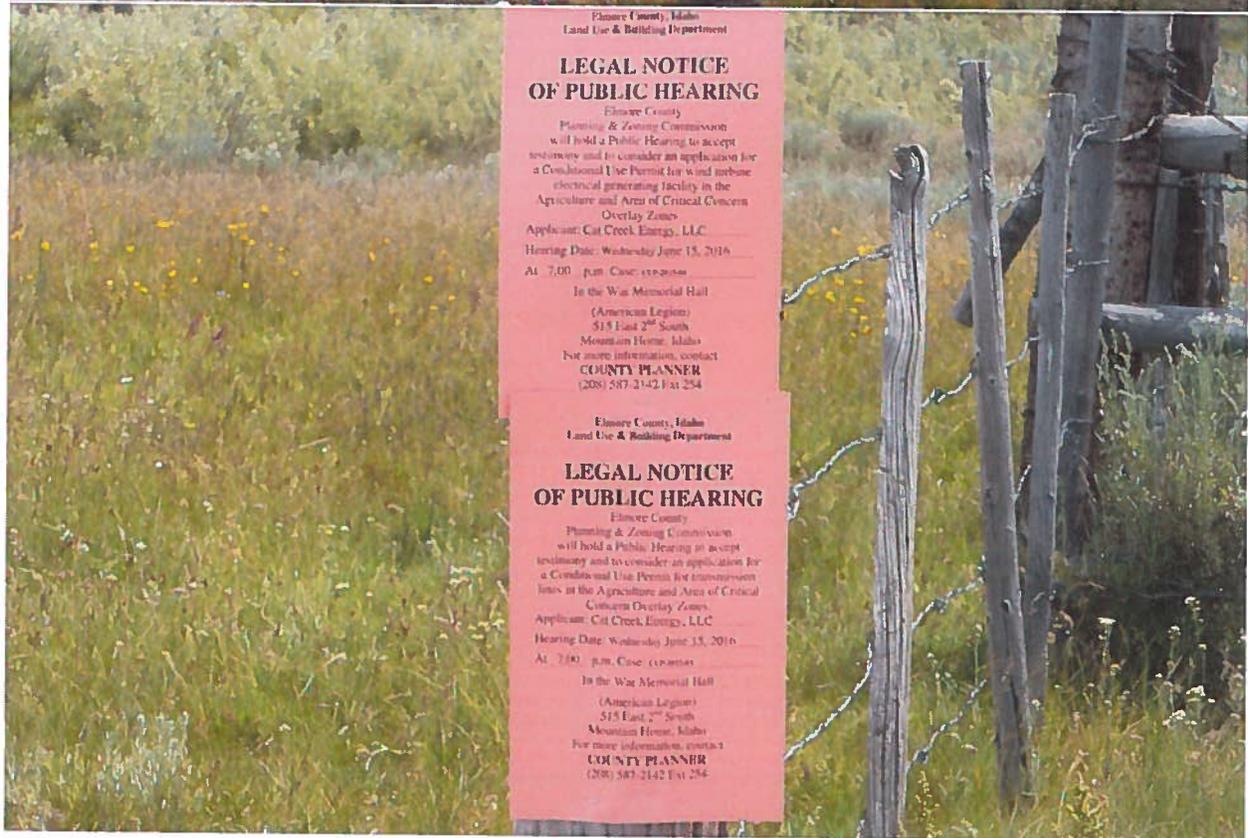


Wind turbine site facing east.

007113



Hearing notices on southern Site boundary along Wood Creek Road.



Elmore County, Idaho
Land Use & Building Department

**LEGAL NOTICE
OF PUBLIC HEARING**

Elmore County
Planning & Zoning Commission
will hold a Public Hearing to accept
testimony and to consider an application for
a Conditional Use Permit for wind turbine
electrical generating facility in the
Agriculture and Area of Critical Concern
Overlay Zones

Applicant: Cat Creek Energy, LLC
Hearing Date: Wednesday June 15, 2016
At 7:00 p.m. Case: 15-00000

In the War Memorial Hall
(American Legion)
515 East 2nd South
Mountain Home, Idaho
For more information, contact
COUNTY PLANNER
(208) 587-2142 Ext 254

Elmore County, Idaho
Land Use & Building Department

**LEGAL NOTICE
OF PUBLIC HEARING**

Elmore County
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electrical generating facility in the
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Overlay Zones

Applicant: Cat Creek Energy, LLC
Hearing Date: Wednesday June 15, 2016
At 7:00 p.m. Case: 15-00000

In the War Memorial Hall
(American Legion)
515 East 2nd South
Mountain Home, Idaho
For more information, contact
COUNTY PLANNER
(208) 587-2142 Ext 254



Hearing notices along Wood Creek Road.



007117



007119





007121

Beth Bresnahan

From: Gordon Brittan
Sent: Wednesday, May 18, 2016 10:29 AM
To: achristy@elmorecounty.org
Cc: bbresnahan@elmorecounty.org; prmlaw@qwestoffice.net
Subject: Re: responses

Alan, Many thanks. Understood. I will have our comments on the three responses we have received to you and your staff shortly.

All best wishes, Corky

From: Alan Christy [mailto:achristy@elmorecounty.org]
Sent: Wednesday, May 18, 2016 08:52 AM
To: Gordon Brittan
Cc: Beth Bresnahan <bbresnahan@elmorecounty.org>; prmlaw@qwestoffice.net <prmlaw@qwestoffice.net>
Subject: Re: responses

Corkey,

People can still submit written responses. We requested the 13th so we can incorporate into a staff report. If we receive anything additional we will forward on to you.

If you have any additional questions please let me know.

Thanks,
Alan Christy
Director
Elmore County
Land Use and Building Department
520 East 2nd South, Mountain Home, ID 83647
(208) 587-2142 ext. 269
Sent from my iPhone

On May 18, 2016, at 8:17 AM, Gordon Brittan <gbrittan@exergydevelopment.com> wrote:

Alan,

I take it that the response period is over and that no more than you and Beth have forwarded have been received.

Thanks and best wishes,

Corky

<image001.jpg>

Beth Bresnahan

From: Gordon Brittan
Sent: Monday, May 23, 2016 9:50 AM
To: Alan Christy
Cc: Beth Bresnahan; prmlaw@qwestoffice.net
Subject: CUP letters/responses + staff

Alan,

Start of the last full week before our meeting on June 2nd in Mountain Home. I'm checking to see whether we have all of the letters/responses/correspondence you've received re the CCE CUP applications. I want to make sure in turn that you will have our comments on all of the letters prior to the preparation of the Staff Report on the applications. In this connection, when do you expect to submit the Staff Report to the P&Z Board?

Thanks, and all best wishes,

Corky

Gordon Brittan
Cat Creek Energy, LLC

Beth Bresnahan

From: Gordon Brittan
Sent: Tuesday, May 24, 2016 1:47 PM
To: Alan Christy
Cc: Beth Bresnahan; prmlaw@qwestoffice.net
Subject: RE: new comments + staff report

Thanks very much, Alan. I should be able to send you our comments on the three agency/NGO/consultant letters we've received very shortly.

All best,

Corky

Gordon Brittan
Cat Creek Energy, LLC

From: Alan Christy [<mailto:achristy@elmorecounty.org>]
Sent: Tuesday, May 24, 2016 1:01 PM
To: Gordon Brittan
Cc: Beth Bresnahan; prmlaw@qwestoffice.net
Subject: RE: new comments + staff report

Corky,

I am not aware of any new agency comments. I have been contacted by a couple of agencies and individuals and they may set meetings up with me in the future. Parts of the application will be submitted to the Planning and Zoning Commission tomorrow. Ideally I would like to have the first staff report to the Commission by June 1st but no later than June 8th. I anticipate with projects of this size there will be multiple and/or supplemental staff reports for the commission.

If you have any additional questions please let me know.

Thanks,

Alan Christy
Director
Elmore County Land Use & Building Department
520 East 2nd South, Mountain Home, ID 83647
Ph: (208) 587-2142 ex. 269 \ Fax: (208) 587-2120
achristy@elmorecounty.org \ www.elmorecounty.org

From: Gordon Brittan [<mailto:gbrittan@exergydevelopment.com>]
Sent: Tuesday, May 24, 2016 9:06 AM
To: Alan Christy <achristy@elmorecounty.org>
Cc: Beth Bresnahan <bbresnahan@elmorecounty.org>; prmlaw@qwestoffice.net
Subject: new comments + staff report

Alan,

Checking in again to learn if there have been any more comments received in response to the packet of materials you sent out, and when you plan to submit the Staff Report to the Planning and Zoning Board.

Thanks, best wishes.

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Gordon Brittan
Cat Creek Energy, LLC

Beth Bresnahan

From: Gordon Brittan
Sent: Tuesday, May 24, 2016 3:18 PM
To: Alan Christy
Cc: Beth Bresnahan; prmlaw@qwestoffice.net; James Carkulis
Subject: responses to the three agency/NGO/consultant letters we have received
Attachments: CCE Responses to the American Bird Conservancy Letter of April 26, 2016, to the US Fish and Wildlife Service Re CUP Applications Submitted to Elmore County by Cat Creek Energy.pdf; CCE Responses to Aspen Engineers' Comments and Recommendations on the CUP Applications Submitted to Elmore County by Cat Creek Energy.pdf; CCE Responses to the Boise Project Board of Control Letter of 5132106 to Elmore County.pdf; letter to Alan Christy of 5242016.pdf

Cat Creek Energy Comments on the Letter of April 26, 2016, to the U.S. Fish and Wildlife Service by the American Bird Conservancy and the Golden Eagle Audubon Society

<p>Comment</p>	<p>1. "American Bird Conservancy (ABC) and the Golden Eagle Audubon Society (GEAS) have serious concerns about the siting of this project, particularly the risk it poses to federally protected birds and bats. This risk can be substantial;... ABC and GEAS support the development of clean, renewable, sources of energy such as wind and solar power, but also believe that it must be done responsibly, sited appropriately, and designed to have minimal impact on our public trust resources, including native species of birds and bats, and particularly threatened, endangered and other protected species."</p>
<p>Response</p>	<p>We appreciate the concerns of the ABC and GEAS, take seriously potential risks to protected bird and bat species, and agree that the development of renewable energy projects must be done responsibly, sited appropriately, and designed to have minimal impact on wildlife resources. It is for this reason that the Team of Cat Creek Energy (CCE) have, since installing their first commercial-grade wind turbine in 1984, supported research, particularly on golden eagles, kept abreast of the relevant literature, engaged such well-known avian consultants as Rob Hazlewood and Al Harmata, and worked in a knowledgeable way to site turbines and solar collectors so as to mitigate bird and bat mortality. We were one of the very first companies to employ radar to screen potential sites for avian activity as early as 2002, and walked away from more than one site that was, unfortunately, subsequently developed by others. As is implicit in the third sentence above, the ABC and GEAS understand that while the risk <i>can</i> be substantial, bird and bat mortality rates vary dramatically from one wind energy facility to the next as a function of many variables, the most important of which have to do with siting (both as between and within project areas), population sizes, feeding and nesting patterns (although it is also the case that a new generation of 2.5+ MW turbines, which operate at lower rpms, have also reduced mortality rates significantly; as recently as 2005, roughly 80% of the estimated raptor mortality occurred at older projects in California; Erickson, et. al. 2005). It's not to our purpose to site statistics that renewable energy projects have resulted in avian mortality rates orders of magnitude lower than other anthropogenic, in particular fossil-fuel generation, causes. Instead, our focus is on avoiding bird and bat deaths to the extent possible by careful planning and implementation, and on taking advantage of state-of-the-art-knowledge regarding them, e.g., avoiding updraft areas such as the rim of Anderson Ranch Reservoir in siting wind turbines,</p>

	<p>providing ways of discriminating between solar arrays and bodies of water and thus the so-called "lake effect" (<i>Scientific American</i>, 8/26/14), and incorporating the latest turbine radar and appropriate area lighting in our operating protocols. The cumulative effect of these will be to further avoid/reduce raptor and migratory mortalities.</p>
Comment	<p>2. "In the case of wind energy, careful wind generation siting is crucial in preventing the unintended impacts to America's native bird species, and ABC and GEAS are concerned that the proposed site for this project poses an unacceptably high risk to state and federally protected wildlife species."</p>
Comment	<p>"In a letter dated 1 February 2016, to the Elmore County Land Use and Building Department, the Idaho Department of Fish and Game (IDFG) expressed serious concerns about the impact of this proposed project on the region's wildlife resources. In particular, they cite the possible impacts of this project on Greater Sage Grouse. At least two active leks occur within a half mile of the proposed project, and would likely be eliminated."</p>
Response	<p>In a subsequent letter to CCE, the area IDFG wildlife biologist wrote that "Five (5) occupied sage-grouse leks occur within four miles of the eastern project boundary; two (2) of which <i>appear</i> (our italics) to occur within a half mile. Shapefiles of the project area were not provided to IDFG. As such, these distances are approximations based on comparisons of the project maps included in the plan." This said in the interests of accuracy, the two occupied leks and one nest to the north of the eastern portion of the projected larger of the two wind turbine arrays on the present layout are of legitimate concern and, while we look at possible reconfigurations of the array, there may be value to other mitigation methods and control area studies. There is nothing in the February 1st, 2016 IDFG letter to Elmore County to the effect that the sage-grouse leks in the project area "would likely be eliminated."</p> <p>The fact of the matter is that "there is a lack of published data on wind power development within the occupied range of both species of sage-grouse" (Schroeder, Connelly, and Braun, 2007; although this is an older source, the references cited in the ABC letter – Schroeder, 2010, LeBeau et. al. 2014, Kirol et. al. 2015, Mathewson, 2015, Shirk et. al. 2015, Winder et. al. 2015 - do not document in a straightforward way a direct impact of wind turbines on sage-grouse mortality; LeBeau, et. al. is typical; although they document a correlation between nest/brood survival and distance from turbines, "Decreased nest and brood survival was likely the result of increased predation which may have been the result of anthropogenic development and habitat fragmentation"; Winder et. al. document a correlation between lek abandonment and distance from turbines, but with significant confounding variables, e.g., abandonment is more than twice as probable in the case of agricultural fields as against grasslands, and "active leks are stable at all</p>

	<p>distances; Kirol, et. al., 2015 has to do with coal-bed methane natural gas). The impact (Connelly, Knick, Schroeder, and Stiver 2004, Wisdom, et. al. 2011) is indirect, by way of the roads, transmission lines, and fences that often accompany them (and sometimes make possible increased predation). Thus our sage-grouse impact mitigation plan is “all-inclusive,” and includes these other factors as well. No new transmission corridors or fences shall be required in this area of the project, strategies to prevent such important predators as raptors from perching on the transmission line in the area shall be implemented, a program to increase the availability of forbs and other sage-grouse forage in appropriate habitat areas will be undertaken, and some mitigation and improvement activities (such as flagging existing fences that might pose obstacles to sage-grouse translocation) are already well underway.</p> <p>As our initial guide to sage-grouse management priorities, we are utilizing the Idaho Governor’s Sage-Grouse Task Force recommendations which for the next approximately nine (9) years will govern federal as well as state policy (IDFG, 2012, Otter, 2015; also see Connelly, et. al. in IDFG, 2006). Most of the Cat Creek Energy project is located within “Important Habitat Zone” (IMZ), none of it within “Core Zone.” The two “primary threats” to sage-grouse habitat identified within the IMZ are wildfire and invasive species. In the case of the first, the project is especially well-equipped to decrease wildfire response time (owing to the proximity and fire equipment associated with the new Upper Reservoir), create and maintain effective fuel breaks (which the ranch on which the project is located has long practiced), and to target livestock grazing where demonstrated to be appropriate as a tool for reducing fuel loads (again a traditional practice on the ranch). In the case of the second threat, our sage-grouse point person, Dr. Roger Rosentreter, is perhaps Idaho’s leading authority on invasive species and their control. Any ground disturbed by construction activities (which themselves will be scheduled so as to minimize impact on sage-grouse breeding and nesting activities) will be re-planted with forbs and other species of vegetation on which sage-grouse feed.</p>
Comment	<p>3. “The Idaho Fish and Game letter does not mention songbirds found in the area, but it is also reportedly in the path of many species. Surveys conducted by the Intermountain Bird Observatory at Lucky Peak (Kaltenecker et. al. 2014), only about 40 miles west of Anderson Ranch Reservoir, as well as E-bird entries for the Little Camas Reservoir area reveal the presence of many species of concern.”</p>
Comment	<p>“Numerous raptor species have been observed in the project area, including Bald and Golden Eagles and Peregrine Falcons. It is likely, however, that the Cat Creek area lies within the migratory route of many other raptor species, all of which are protected by the Migratory Treaty Act. Both Bald and Golden Eagle nests are well documented adjacent to the proposed project area. Before the project is even considered for construction, we would hope that the developer would apply for an incidental take permit under the Bald and Golden Eagle Protection Act. We note that no surveys have been conducted for bats, and after</p>

	<p>white nose syndrome, wind turbines have been identified as the next major source of bat mortality (Dini 2016)."</p>
<p>Response</p>	<p>According to the IDFG letter of 2/1/16, numerous raptor species have been observed "in and around" the project area (and are acknowledged by name in the CCE Wildlife Mitigation Plan). So far as we know, however, no attempt has been made to quantify the numbers in general or by species. The same IDFG letter states that "the topography, topography, and hydrology of the Cat Creek area suggest (our italics) the project area may (our italics) also lie within [a] migration corridor for raptors." The ABC letter cites no evidence that the project does lie within a migration corridor, and CCE is not aware of any such evidence. It doesn't follow, of course, that the project lies outside of a corridor, but it is at best premature to start talking about taking permits (which of course remains an option). One of the biggest problems for those of us committed to the protection and preservation of bird and bat species and populations is the conjectural character of much of the relevant information available, the wildly-varying estimates concerned bats and birds killed by solar and wind facilities (Loss, et. al. 2013 mentions estimates that range from 10,000 to 573,000 fatalities a year) , and the fact that very different methodologies are used to make these estimates (EESI, 2014). National estimates cannot in any case replace detailed studies of the raptor population in the project area.</p> <p>According to its area wildlife biologist, IDFG deployed bat detectors on BLM land in the fall of 2015 as part of a statewide bat monitoring effort. One of the detectors was deployed in the Cat Creek area. To date none of the recordings have been analyzed. CCE very much looks forward to this data, on the basis of which plans to mitigate possible bat mortality can be implemented. We are well aware of the consequences in the case of Montana's first major wind farm, in Judith Gap, when this possibility was overlooked and unplanned for. In fact, there are a number of different hypotheses as to the link between wind turbine operation and bat death (species of bat, weather and wind conditions, nocturnal activity, local population numbers and available insect prey, etc.), and none of them is as yet generally accepted. Once we have the data on numbers, behavioral patterns, and food sources available, we will formulate policies that cohere with the most plausible of these hypotheses and adapt operation when possible to weather and wind conditions.</p> <p>It has to be added that the fact that Dini is cited as some sort of authority on the causes of bat mortality is, frankly, very disappointing. The man is a journalist without scientific or scholarly credentials who has taken as his special mission in life an all-out attack on renewable energy (and "environmentalists" generally) in behalf of more coal development. The headline of his (very brief) article on the subject is attention-grabbing, but the fragmentary German sources enlisted to support the claim made do not do so.</p>

	<p>CCE takes songbirds and other passerines seriously, but as noted IDFG does not mention them in their review of our Wildlife Mitigation Plan, and it is only if "the area" is taken very broadly that the conclusion follows from the evidence indicated (apparently at least some of it no more than anecdotal) that it is "in the path of many species." That said, we will try to determine in a much more precise way the presence and pattern of migratory songbirds (particularly their nocturnal movements), and formulate mitigation plans accordingly. It is by now a well-established truth, applying to all avian species, and perhaps raptors in particular, that "renewable energy development can be compatible with breeding and migrating birds and bats if addressed early, during the planning phases of the development" (to borrow words from the IDFG letter to Elmore County of 1 February 1, 2016).</p>
<p>Comment</p>	<p>4. "At the very least, we hope that this proposed project is on the FWS' radar and that all federal and state guidelines regarding wind and solar development and wildlife will be followed to the letter including appropriate pre-construction surveys for bird and bat occurrence. We hope that the developer would also agree to third party, independent monitoring of post-construction bird and bat mortality should they be granted permits to build, and that all of this data should be transparent and open to the public."</p>
<p>Response</p>	<p>CCE took the lead in talking about the project with the FWS, first with Mark Robertson and now with Bill Kibler in the Boise office. We expect to be in close communication with this agency, as with the other agencies involved. It should go without saying that of course all federal and state guidelines regarding wind and solar development and wildlife will be followed to the letter. We are in the business of renewable energy development because we take climate change and other carbon-emission consequences of fossil fuel generation seriously, and therefore worry about the protection and preservation of wildlife as well as of human beings.</p> <p>A committee to set aside and allocate funds for wildlife enhancement is specified in our <i>Wildlife Mitigation Plan</i>, a copy of which was included in the packet of materials sent to you by Elmore County. Among other activities, it will monitor possible habitat impacts and population trends during the operational phase of the project. Such post-construction monitoring is standard procedure for many renewable energy projects, including those we have developed.</p>

References

- Connelly, J.W., S.T. Knick, M.A. Schroeder, and S.J. Stiver, 2004. "Conservation assessment of greater sage-grouse and sagebrush habitats." Western Association of Fish and Wildlife Agencies. Unpublished Report. Cheyenne, WY.
- Connelly, J.W., et. al. 2006. *Conservation Plan for Greater Sage-grouse in Idaho*. Idaho Department of Fish and Game: Boise, ID.
- Connelly, J.W., and S.T. Knick, eds. 2011. *Greater Sage-Grouse: Ecology and Conservation of a Landscape Species and Its Habitats. Studies in Avian Biology No. 38*. University of California Press: Berkeley and Los Angeles.
- Erickson, W.P., G.D. Johnson, and D.P. Young. 2005. "A Summary of Bird Mortality from Anthropogenic Causes with an Emphasis on Collisions," *USDA Forest Service Gen. Tech. Rep. PSW-GTR-191*.
- IDFG. 2012. *Idaho Governor's Sage-grouse Task Force Recommendations*. fishandgame.idaho.gov/public/wildlife.
- Loss, S., T. Will, and P. Marra. 2013. "Estimates of bird mortality at wind facilities in the contiguous United States." *Biological Conservation* 168: 201-209.
- Otter, C.L. 2015. *Executive Order No. 2015-04 Adopting Idaho's Sage-grouse Management Plan*. Office of the Governor: Boise, ID.
- Schroeder, M.A., C.E. Braun, and J.W. Connelly. 2007. "Effects of wind power development on sage-grouse," *Proceedings of the NWCC Wildlife Workgroup Research Planning Meeting*, 31-36.
- Scientific American*. 8/26/2014. "Solar farms threaten birds."
- Wisdom, M.J., et. al. 2011. "Factors associated with extirpation of sage-grouse." In Connelly and Knick. 2011.

Comments on the Recommendations in the Letter of May 13, 2016, Sent by Aspen Engineers to Elmore County on the CUP Applications Submitted to Elmore County

	<p>1. The same initial comment is made in connection with three applications, CUP-2015-05 (solar facility), CUP-2015-06 (wind turbine facility), and CUP-2015-07 (substation facility): "Prior to applying for a building permit, the Applicant should provide a detailed site plan for the solar [wind, substation] facility and surrounding infrastructure (which may include, but is not limited to array location, access roads, storm water management, screening, fencing, etc. [which may include, but is not limited to turbine location, access; parking, building location, screening fencing, etc.]) and provide the other information required in Chapter 18 of the Elmore County Zoning and Development Ordinance.</p>
	<p>Much of this information is contained in the WMP and the MSP submitted subsequent to the CCE Responses of July 31, 2015 The subsequent and final Construction Ready drawings shall contain the requisite site plan requirements as amended and shall include, but not be limited to both the final turbine siting and arrays, along with the solar arrays and appurtenances such as inverters, fencing, etc</p>
	<p>2. The same comment is made in connection with three applications, CUP-215-03 (transmission) and CUP-2015-04 (pump storage hydro), and CUP-2015-05 (solar facility): "Any roads proposed for serving this project shall meet the requirements outlined in Section 6-17 of the Zoning Ordinance or at a minimum comply with some alternative standard proposed by the Applicant and approved by the Director or County Engineer as allowed in Section 6-17-5.F."</p>
	<p>The CCE Team has had ample experience in building renewable energy project roads. All roads as designed shall be done in conjunction and with the approval of the Director or County Engineer. A discussion of road widths and composition during and post-construction is contained in the exchange with Power Engineers' consultant mentioned above.</p>
	<p>3. The same comment is made in connection with two applications, CUP-2015-05 (solar facility) and CUP-2015-07 (substation): "As with some previous CUP applications that involve the potential disturbance of large ground areas, the County may want to require that prior to the issuance of a building permit, an overall site plan, stamped and signed by the Applicant's Engineer, must be approved by the County Engineer to ensure drainage and stormwater management."</p>
	<p>In its Responses of July 31, 2015, to this very same language, CCE had already said that "As a condition in the approved CUP, this is reasonable."</p>
	<p>4. Re CUP-2015-03, transmission lines, there is one additional recommendation:</p>

	<p>i. "Although it is not expected by the Applicant, if construction occurs in flood zone, the Applicant should comply with all County and Federal Requirements relating to development in the applicable hazard type."</p>
	<p>If construction occurs in [a] flood zone, CCE shall comply with all relevant County and Federal requirements</p>
	<p>5. Re CUP-2015-04, pump storage hydro, there are two recommendations in addition to that made in 2. above:</p> <p>i. "As outlined [in] Section 6-8-94.A.5 of the Zoning Ordinance, the County should evaluate if a security fence at the facility should be required; prohibited, or left up to the discretion of the Applicant based on environmental and other factors. Considering the nature of the facility, it may not be desirable to fence the entire facility."</p>
	<p>This recommendation is directed to the County, and not CCE, but in our view, and because of concerns related to habitat fragmentation, wildlife passage, and possibly shorter fire-response times, it would not be desirable to fence the entire facility. The embankment of the Upper Reservoir on approximately 60% of the perimeter further precludes the need to fence the entire facility.</p>
	<p>ii. "The Applicant should be aware that the review and approval of the facilities may also require approval from many state and federal facilities [<i>sic</i>; presumably "agencies" is intended] which may include, but are not limited to:.....The Applicant should provide copies of written approval from each applicable agency."</p>
	<p>CCE is well aware that the review and approval of the facilities may also require approval from many state and federal agencies, and has already entered into discussion with all of the agencies listed by the County Engineer and received a Preliminary Permit from one of them, the Federal Energy Regulatory Commission ("FERC"). But for the reasons we have argued at length in the materials submitted to the County, approval by each of the applicable agencies cannot be made a pre-condition of the approval of the Conditional Use Permits (which are themselves conditional). If each agency waited until all of the other agencies had approved, no project would ever be built. It is for this reason that several of the federal agencies, in particular FERC and the Bureau of Reclamation, have made it clear that the permitting process should proceed in parallel, and not serially. Both rationally and as a matter of law, all of the applicable agencies will have to approve the project.</p>
	<p>6. RE CUP-2015-05, solar facility, there are three recommendations in addition to those made in 1., 2., and 3. above:</p> <p>i. "As suggested on Page 26 of the Cat Creek's response, the County should require</p>

	<p>the Applicant to provide written confirmation that they have provided ‘a visual and sight mitigation strategy agreeable to both’ the Applicant and Running Bear RV Resort.”</p> <p>ii. “The Applicant indicated they do not plan to install a security fence around the facility as required in Section 6-8-94.A.5 of the Zoning Ordinance. The County should evaluate if a security fence at the facility should be required or left up to the discretion of the Applicant based on wildlife, safety, and other factors.”</p>
	<p>These recommendations are addressed to the County, and not CCE, but each deserves a response. First, it is not possible to ensure in advance that any mitigation plan, no matter how carefully devised, will be acceptable to all of the parties involved. No matter how irrelevant the reason, one of them may always object. But in this case it is in our common interest to develop an effective visual and sight mitigation strategy, and CCE will work with Running Bear RV Resort to do so. Second and so far as a security fence around the solar array is concerned, there are a variety of factors to be considered, among which one of CCE’s contemplated layouts might be spaces between rows of PV panels which allow the passage of wildlife. This shall be further evaluated as will other strategies that may be employed, including the minimum spacing of PV solar rows. .</p>
	<p>iii. “Prior to the issuance of a building permit, the Applicant should be required to prepare a management plan to demonstrate how weeds and other vegetation in the facility will be managed.”</p>
	<p>Guidelines for re-vegetation (including varieties, specific areas, and post-construction monitoring) and weed control are contained in the Wildlife Mitigation Plan, but no specific plan for the solar facility in particular has yet been developed. As noted in the WMP, re-vegetation and the control of noxious weeds protocols will be established under the supervision of Dr. Roger Rosentreter, one of Idaho’s leading authorities on the subject.</p>
	<p>7. Re CUP-2015-06, wind power, there is one recommendation in addition to those in 1. And 2. above:</p> <p>i. “It is recommended that the security fence (outlined in Section 6-8-94A.5. of the Zoning Ordinance) should not be required.”</p>
	<p>CCE concurs. Such a fence would hinder the passage of wildlife through the turbine arrays. We are not aware of any documentation of corridor fragmentation that occurs as a result of turbine arrays.</p>
	<p>8. Re CUP-2015-07, substation, there are four recommendations in addition to those made in 1., 2., and 3. above.</p> <p>i. “As outlined in Section 6-8-94.A.5 of the Zoning Ordinance, the Applicant shall</p>

	submit (and follow) [a] landscaping, screening and noise control plan with any building permit application.”
	There is a discussion in the WMP on substation noise control, but a plan shall be submitted (and of course followed) to include landscaping and screening as well as noise control to the extent applicable taking into consideration the rural nature of the areas prior to construction of the substation facility.
	ii. “As outlined in Section 6-8-94.A.5. of the Zoning Ordinance, the County should require that a security fence be installed around the portion of the property containing the substation.”
	A security fence around substations under FERC jurisdiction is standard and will be installed according to FERC, NERC, and Homeland Security regulations.
	iii. “The Applicant did not address how fire protection for the facility will be handled. The Applicant should describe their proposed plan as required in Section 6-8-94.A.6. of the Zoning Ordinance.”
	A plan describing how fire protection for the substation facility will be handled will be submitted to the County before the Public Hearing scheduled for June 15, 2016. However, and on a general note, fighting electrical fires needs to be handled by professionals and the personnel of CCE shall be limited to prevention of the spread of any substation fire.
	iv. “The Applicant should provide documentation that they have complied with the public meeting and notice requirements outlined in Section 6-8-94A.7. of the Zoning Ordinance.”
	Documentation of the two neighborhood public meetings and notification of same has already been supplied. Documentation of the required general public hearings, of which June 15th is already noted, will be supplied by Elmore County publication of the minutes of that meeting.

Cat Creek Energy Comments on the Boise Project Board of Control Letter of May 13, 2016, to Elmore County Addressing Conditional Use Permit Application 2015-04.

Comment	<p>1. "The Boise Project's primary interest in the CUP proceedings concerns application no. 2015-04 for the pump back hydropower project, and the prospect of use of water from Anderson Ranch Reservoir."</p>
Response	<p>BPBoC's interest in the CUP proceedings is understandable. While the overall project involves the Anderson Ranch Reservoir, it needs to be noted that the Conditional Use Permit applications before Elmore County do not involve water rights and water diversion, at this time. Elmore County or its Planning and Zoning Commission does not have jurisdiction over Anderson Ranch Reservoir or the uses to which water from the Reservoir may or should be put. CCE's CUP 2015-04 Application does not presuppose that it does. The water allocation, right, and use shall be appropriately addressed at the state and federal levels of permitting.</p>
Comment	<p>2. "The Boise Project has not evaluated the engineering feasibility of producing 400 MWs of power using the pump back system from a 50,000 acre foot reservoir, and cannot comment, but does continue to have concerns about the potential for the system to be feasible at that capacity and whether additional water may be sought by the applicant to meet the hydropower needs of a project of that capacity."</p>
Response	<p>The basic engineering has been accomplished and the preliminary design parameters have been set for the Pump Storage Hydro part of the overall project. Under the design, approximately 550 acre feet shall be required to produce the maximum energy output of 400 MW in any given hour. The 16 hours projected daily use Mon-Sat of energy generation shall use a total of 8,800 ac ft daily. Thus, the 50,000 ac ft Upper Reservoir is intended to store 20,000 ac ft reserved for power usage and an additional 30,000 ac ft for irrigation, flood control, municipal, and ecological use which can also be used for power generation when released from storage. Most important, there is no relevance or correlation between the size of the reservoir and what power generation requires. There are no water losses in the power production cycle. The Upper Reservoir is fully lined, eliminating exfiltration, and the anticipated evaporative losses are at 899 ac ft annually based on an Upper Reservoir at maximum surface area of 1,045 acres. Given the size of the Upper Reservoir, it is not necessary that CCE make up the evaporative loss yearly, but can delay to flood control release periods.</p>
Comment	<p>3. "Cat Creek Energy does not explain how the initial fill would affect storage or power</p>

	production in the existing Boise River reservoirs. Any reservoir filling must not interfere with storage quantities in Anderson Ranch Reservoir necessary to serve downstream irrigation needs.”
Response	The dams of the Boise River were created and have been operated for flood control and irrigation. The Bureau of Reclamation’s claims on the water in Anderson Ranch Reservoir precede all other uses. CCE will be taking water for initial fill only in the flood control period and excess water is released. CCE does not take water during the time when the Boise drainage is fully appropriated. Furthermore, the remainder capacity in the Upper Reservoir reserved for other uses is filled during the flood control period when excess water is released downstream. The fill rate shall be conditioned by IDWR, Bureau of Reclamation, and US Army Corp or Engineers as they manage the Boise River drainage and its reservoirs.
Comment	1 “The Boise Project has concerns that in addition to evaporative loss, there may be other system losses. The arid land on which the reservoir is proposed to be constructed has been demonstrated to be very porous and the Boise Project is concerned that substantial losses may occur as a result of groundwater seepage.”
Response	CCE decided early on that the Upper Reservoir would be fully lined to prevent any exfiltration and seepage.
Comment	5 “Flood flows in the Boise River that the Upper Reservoir claims it will only use to fill the reservoir once, are sporadic and it’s unclear if there would be water available on a regular basis to fill the reservoir on more than one occasion to support the proposed municipal uses. The Boise River System, based on the current reservoir capacity, has been considered fully appropriated by the Idaho Department of Water Resource since 1977. Additional strain on the system due to repeated fills of an off-stream reservoir could cause damage to existing water right holders on the Boise River.”
Response	Repeated fills during a year are not proposed. CCE realizes that in the Upper Reservoir there is a unique opportunity to be good stewards and, because of its location and topography, the Upper Reservoir could enlarge its size for additional storage capacity for other uses. It has been recognized that the Boise basin is in dire need of additional storage and the Upper Reservoir is just one way to help realize the goal of more storage capacity. The fact is 51% of the Boise River drainage water does not have current storage opportunities. Nothing in any of the materials supplied to the BPBoC by Elmore County supports the claim that there would be “repeated” fills during a given year. The ‘extra’ capacity in the Upper Reservoir of 30,000 ac ft is expected to fulfill the anticipated need of additional Boise River water storage for downstream and future users by roughly 18% to 37% depending on which study one wishes to use addressing future storage expansion mandates

Comment	<p>6. "Cycling enough water through the pump system on a daily basis that is anticipated to result in an approximately 1 to 2 [foot] elevation change in the reservoir on a daily basis will inevitably have a warming effect on Anderson Ranch Reservoir which can result in algae bloom and loss of fish and other wildlife. That volume of water being cycled back and forth will also inevitably impact turbidity in the reservoir which has impacts on dissolved oxygen, also exacerbating the potential for algae blooms and other negative impacts on water quality affecting fish and other wildlife."</p>
Response	<p>These topics are of as much concern to Cat Creek Energy as they are to anyone else. It is envisioned under the prescribed operational parameters that water shall be flowing constantly in one direction or the other from Anderson Ranch Reservoir to the Upper Reservoir. On any given day, depending on the capacity level of the Upper Reservoir, anywhere from 18% to 88% of the Upper Reservoir's water shall be cycled. Given the intake/outlet is designed to be at the lower and colder levels of Anderson Ranch Reservoir, temperature differentials should be minimal. Additionally, drawdown of the Upper Reservoir is intended during the day further mitigating any temperature differentials. CEE consultants, including Idaho Water Resources Dave Tuthill and Hal Anderson and in particular, fisheries specialist, Dr. Brad Shepard, who is well-recognized in Idaho for his aquatic biology expertise, have already discussed working in collaboration with the Bureau of Reclamation on the analysis and modeling of the possible impact of the pump storage hydro system on water temperature and oxygenation levels. One factor in this analysis is the anticipated design flow of the tailrace in Anderson Ranch Reservoir at flows equal to or less than 5 mph. The BoR studies, for which water sampling has already begun, along with other studies which shall be initiated under the federal and state permitting process shall provide the necessary data which then will be evaluated in a systematic way, and provide the basis on which an informed estimation of the extent to which potential impacts can be avoided or mitigated. More discussion of water quality questions, and of the potential impacts of changes in temperature and oxygenation levels on the Anderson Ranch Reservoir Fishery, can be found in the <i>Wildlife Mitigation Plan</i> submitted to Elmore County as a requirement of its CUP approval process for this project.</p>
Comment	<p>"Any proposed project must be conditioned in such a manner that the existing water quality in Anderson Ranch Reservoir cannot be degraded."</p>
Response	<p>We concur.</p>

Cat Creek Energy Comments on the Boise Project Board of Control Letter of May 13, 2016, to Elmore County Addressing Conditional Use Permit Application 2015-04.

Comment	<p>"The Boise Project's primary interest in the CUP proceedings concerns application no. 2015-04 for the pump back hydropower project, and the prospect of use of water from Anderson Ranch Reservoir."</p>
Response	<p>BPBoC's interest in the CUP proceedings is understandable. While the overall project involves the Anderson Ranch Reservoir, it needs to be noted that the Conditional Use Permit applications before Elmore County do not involve water rights and water diversion, at this time. Elmore County or its Planning and Zoning Commission does not have jurisdiction over Anderson Ranch Reservoir or the uses to which water from the Reservoir may or should be put. CCE's CUP 2015-04 Application does not presuppose that it does. The water allocation, right, and use shall be appropriately addressed at the state and federal levels of permitting</p>
Comment	<p>"The Boise Project has not evaluated the engineering feasibility of producing 400 MWs of power using the pump back system from a 50,000 acre foot reservoir, and cannot comment, but does continue to have concerns about the potential for the system to be feasible at that capacity and whether additional water may be sought by the applicant to meet the hydropower needs of a project of that capacity."</p>
Response	<p>The basic engineering has been accomplished and the preliminary design parameters have been set for the Pump Storage Hydro part of the overall project. Under the design, approximately 550 acre feet shall be required to produce the maximum energy output of 400 MW in any given hour. The 16 hours projected daily use Mon-Sat of energy generation shall use a total of 8,800 ac ft daily. Thus, the 50,000 ac ft Upper Reservoir is intended to store 20,000 ac ft reserved for power usage and an additional 30,000 ac ft for irrigation, flood control, municipal, and ecological use which can also be used for power generation when released from storage. Most important, there is no relevance or correlation between the size of the reservoir and what power generation requires. There are no water losses in the power production cycle. The Upper Reservoir is fully lined, eliminating exfiltration, and the anticipated evaporative losses are at 899 ac ft annually based on an Upper Reservoir at maximum surface area of 1,045 acres. Given the size of the Upper Reservoir, it is not necessary that CCE make up the evaporative loss yearly, but can delay to flood control release periods.</p>
Comment	<p>"Cat Creek Energy does not explain how the initial fill would affect storage or power</p>

	production in the existing Boise River reservoirs. Any reservoir filling must not interfere with storage quantities in Anderson Ranch Reservoir necessary to serve downstream irrigation needs.”
Response	The dams of the Boise River were created and have been operated for flood control and irrigation. The Bureau of Reclamation’s claims on the water in Anderson Ranch Reservoir precede all other uses. CCE will be taking water for initial fill only in the flood control period and excess water is released. CCE does not take water during the time when the Boise drainage is fully appropriated. Furthermore, the remainder capacity in the Upper Reservoir reserved for other uses is filled during the flood control period when excess water is released downstream. The fill rate shall be conditioned by IDWR, Bureau of Reclamation, and US Army Corp or Engineers as they manage the Boise River drainage and its reservoirs.
Comment	1 “The Boise Project has concerns that in addition to evaporative loss, there may be other system losses. The arid land on which the reservoir is proposed to be constructed has been demonstrated to be very porous and the Boise Project is concerned that substantial losses may occur as a result of groundwater seepage.”
Response	CCE decided early on that the Upper Reservoir would be fully lined to prevent any exfiltration and seepage.
Comment	5 “Flood flows in the Boise River that the Upper Reservoir claims it will only use to fill the reservoir once, are sporadic and it’s unclear if there would be water available on a regular basis to fill the reservoir on more than one occasion to support the proposed municipal uses. The Boise River System, based on the current reservoir capacity, has been considered fully appropriated by the Idaho Department of Water Resource since 1977. Additional strain on the system due to repeated fills of an off-stream reservoir could cause damage to existing water right holders on the Boise River.”
Response	Repeated fills during a year are not proposed. CCE realizes that in the Upper Reservoir there is a unique opportunity to be good stewards and, because of its location and topography, the Upper Reservoir could enlarge its size for additional storage capacity for other uses. It has been recognized that the Boise basin is in dire need of additional storage and the Upper Reservoir is just one way to help realize the goal of more storage capacity. The fact is 51% of the Boise River drainage water does not have current storage opportunities. Nothing in any of the materials supplied to the BPBoC by Elmore County supports the claim that there would be “repeated” fills during a given year. The ‘extra’ capacity in the Upper Reservoir of 30,000 ac ft is expected to fulfill the anticipated need of additional Boise River water storage for downstream and future users by roughly 18% to 37% depending on which study one wishes to use addressing future storage expansion mandates

Comment	<p>6. "Cycling enough water through the pump system on a daily basis that is anticipated to result in an approximately 1 to 2 [foot] elevation change in the reservoir on a daily basis will inevitably have a warming effect on Anderson Ranch Reservoir which can result in algae bloom and loss of fish and other wildlife. That volume of water being cycled back and forth will also inevitably impact turbidity in the reservoir which has impacts on dissolved oxygen, also exacerbating the potential for algae blooms and other negative impacts on water quality affecting fish and other wildlife."</p>
Response	<p>These topics are of as much concern to Cat Creek Energy as they are to anyone else. It is envisioned under the prescribed operational parameters that water shall be flowing constantly in one direction or the other from Anderson Ranch Reservoir to the Upper Reservoir. On any given day, depending on the capacity level of the Upper Reservoir, anywhere from 18% to 88% of the Upper Reservoir's water shall be cycled. Given the intake/outlet is designed to be at the lower and colder levels of Anderson Ranch Reservoir, temperature differentials should be minimal. Additionally, drawdown of the Upper Reservoir is intended during the day further mitigating any temperature differentials. CEE consultants, including Idaho Water Resources Dave Tuthill and Hal Anderson and in particular, fisheries specialist, Dr. Brad Shepard, who is well-recognized in Idaho for his aquatic biology expertise, have already discussed working in collaboration with the Bureau of Reclamation on the analysis and modeling of the possible impact of the pump storage hydro system on water temperature and oxygenation levels. One factor in this analysis is the anticipated design flow of the tailrace in Anderson Ranch Reservoir at flows equal to or less than 5 mph. The BoR studies, for which water sampling has already begun, along with other studies which shall be initiated under the federal and state permitting process shall provide the necessary data which then will be evaluated in a systematic way, and provide the basis on which an informed estimation of the extent to which potential impacts can be avoided or mitigated. More discussion of water quality questions, and of the potential impacts of changes in temperature and oxygenation levels on the Anderson Ranch Reservoir Fishery, can be found in the <i>Wildlife Mitigation Plan</i> submitted to Elmore County as a requirement of its CUP approval process for this project.</p>
Comment	<p>7. "Any proposed project must be conditioned in such a manner that the existing water quality in Anderson Ranch Reservoir cannot be degraded."</p>
Response	<p>We concur.</p>

May 24, 2016

Alan Christy
Director
Elmore County Land Use and Building Departments
achristy@elmorecounty.org

Dear Alan,

The other attachments contain our responses to the two letters sent to Elmore County and the one letter sent to the US Fish and Wildlife Service commenting on our Conditional Use Permit applications.

Rather than reproducing the letters (copies of which you have) in their entirety, we have taken the main comments or recommendations made, numbered them, and responded to each in turn. This should help identify in a very clear way the points at issue. We have been careful not to leave anything of importance out of the discussion.

Please let me know if you have any questions.

Thanks, and all best wishes,

Corky

Gordon Brittan
Cat Creek Energy, LLC

007016

Beth Bresnahan

From: Gordon Brittan
Sent: Tuesday, May 24, 2016 3:18 PM
To: Alan Christy
Cc: Beth Bresnahan; prmlaw@qwestoffice.net; James Carkulis
Subject: responses to the three agency/NGO/consultant letters we have received
Attachments: CCE Responses to the American Bird Conservancy Letter of April 26, 2016, to the US Fish and Wildlife Service Re CUP Applications Submitted to Elmore County by Cat Creek Energy.pdf; CCE Responses to Aspen Engineers' Comments and Recommendations on the CUP Applications Submitted to Elmore County by Cat Creek Energy.pdf; CCE Responses to the Boise Project Board of Control Letter of 5132106 to Elmore County.pdf; letter to Alan Christy of 5242016.pdf

Cat Creek Energy Comments on the Letter of April 26, 2016, to the U.S. Fish and Wildlife Service by the American Bird Conservancy and the Golden Eagle Audubon Society

<p>Comment</p>	<p>1. "American Bird Conservancy (ABC) and the Golden Eagle Audubon Society (GEAS) have serious concerns about the siting of this project, particularly the risk it poses to federally protected birds and bats. This risk can be substantial;... ABC and GEAS support the development of clean, renewable, sources of energy such as wind and solar power, but also believe that it must be done responsibly, sited appropriately, and designed to have minimal impact on our public trust resources, including native species of birds and bats, and particularly threatened, endangered and other protected species."</p>
<p>Response</p>	<p>We appreciate the concerns of the ABC and GEAS, take seriously potential risks to protected bird and bat species, and agree that the development of renewable energy projects must be done responsibly, sited appropriately, and designed to have minimal impact on wildlife resources. It is for this reason that the Team of Cat Creek Energy (CCE) have, since installing their first commercial-grade wind turbine in 1984, supported research, particularly on golden eagles, kept abreast of the relevant literature, engaged such well-known avian consultants as Rob Hazlewood and Al Harmata, and worked in a knowledgeable way to site turbines and solar collectors so as to mitigate bird and bat mortality. We were one of the very first companies to employ radar to screen potential sites for avian activity as early as 2002, and walked away from more than one site that was, unfortunately, subsequently developed by others. As is implicit in the third sentence above, the ABC and GEAS understand that while the risk can be substantial, bird and bat mortality rates vary dramatically from one wind energy facility to the next as a function of many variables, the most important of which have to do with siting (both as between and within project areas), population sizes, feeding and nesting patterns (although it is also the case that a new generation of 2.5+ MW turbines, which operate at lower rpms, have also reduced mortality rates significantly; as recently as 2005, roughly 80% of the estimated raptor mortality occurred at older projects in California; Erickson, et. al. 2005). It's not to our purpose to site statistics that renewable energy projects have resulted in avian mortality rates orders of magnitude lower than other anthropogenic, in particular fossil-fuel generation, causes. Instead, our focus is on avoiding bird and bat deaths to the extent possible by careful planning and implementation, and on taking advantage of state-of-the-art-knowledge regarding them, e.g., avoiding updraft areas such as the rim of Anderson Ranch Reservoir in siting wind turbines,</p>

	<p>providing ways of discriminating between solar arrays and bodies of water and thus the so-called "lake effect" (<i>Scientific American</i>, 8/26/14), and incorporating the latest turbine radar and appropriate area lighting in our operating protocols. The cumulative effect of these will be to further avoid/reduce raptor and migratory mortalities.</p>
Comment	<p>2. "In the case of wind energy, careful wind generation siting is crucial in preventing the unintended impacts to America's native bird species, and ABC and GEAS are concerned that the proposed site for this project poses an unacceptably high risk to state and federally protected wildlife species."</p>
Comment	<p>"In a letter dated 1 February 2016, to the Elmore County Land Use and Building Department, the Idaho Department of Fish and Game (IDFG) expressed serious concerns about the impact of this proposed project on the region's wildlife resources. In particular, they cite the possible impacts of this project on Greater Sage Grouse. At least two active leks occur within a half mile of the proposed project, and would likely be eliminated."</p>
Response	<p>In a subsequent letter to CCE, the area IDFG wildlife biologist wrote that "Five (5) occupied sage-grouse leks occur within four miles of the eastern project boundary; two (2) of which <i>appear</i> (our italics) to occur within a half mile. Shapefiles of the project area were not provided to IDFG. As such, these distances are approximations based on comparisons of the project maps included in the plan." This said in the interests of accuracy, the two occupied leks and one nest to the north of the eastern portion of the projected larger of the two wind turbine arrays on the present layout are of legitimate concern and, while we look at possible reconfigurations of the array, there may be value to other mitigation methods and control area studies. There is nothing in the February 1st, 2016 IDFG letter to Elmore County to the effect that the sage-grouse leks in the project area "would likely be eliminated."</p> <p>The fact of the matter is that "there is a lack of published data on wind power development within the occupied range of both species of sage-grouse" (Schroeder, Connelly, and Braun, 2007; although this is an older source, the references cited in the ABC letter – Schroeder, 2010, LeBeau et. al. 2014, Kirol et. al. 2015, Mathewson, 2015, Shirk et. al. 2015, Winder et. al. 2015 - do not document in a straightforward way a direct impact of wind turbines on sage-grouse mortality; LeBeau, et. al. is typical; although they document a correlation between nest/brood survival and distance from turbines, "Decreased nest and brood survival was likely the result of increased predation which may have been the result of anthropogenic development and habitat fragmentation"; Winder et. al. document a correlation between lek abandonment and distance from turbines, but with significant confounding variables, e.g., abandonment is more than twice as probable in the case of agricultural fields as against grasslands, and "active leks are stable at all</p>

	<p>distances; Kirol, et. al., 2015 has to do with coal-bed methane natural gas). The impact (Connelly, Knick, Schroeder, and Stiver 2004, Wisdom, et. al. 2011) is indirect, by way of the roads, transmission lines, and fences that often accompany them (and sometimes make possible increased predation). Thus our sage-grouse impact mitigation plan is "all-inclusive," and includes these other factors as well. No new transmission corridors or fences shall be required in this area of the project, strategies to prevent such important predators as raptors from perching on the transmission line in the area shall be implemented, a program to increase the availability of forbs and other sage-grouse forage in appropriate habitat areas will be undertaken, and some mitigation and improvement activities (such as flagging existing fences that might pose obstacles to sage-grouse translocation) are already well underway.</p> <p>As our initial guide to sage-grouse management priorities, we are utilizing the Idaho Governor's Sage-Grouse Task Force recommendations which for the next approximately nine (9) years will govern federal as well as state policy (IDFG, 2012, Otter, 2015; also see Connelly, et. al. in IDFG, 2006). Most of the Cat Creek Energy project is located within "Important Habitat Zone" (IMZ), none of it within "Core Zone." The two "primary threats" to sage-grouse habitat identified within the IMZ are wildfire and invasive species. In the case of the first, the project is especially well-equipped to decrease wildfire response time (owing to the proximity and fire equipment associated with the new Upper Reservoir), create and maintain effective fuel breaks (which the ranch on which the project is located has long practiced), and to target livestock grazing where demonstrated to be appropriate as a tool for reducing fuel loads (again a traditional practice on the ranch). In the case of the second threat, our sage-grouse point person, Dr. Roger Rosentreter, is perhaps Idaho's leading authority on invasive species and their control. Any ground disturbed by construction activities (which themselves will be scheduled so as to minimize impact on sage-grouse breeding and nesting activities) will be re-planted with forbs and other species of vegetation on which sage-grouse feed.</p>
Comment	<p>3. "The Idaho Fish and Game letter does not mention songbirds found in the area, but it is also reported in the path of many species. Surveys conducted by the Intermountain Bird Observatory at Lucky Peak (Kaltenecker et. al. 2014), only about 40 miles west of Anderson Ranch Reservoir, as well as E-bird entries for the Little Camas Reservoir area reveal the presence of many species of concern."</p>
Comment	<p>"Numerous raptor species have been observed in the project area..., including Bald and Golden Eagles and Peregrine Falcons. It is likely, however, that the Cat Creek area lies within the migratory route of many other raptor species, all of which are protected by the Migratory Treaty Act. Both Bald and Golden Eagle nests are well documented adjacent to the proposed project area. Before the project is even considered for construction, we would hope that the developer would apply for an incidental take permit under the Bald and Golden Eagle Protection Act. We note that no surveys have been conducted for bats, and after</p>

	<p>white nose syndrome, wind turbines have been identified as the next major source of bat mortality (Dini 2016)."</p>
<p>Response</p>	<p>According to the IDFG letter of 2/1/16, numerous raptor species have been observed "in and around" the project area (and are acknowledged by name in the CCE Wildlife Mitigation Plan). So far as we know, however, no attempt has been made to quantify the numbers in general or by species. The same IDFG letter states that "the topography, topography, and hydrology of the Cat Creek area suggest (our italics) the project area may (our italics) also lie within [a] migration corridor for raptors." The ABC letter cites no evidence that the project does lie within a migration corridor, and CCE is not aware of any such evidence. It doesn't follow, of course, that the project lies outside of a corridor, but it is at best premature to start talking about taking permits (which of course remains an option). One of the biggest problems for those of us committed to the protection and preservation of bird and bat species and populations is the conjectural character of much of the relevant information available, the wildly-varying estimates concerned bats and birds killed by solar and wind facilities (Loss, et. al. 2013 mentions estimates that range from 10,000 to 573,000 fatalities a year) , and the fact that very different methodologies are used to make these estimates (EESI, 2014). National estimates cannot in any case replace detailed studies of the raptor population in the project area.</p> <p>According to its area wildlife biologist, IDFG deployed bat detectors on BLM land in the fall of 2015 as part of a statewide bat monitoring effort. One of the detectors was deployed in the Cat Creek area. To date none of the recordings have been analyzed. CCE very much looks forward to this data, on the basis of which plans to mitigate possible bat mortality can be implemented. We are well aware of the consequences in the case of Montana's first major wind farm, in Judith Gap, when this possibility was overlooked and unplanned for. In fact, there are a number of different hypotheses as to the link between wind turbine operation and bat death (species of bat, weather and wind conditions, nocturnal activity, local population numbers and available insect prey, etc.), and none of them is as yet generally accepted. Once we have the data on numbers, behavioral patterns, and food sources available, we will formulate policies that cohere with the most plausible of these hypotheses and adapt operation when possible to weather and wind conditions.</p> <p>It has to be added that the fact that Dini is cited as some sort of authority on the causes of bat mortality is, frankly, very disappointing. The man is a journalist without scientific or scholarly credentials who has taken as his special mission in life an all-out attack on renewable energy (and "environmentalists" generally) in behalf of more coal development. The headline of his (very brief) article on the subject is attention-grabbing, but the fragmentary German sources enlisted to support the claim made do not do so.</p>

	<p>CCE takes songbirds and other passerines seriously, but as noted IDFG does not mention them in their review of our Wildlife Mitigation Plan, and it is only if "the area" is taken very broadly that the conclusion follows from the evidence indicated (apparently at least some of it no more than anecdotal) that it is "in the path of many species." That said, we will try to determine in a much more precise way the presence and pattern of migratory songbirds (particularly their nocturnal movements), and formulate mitigation plans accordingly. It is by now a well-established truth, applying to all avian species, and perhaps raptors in particular, that "renewable energy development can be compatible with breeding and migrating birds and bats if addressed early, during the planning phases of the development" (to borrow words from the IDFG letter to Elmore County of 1 February 1, 2016).</p>
<p>Comment</p>	<p>4. "At the very least, we hope that this proposed project is on the FWS' radar and that all federal and state guidelines regarding wind and solar development and wildlife will be followed to the letter including appropriate pre-construction surveys for bird and bat occurrence. We hope that the developer would also agree to third party, independent monitoring of post-construction bird and bat mortality should they be granted permits to build, and that all of this data should be transparent and open to the public."</p>
<p>Response</p>	<p>CCE took the lead in talking about the project with the FWS, first with Mark Robertson and now with Bill Kibler in the Boise office. We expect to be in close communication with this agency, as with the other agencies involved. It should go without saying that of course all federal and state guidelines regarding wind and solar development and wildlife will be followed to the letter. We are in the business of renewable energy development because we take climate change and other carbon-emission consequences of fossil fuel generation seriously, and therefore worry about the protection and preservation of wildlife as well as of human beings.</p> <p>A committee to set aside and allocate funds for wildlife enhancement is specified in our <i>Wildlife Mitigation Plan</i>, a copy of which was included in the packet of materials sent to you by Elmore County. Among other activities, it will monitor possible habitat impacts and population trends during the operational phase of the project. Such post-construction monitoring is standard procedure for many renewable energy projects, including those we have developed.</p>

References

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- Connelly, J.W., and S.T. Knick, eds. 2011. *Greater Sage-Grouse: Ecology and Conservation of a Landscape Species and Its Habitats. Studies in Avian Biology No, 38*. University of California Press: Berkeley and Los Angeles.
- Erickson, W.P., G.D. Johnson, and D.P. Young. 2005. "A Summary of Bird Mortality from Anthropogenic Causes with an Emphasis on Collisions," *USDA Forest Service Gen. Tech. Rep. PSW-GTR-191*.
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- Loss, S., T. Will, and P. Marra. 2013. "Estimates of bird mortality at wind facilities in the contiguous United States." *Biological Conservation* 168: 201-209.
- Otter, C.L. 2015. *Executive Order No. 2015-04 Adopting Idaho's Sage-grouse Management Plan*. Office of the Governor: Boise, ID.
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- Scientific American*. 8/26/2014. "Solar farms threaten birds."
- Wisdom, M.J., et. al. 2011. "Factors associated with extirpation of sage-grouse." In Connelly and Knick. 2011.

Comments on the Recommendations in the Letter of May 13, 2016, Sent by Aspen Engineers to Elmore County on the CUP Applications Submitted to Elmore County

	<p>1. The same initial comment is made in connection with three applications, CUP-2015-05 (solar facility), CUP-2015-06 (wind turbine facility), and CUP-2015-07 (substation facility): "Prior to applying for a building permit, the Applicant should provide a detailed site plan for the solar [wind, substation] facility and surrounding infrastructure (which may include, but is not limited to array location, access roads, storm water management, screening, fencing, etc. [which may include, but is not limited to turbine location, access; parking, building location, screening fencing, etc.]) and provide the other information required in Chapter 18 of the Elmore County Zoning and Development Ordinance.</p>
	<p>Much of this information is contained in the WMP and the MSP submitted subsequent to the CCE Responses of July 31, 2015 The subsequent and final Construction Ready drawings shall contain the requisite site plan requirements as amended and shall include, but not be limited to both the final turbine siting and arrays, along with the solar arrays and appurtenances such as inverters, fencing, etc</p>
	<p>2. The same comment is made in connection with three applications, CUP-215-03 (transmission) and CUP-2015-04 (pump storage hydro), and CUP-2015-05 (solar facility): "Any roads proposed for serving this project shall meet the requirements outlined in Section 6-17 of the Zoning Ordinance or at a minimum comply with some alternative standard proposed by the Applicant and approved by the Director or County Engineer as allowed in Section 6-17-5.F."</p>
	<p>The CCE Team has had ample experience in building renewable energy project roads. All roads as designed shall be done in conjunction and with the approval of the Director or County Engineer. A discussion of road widths and composition during and post-construction is contained in the exchange with Power Engineers' consultant mentioned above.</p>
	<p>3. The same comment is made in connection with two applications, CUP-2015-05 (solar facility) and CUP-2015-07 (substation): "As with some previous CUP applications that involve the potential disturbance of large ground areas, the County may want to require that prior to the issuance of a building permit, an overall site plan, stamped and signed by the Applicant's Engineer, must be approved by the County Engineer to ensure drainage and stormwater management."</p>
	<p>In its Responses of July 31, 2015, to this very same language, CCE had already said that "As a condition in the approved CUP, this is reasonable."</p>
	<p>4. Re CUP-2015-03, transmission lines, there is one additional recommendation:</p>

	<p>i. "Although it is not expected by the Applicant, if construction occurs in flood zone, the Applicant should comply with all County and Federal Requirements relating to development in the applicable hazard type."</p>
	<p>If construction occurs in [a] flood zone, CCE shall comply with all relevant County and Federal requirements</p>
	<p>5. Re CUP-2015-04, pump storage hydro, there are two recommendations in addition to that made in 2. above:</p> <p>i. "As outlined [in] Section 6-8-94.A.5 of the Zoning Ordinance, the County should evaluate if a security fence at the facility should be required; prohibited, or left up to the discretion of the Applicant based on environmental and other factors. Considering the nature of the facility, it may not be desirable to fence the entire facility."</p>
	<p>This recommendation is directed to the County, and not CCE, but in our view, and because of concerns related to habitat fragmentation, wildlife passage, and possibly shorter fire-response times, it would not be desirable to fence the entire facility. The embankment of the Upper Reservoir on approximately 60% of the perimeter further precludes the need to fence the entire facility.</p>
	<p>ii. "The Applicant should be aware that the review and approval of the facilities may also require approval from many state and federal facilities [<i>sic</i>; presumably "agencies" is intended] which may include, but are not limited to:.....The Applicant should provide copies of written approval from each applicable agency."</p>
	<p>CCE is well aware that the review and approval of the facilities may also require approval from many state and federal agencies, and has already entered into discussion with all of the agencies listed by the County Engineer and received a Preliminary Permit from one of them, the Federal Energy Regulatory Commission ("FERC"). But for the reasons we have argued at length in the materials submitted to the County, approval by each of the applicable agencies cannot be made a pre-condition of the approval of the Conditional Use Permits (which are themselves conditional). If each agency waited until all of the other agencies had approved, no project would ever be built. It is for this reason that several of the federal agencies, in particular FERC and the Bureau of Reclamation, have made it clear that the permitting process should proceed in parallel, and not serially. Both rationally and as a matter of law, all of the applicable agencies will have to approve the project.</p>
	<p>6. RE CUP-2015-05, solar facility, there are three recommendations in addition to those made in 1., 2., and 3. above:</p> <p>i. "As suggested on Page 26 of the Cat Creek's response, the County should require</p>

	<p>the Applicant provide written confirmation that they have provided 'a visual and sight mitigation strategy agreeable to both' the Applicant and Running Bear RV Resort."</p> <p>ii. "The Applicant indicated they do not plan to install a security fence around the facility as required in Section 6-8-94.A.5 of the Zoning Ordinance. The County should evaluate if a security fence at the facility should be required or left up to the discretion of the Applicant based on wildlife, safety, and other factors."</p>
	<p>These recommendations are addressed to the County, and not CCE, but each deserves a response. First, it is not possible to ensure in advance that any mitigation plan, no matter how carefully devised, will be acceptable to all of the parties involved. No matter how irrelevant the reason, one of them may always object. But in this case it is in our common interest to develop an effective visual and sight mitigation strategy, and CCE will work with Running Bear RV Resort to do so. Second and so far as a security fence around the solar array is concerned, there are a variety of factors to be considered, among which one of CCE's contemplated layouts might be spaces between rows of PV panels which allow the passage of wildlife. This shall be further evaluated as will other strategies that may be employed, including the minimum spacing of PV solar rows. .</p>
	<p>iii. "Prior to the issuance of a building permit, the Applicant should be required to prepare a management plan to demonstrate how weeds and other vegetation in the facility will be managed."</p>
	<p>Guidelines for re-vegetation (including varieties, specific areas, and post-construction monitoring) and weed control are contained in the Wildlife Mitigation Plan, but no specific plan for the solar facility in particular has yet been developed. As noted in the WMP, re-vegetation and the control of noxious weeds protocols will be established under the supervision of Dr. Roger Rosentreter, one of Idaho's leading authorities on the subject.</p>
	<p>7. Re CUP-2015-06, wind power, there is one recommendation in addition to those in 1. And 2. above:</p> <p>i. "It is recommended that the security fence (outlined in Section 6-8-94A.5. of the Zoning Ordinance) should not be required."</p>
	<p>CCE concurs. Such a fence would hinder the passage of wildlife through the turbine arrays. We are not aware of any documentation of corridor fragmentation that occurs as a result of turbine arrays.</p>
	<p>8. Re CUP-2015-07, substation, there are four recommendations in addition to those made in 1., 2., and 3. above.</p> <p>i. "As outlined in Section 6-8-94.A.5 of the Zoning Ordinance, the Applicant shall</p>

Cat Creek Energy Comments on the Boise Project Board of Control Letter of May 13, 2016, to Elmore County Addressing Conditional Use Permit Application 2015-04.

Comment	<p>1 "The Boise Project's primary interest in the CUP proceedings concerns application no. 2015-04 for the pump back hydropower project, and the prospect of use of water from Anderson Ranch Reservoir."</p>
Response	<p>BPBoC's interest in the CUP proceedings is understandable. While the overall project involves the Anderson Ranch Reservoir, it needs to be noted that the Conditional Use Permit applications before Elmore County do not involve water rights and water diversion, at this time. Elmore County or its Planning and Zoning Commission does not have jurisdiction over Anderson Ranch Reservoir or the uses to which water from the Reservoir may or should be put. CCE's CUP 2015-04 Application does not presuppose that it does. The water allocation, right, and use shall be appropriately addressed at the state and federal levels of permitting.</p>
Comment	<p>2 "The Boise Project has not evaluated the engineering feasibility of producing 400 MWs of power using the pump back system from a 50,000 acre foot reservoir, and cannot comment, but does continue to have concerns about the potential for the system to be feasible at that capacity and whether additional water may be sought by the applicant to meet the hydropower needs of a project of that capacity."</p>
Response	<p>The basic engineering has been accomplished and the preliminary design parameters have been set for the Pump Storage Hydro part of the overall project. Under the design, approximately 550 acre feet shall be required to produce the maximum energy output of 400 MW in any given hour. The 16 hours projected daily use Mon-Sat of energy generation shall use a total of 8,800 ac ft daily. Thus, the 50,000 ac ft Upper Reservoir is intended to store 20,000 ac ft reserved for power usage and an additional 30,000 ac ft for irrigation, flood control, municipal, and ecological use which can also be used for power generation when released from storage. Most important, there is no relevance or correlation between the size of the reservoir and what power generation requires. There are no water losses in the power production cycle. The Upper Reservoir is fully lined, eliminating exfiltration, and the anticipated evaporative losses are at 899 ac ft annually based on an Upper Reservoir at maximum surface area of 1,045 acres. Given the size of the Upper Reservoir, it is not necessary that CCE make up the evaporative loss yearly, but can delay to flood control release periods.</p>
Comment	<p>3 "Cat Creek Energy does not explain how the initial fill would affect storage or power</p>

	production in the existing Boise River reservoirs. Any reservoir filling must not interfere with storage quantities in Anderson Ranch Reservoir necessary to serve downstream irrigation needs.”
Response	The dams of the Boise River were created and have been operated for flood control and irrigation. The Bureau of Reclamation’s claims on the water in Anderson Ranch Reservoir precede all other uses. CCE will be taking water for initial fill only in the flood control period and excess water is released. CCE does not take water during the time when the Boise drainage is fully appropriated. Furthermore, the remainder capacity in the Upper Reservoir reserved for other uses is filled during the flood control period when excess water is released downstream. The fill rate shall be conditioned by IDWR, Bureau of Reclamation, and US Army Corp or Engineers as they manage the Boise River drainage and its reservoirs.
Comment	“The Boise Project has concerns that in addition to evaporative loss, there may be other system losses. The arid land on which the reservoir is proposed to be constructed has been demonstrated to be very porous and the Boise Project is concerned that substantial losses may occur as a result of groundwater seepage.”
Response	CCE decided early on that the Upper Reservoir would be fully lined to prevent any exfiltration and seepage.
Comment	“Flood flows in the Boise River that the Upper Reservoir claims it will only use to fill the reservoir once, are sporadic and it’s unclear if there would be water available on a regular basis to fill the reservoir on more than one occasion to support the proposed municipal uses. The Boise River System, based on the current reservoir capacity, has been considered fully appropriated by the Idaho Department of Water Resource since 1977. Additional strain on the system due to repeated fills of an off-stream reservoir could cause damage to existing water right holders on the Boise River.”
Response	Repeated fills during a year are not proposed. CCE realizes that in the Upper Reservoir there is a unique opportunity to be good stewards and, because of its location and topography, the Upper Reservoir could enlarge its size for additional storage capacity for other uses. It has been recognized that the Boise basin is in dire need of additional storage and the Upper Reservoir is just one way to help realize the goal of more storage capacity. The fact is 51% of the Boise River drainage water does not have current storage opportunities. Nothing in any of the materials supplied to the BPBoC by Elmore County supports the claim that there would be “repeated” fills during a given year. The ‘extra’ capacity in the Upper Reservoir of 30,000 ac ft is expected to fulfill the anticipated need of additional Boise River water storage for downstream and future users by roughly 18% to 37% depending on which study one wishes to use addressing future storage expansion mandates

Comment	<p>5. "Cycling enough water through the pump system on a daily basis that is anticipated to result in an approximately 1 to 2 [foot] elevation change in the reservoir on a daily basis will inevitably have a warming effect on Anderson Ranch Reservoir which can result in algae bloom and loss of fish and other wildlife. That volume of water being cycled back and forth will also inevitably impact turbidity in the reservoir which has impacts on dissolved oxygen, also exacerbating the potential for algae blooms and other negative impacts on water quality affecting fish and other wildlife."</p>
Response	<p>These topics are of as much concern to Cat Creek Energy as they are to anyone else. It is envisioned under the prescribed operational parameters that water shall be flowing constantly in one direction or the other from Anderson Ranch Reservoir to the Upper Reservoir. On any given day, depending on the capacity level of the Upper Reservoir, anywhere from 18% to 88% of the Upper Reservoir's water shall be cycled. Given the intake/outlet is designed to be at the lower and colder levels of Anderson Ranch Reservoir, temperature differentials should be minimal. Additionally, drawdown of the Upper Reservoir is intended during the day further mitigating any temperature differentials. CEE consultants, including Idaho Water Resources Dave Tuthill and Hal Anderson and in particular, fisheries specialist, Dr. Brad Shepard, who is well-recognized in Idaho for his aquatic biology expertise, have already discussed working in collaboration with the Bureau of Reclamation on the analysis and modeling of the possible impact of the pump storage hydro system on water temperature and oxygenation levels. One factor in this analysis is the anticipated design flow of the tailrace in Anderson Ranch Reservoir at flows equal to or less than 5 mph. The BoR studies, for which water sampling has already begun, along with other studies which shall be initiated under the federal and state permitting process shall provide the necessary data which then will be evaluated in a systematic way, and provide the basis on which an informed estimation of the extent to which potential impacts can be avoided or mitigated. More discussion of water quality questions, and of the potential impacts of changes in temperature and oxygenation levels on the Anderson Ranch Reservoir Fishery, can be found in the <i>Wildlife Mitigation Plan</i> submitted to Elmore County as a requirement of its CUP approval process for this project.</p>
Comment	<p>"Any proposed project must be conditioned in such a manner that the existing water quality in Anderson Ranch Reservoir cannot be degraded."</p>
Response	<p>We concur.</p>

Cat Creek Energy Comments on the Boise Project Board of Control Letter of May 13, 2016, to Elmore County Addressing Conditional Use Permit Application 2015-04.

Comment	<p>1. "The Boise Project's primary interest in the CUP proceedings concerns application no. 2015-04 for the pump back hydropower project, and the prospect of use of water from Anderson Ranch Reservoir."</p>
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Comment	<p>"Any proposed project must be conditioned in such a manner that the existing water quality in Anderson Ranch Reservoir cannot be degraded."</p>
Response	<p>We concur.</p>

May 24, 2016

Alan Christy
Director
Elmore County Land Use and Building Departments
achristy@elmorecounty.org

Dear Alan,

The other attachments contain our responses to the two letters sent to Elmore County and the one letter sent to the US Fish and Wildlife Service commenting on our Conditional Use Permit applications.

Rather than reproducing the letters (copies of which you have) in their entirety, we have taken the main comments or recommendations made, numbered them, and responded to each in turn. This should help identify in a very clear way the points at issue. We have been careful not to leave anything of importance out of the discussion.

Please let me know if you have any questions.

Thanks, and all best wishes,

Corky

Gordon Brittan
Cat Creek Energy, LLC

007016

Beth Bresnahan

From: Gordon Brittan
Sent: Tuesday, May 31, 2016 8:01 AM
To: Alan Christy
Cc: Beth Bresnahan; prmlaw@qwestoffice.net
Subject: RE: ranch visit?

Thanks, Alan. We'll talk about the ranch visit and the other items on your list on Thursday. I'm very much looking forward to getting together.

All best, hope you had a good Memorial Day weekend. It was lovely here.

Corky

From: Alan Christy [<mailto:achristy@elmorecounty.org>]
Sent: Tuesday, May 31, 2016 8:00 AM
To: Gordon Brittan
Cc: Beth Bresnahan; prmlaw@qwestoffice.net
Subject: RE: ranch visit?

Good Morning Corky,

I will probably have several other items to discuss with you this Thursday and a ranch visit was one of them. I tentatively would like to go up there next Monday.

If you have any additional questions please let me know.

Thanks,

Alan Christy
Director
Elmore County Land Use & Building Department
520 East 2nd South, Mountain Home, ID 83647
Ph: (208) 587-2142 ex. 269 \ Fax: (208) 587-2120
achristy@elmorecounty.org \ www.elmorecounty.org

From: Gordon Brittan [<mailto:gbrittan@exergydevelopment.com>]
Sent: Friday, May 27, 2016 3:46 PM
To: Alan Christy <achristy@elmorecounty.org>
Cc: Beth Bresnahan <bbresnahan@elmorecounty.org>; prmlaw@qwestoffice.net
Subject: ranch visit?

Alan,

I'm gearing up for my trip to Mountain Home next week and our meeting on the 2nd, and wonder in this connection whether you have yet had a chance to visit the ranch and get some feel for the area in which the Cat Creek project is to be located? I've toured it once with John Faulkner and am looking forward to the next time.

All best wishes, and I hope that the three of you have a great weekend.

Corky

Cat Creek Energy, LLC

Beth Bresnahan

From: beth.colket@powereng.com
Sent: Wednesday, June 01, 2016 3:17 PM
To: Alan Christy
Cc: patsy.friend@powereng.com; dave.dean@powereng.com;
mark.pollock@powereng.com; Beth Bresnahan
Subject: RE: Elmore County Deliverable

Hi Alan,

Thanks for getting back with me. I will be ready at my desk at 2pm tomorrow unless I hear otherwise from you. Please call me at 208-288-6125.

Sincerely,
Beth

Office hours: Monday Wednesday Thursday 7AM-3:30PM

BETH COLKET, PWS #2343
CERTIFIED SENIOR ECOLOGIST
208-288-6125
703-801-3268 cell

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www.powereng.com

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From: Alan Christy [<mailto:achristy@elmorecounty.org>]
Sent: Wednesday, June 01, 2016 2:54 PM
To: Beth Colket 6125
Cc: Patsy Friend 6347; Dave Dean 8917; Mark Pollock 6206; Beth Bresnahan
Subject: RE: Elmore County Deliverable

Beth,

Thank you for sending this over. I think I can patch you in on a conference call if that works.

If you have any additional questions please let me know.

Thanks,

Alan Christy
Director
Elmore County Land Use & Building Department
520 East 2nd South, Mountain Home, ID 83647
Ph: (208) 587-2142 ex. 269 \ Fax: (208) 587-2120
achristy@elmorecounty.org \ www.elmorecounty.org

From: beth.colket@powereng.com [mailto:beth.colket@powereng.com]
Sent: Wednesday, June 01, 2016 9:18 AM
To: Alan Christy <achristy@elmorecounty.org>
Cc: patsy.friend@powereng.com; dave.dean@powereng.com; mark.pollock@powereng.com
Subject: Elmore County Deliverable

Dear Alan,

As requested by Elmore County Planning & Zoning Department, POWER Engineers has provided a response to Cat Creek Energy's (CCE's) *Response to POWER Engineers' comments on Cat Creek Energy compliance with the Elmore County Wildlife Mitigation Plan (WMP)*. Our response is included in the attached deliverable, including two appendices: Elmore County's WMP outline and a Checklist for Completeness of Wildlife Mitigation Plan.

Please let me know if you prefer if I come down in person tomorrow, or if you would rather I phone conference in.

Please feel free to call me if you have any questions.

Sincerely,
Beth Colket

Office hours: Monday Wednesday Thursday 7AM-3:30PM

BETH COLKET PWS #2343
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703-801-3268 cell

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Beth Bresnahan

From: Gordon Brittan
Sent: Wednesday, June 01, 2016 3:35 PM
To: achristy@elmorecounty.org
Cc: bbresnahan@elmorecounty.org; prmlaw@qwestoffice.net
Subject: Re: Elmore County Deliverable

Thanks, Alan. We're driving over and I can't recover the wildlife consultant's document on my Blackberry, but will look at before we meet tomorrow. I look forward to meeting with you as well. All best wishes, Corky

From: Alan Christy [<mailto:achristy@elmorecounty.org>]
Sent: Wednesday, June 01, 2016 02:55 PM
To: Gordon Brittan
Cc: Beth Bresnahan <bbresnahan@elmorecounty.org>; prmlaw@qwestoffice.net <prmlaw@qwestoffice.net>
Subject: FW: Elmore County Deliverable

Corky,

Please see the attached document from our wildlife consultant. I look forward to meeting with you tomorrow. If you have any additional questions please let me know.

Thanks,

Alan Christy
Director
Elmore County Land Use & Building Department
520 East 2nd South, Mountain Home, ID 83647
Ph: (208) 587-2142 ex. 269 \ Fax: (208) 587-2120
achristy@elmorecounty.org \ www.elmorecounty.org

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Sent: Wednesday, June 01, 2016 9:18 AM
To: Alan Christy <achristy@elmorecounty.org>
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Subject: Elmore County Deliverable

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Please let me know if you prefer if I come down in person tomorrow, or if you would rather I phone conference in.

Please feel free to call me if you have any questions.

Sincerely,
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June 1, 2016

ELMORE COUNTY LAND USE AND BUILDING DEPARTMENT

Review of Cat Creek Energy's Response to POWER's Review of Cat Creek Energy's Wildlife Management Plan

PROJECT NUMBER:
123934

PROJECT CONTACT:
Beth Colket
EMAIL:
beth.colket@powereng.com
PHONE:
208 288 6125



007023

*Review of Cat Creek Energy's Response to POWER's Review of Cat
Creek Energy's Wildlife Management Plan*

PREPARED FOR: ELMORE COUNTY LAND USE AND BUILDING DEPARTMENT

PREPARED BY: BETH COLKET
208-288-6125
BETH.COLKET@POWERENG.COM

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INTRODUCTION

As requested by Elmore County Planning & Zoning Department, POWER Engineers (POWER) conducted an independent review of Cat Creek Energy's (CCE's) *Response to POWER Engineers' comments on Cat Creek Energy compliance with the Elmore County Wildlife Mitigation Plan* (WMP), dated March 15, 2016 (hereafter "CCE's response"). As described in the WMP, CCE's proposed project is comprised of five major components associated with five separate County Use Permit (CUP) applications, including:

- 1) Approximately eight miles of new dual circuit 230 kilovolt (kV) transmission lines;
- 2) Pumped-storage hydroelectric facility, which would use the existing Anderson Ranch Reservoir, a Bureau of Reclamation (BOR) impoundment on the South Fork of the Boise River, where there would be a "powerhouse" containing two 200 megawatt (MW) turbines, which would connect to a new constructed "upper" reservoir of 914 surface acres by four 16 foot diameter penstocks. Approximately 3.5 miles of new road would also be needed for this component.
- 3) 480 acre photovoltaic solar array along the path of the transmission lines;
- 4) 39 wind turbines on 3,160 acres (page 13 of the WMP) or 2,700 acres (page 52 of the WMP) in three development areas, located southeast of the Upper Reservoir area. Each turbine would produce 2.85 MW and be 380 feet tall; and
- 5) New transmission substation on approximately 20 acres.

A variety of ancillary project elements are associated with these main components. The proposed project is predominantly on private ranch lands in Elmore County. According to the WMP, the powerhouse, 800 feet of transmission line, 800 feet of penstocks, and 1,500 feet of new road would be located on lands managed by BOR and the U.S. Forest Service (USFS).

POWER's review of the WMP was provided to Elmore County on February 9, 2016 (hereafter "POWER's WMP Review") and consisted of evaluating the WMP's habitat assessments, description of wildlife species that may occur in and around the project area, impact assessment, and proposed mitigation measures. CCE's WMP followed the wildlife mitigation plan outline provided to them by Elmore County (Appendix A). Evaluation criteria of CCE's WMP followed the *Checklist for Completeness of Wildlife Mitigation Plan, Ada County, Idaho* (hereafter "Checklist"), which largely follows the same outline provided by Elmore County (Appendix B). The terms "adequate" and "inadequate" as used in POWER's Review and this document refer to the document's success at accomplishing the overall objectives of informing the reader of the existing environment, potential project impacts, and avoidance and mitigation measures associated with the proposed project, thereby conveying the information which would facilitate informed decisions by Elmore County regarding permit approval and conditions of approval. Specific criteria considered by POWER are based on evaluation criteria in the Checklist. Fulfilling the criteria in the Checklist, while not a formal requirement by Elmore County, would result in successfully meeting the objectives of the WMP. POWER's review of CCE's Response, addresses each of CCE's concerns presented in their March 15, 2016 document.

TECHNICAL COMMENTS ON CCE'S RESPONSE

Overall Comments

In CCE's Response, approximately 17 of 113 comments (15 percent) regarding POWER's WMP Review were addressed. CCE has selected a small subset of POWER's WMP Review comments to address and those are the comments that are addressed below. However the remaining comments that have gone unaddressed from previous reviews by POWER and IDFG still require attention.

CCE's Response avoids the broader deficiencies in their WMP and five CUP applications (which POWER reviewed on behalf of Elmore County on October 2, 2015), which would likely have been addressed had CCE completed an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) prior to submitting these documents. An EIS is mandated for major projects undertaken by federal agencies or undertaken by non-federal proponents but with a federal nexus. Due to the proposed project's water utilization and impacts where it crosses federal land, an EIS will be required. The project proponent has stated that an EIS can be done at a later date or be a condition of approval of the CUPs. Sequentially, local permits are secured following federal permitting processes due to the length of time the federal process takes and the shelf life of local permits. On February 2, 2015, Elmore County's Alan Christy sent an e-mail to CCE which identified that an EIS must be completed before any CUP applications are submitted (which was also identified in POWER's October 2, 2015 review of CCE's CUP applications).

As stated in POWER's October 2, 2015 review of the CUP applications, the NEPA process typically includes a public/agency involvement process, biological and other environmental issue identification, and preparation of sections on the affected environment and analyses of consequences of the proposed project and alternatives. Specific studies may be required to supplement information gaps or substantiate analyses. The EIS sections are prepared by qualified environmental resource specialists with the appropriate credentials for preparing EIS sections for their resource specialty (e.g. a wildlife biologist should prepare sections related to wildlife biology). Analysis would address direct, indirect, and cumulative effects of the proposed project and alternatives on all identified resources. A Final EIS and Record of Decision would be followed by a Notice to Proceed which typically will not occur unless there are adequate mitigation measures and final resource protection plans (e.g., a wildlife mitigation plan) which fully comply with federal, state, and local requirements and has been reviewed and vetted by cooperating agencies.

The EIS and formal Section 7 Consultation with the U.S. Fish and Wildlife Service (USFWS), which will likely be required due to the presence of ESA protected species (bull trout, sage-grouse, others as required) within the project vicinity, will identify required design features and mitigation measures without which there is not enough information available to provide an adequate wildlife management plan.

General Comments

On page 1 of CCE's Response, CCE contends that POWER is making a mistaken assumption that privately owned ranches "are subject to all public land requirements", though CCE does not cite specific examples. However, the proposed project seems to be one giant connected action with a federal nexus under NEPA, as well as potential impacts to the ESA protected bull trout. Once NEPA is triggered, NEPA would consider these projects as connected actions, impacts would be analyzed for the entire project area (public and private), and the federal process would likely exceed the county permitting requirements. So, federal agencies will be within their rights to require environmental compliance including mitigation measures appropriate for private land as the action is connected to what is proposed on federal land.

Also on page 1 of CCE's Response, CCE states that they do not agree with POWER's assertion that their "plan to preserve open space is unlikely to succeed unless there is a conservation easement in place." CCE states that CCE's evaluation uses a "good faith premise." Later in the same document (page 9), CCE clarifies that their open space plan does not suggest "that the ranches shall in perpetuity continue their current use. To do so denies that any externalities, from economic depression to climate change, would ever influence the ranches or change the character of their

operations.” That is exactly why a good faith open-space plan does not offer the assurance that a conservation easement does. POWER recommends that Elmore County require legally binding mitigation constraints such as conservation easements and escrow accounts to ensure CCE’s mitigation obligations are fully funded.

On the first complete paragraph of page 2, CCE asserts that “in its 93 pages, the WMP goes far beyond the depth and detail with respect to both potential impacts and their mitigation than other renewable energy project plans submitted to Elmore County for CUP approval.” As project size, type, and impacts vary among projects, the comparison with other projects is not necessarily valid. It is reasonable to expect the WMP for the proposed project to be commensurate with the size and complexity of the proposed project and associated impacts. The proposed project is a large and complex project involving water impoundment flooding over 900 acres, as well as wind, solar, and hydroelectric energy generation, in an area that is an important migration pathway for deer and elk and is valuable habitat for many wildlife species, including greater sage-grouse and the federally threatened bull trout. The scale and complexity of potential impacts associated with CCE’s proposed project call for more depth and complexity than many other projects would. Regarding the length of the “93-page WMP”, sheer volume is not a measure of sufficiency. Much of the information provided is vague or irrelevant to the WMP for assessing impacts to wildlife and evaluating mitigation measures. In our assessment, few of the evaluation criteria in the Checklist were deemed adequate during POWER’s WMP Review (Appendix B).

In POWER’s WMP Review, POWER pointed out numerous unanswered questions and issues for which the WMP provided insufficient information for Elmore County to assess the impacts to wildlife and determine whether the proposed avoidance, minimization, and mitigation would adequately compensate for those impacts. CCE asserts that the NEPA process would eventually address these issues and provide enough information for an informed decision—after the County has made its decisions. CCE seems to be asserting that Elmore County should approve the proposed project and issue the CUPs prior to having enough information to make an informed decision. CCE appears to recognize that the deficiencies POWER identified in the WMP would need to be addressed eventually in order to support the NEPA and Section 7 processes. It seems reasonable for CCE to address them prior to Elmore County’s decision.

Specific Comments

1. Comments relevant to the entire Plan (pages 2-3 of CCE’s Response)

- CCE: *As the old adage has it, actions speak louder than words. The project principals, who also own the land on which the project is to be located, have long and successful records of wildlife conservation and protection. That dedication to conservation has been demonstrated in both the ranch owners and the project developers for decades.*

Historic land use is not always indicative of future land use, as this proposal to build a large-scale energy generation facility on rangeland demonstrates. Mitigation measures are the key part of all wildlife management plans. Having a good reputation based on past actions is insufficient for meeting this requirement.

- CCE: *We thought that this went without saying. [This is regarding a comment in POWER’s Review that “The Idaho Conservation Wildlife Strategy (2005) is frequently cited in the WMP, but is out-of-date... The WMP should at least recognize that information in the 2016 Idaho State Wildlife Action Plan (SWAP) will be updated in the document upon its completion.”]*

CCE cites the 2005 Idaho State Conservation Strategy, which will be replaced by the SWAP later this year. It is relevant to the accuracy and relevance of the WMP. CCE documents they are aware of the 2016 Idaho SWAP and that updates will be made to reflect future versions of the SWAP.

- CCE: *This material [related to resources in the human environment] was added not only because a distinction between the natural and human environments is itself unnatural, but also because the Elmore County Ordinance guiding the application for and approval of CUPs lays emphasis on the human impacts of new development.*

This may be important information in a different context, but it does not support an assessment of impacts on wildlife or mitigation of those impacts. Inclusion of this and other tangential information may detract from the reader's ability to find wildlife-pertinent information.

2. Comments relevant to Chapter 1 – Introduction (pages 3-4 of CCE's Response)

- CCE: *Temporary 16 ft to 36 ft wide roads will be used for construction logistics and to transport wind turbine components, after which they will be reclaimed, covered with vegetation, and reduced to a permanent 16-ft width all-weather road for servicing the turbines. A fire ring with a 16-ft radius around each turbine shall be in place permanently and will be provided with weed control.*

Descriptions of project impacts need to be written clearly and in plain language so a reader can understand what these impacts would be. The update CCE prepared above provides details of basic project impacts which were lacking in the WMP. This information should be incorporated in an updated version of the WMP.

- CCE: *First, the plant rehabilitation of areas temporarily disturbed will be under the direction of Dr. Roger Rosentreter, long-recognized as one of Idaho's pre- eminent botanists. Second, the current Conditional Use Permits up for review are located entirely on private property owned, as already indicated, by the principals of CCE.*

It would be helpful for the WMP to include a description of Dr. Rosentreter's anticipated revegetation approach on federal lands. The WMP should also mention that specific measures for soil stabilization, weed prevention, and revegetation of areas with surface disturbance will be addressed in a Stormwater Pollution Prevent Plan or similar plan, which applies to private and public lands. Implementing such measures used by adjacent federal landowners while on private lands is not required; however, utilizing consistent measures throughout a project area is typically recommended. Any areas under federal jurisdiction should use measures for soil stabilization, weed prevention, and revegetation used or approved by those federal landowners.

- Regarding POWER's WMP Review that "as their qualifications are presented, neither [of the Plan preparers] would meet the County ordinance requirements of a Qualified Wildlife Biologist (QWB)", CCE states: *This is simply false. The Plan was reviewed, amended, and signed by two very well-qualified wildlife biologists, the just-mentioned Dr. Rosentreter, an expert on plants generally, noxious weeds, and sage grouse in particular, and Dr. Bradley Shepard, an expert on fish habitat generally and bull trout in particular.*

Together they have more than 75 years of experience of experience working in the field on just the sorts of plant, aquatic, and wildlife issues of concern to the County. They would appear to be pre-eminently qualified to meet the County's QWB requirements, viz. "an individual [who has] a minimum of five years' experience in the development of wildlife and habitat mitigation plans or the monitoring of such plans or have supervised or performed other wildlife or mitigation implementing actions, and hold a graduate degree in a biology field."

The WMP (page 22) identifies Dr. Rosentreter and Dr. Shepard as reviewers and identifies two engineers, Nicholas Josten and Ted Sorenson, as the WMP authors. As it appears, two engineers prepared the WMP, which violates the County ordinance requirements.

3. Comments relevant to Chapter 2 – Methods (page 4 of CCE's Response)

- CCE: *First, the words "adequate" and "inadequate" occur regularly in the POWER Engineers document. But nowhere are the standards by which "adequacy"/ "inadequacy" is determined mentioned. They are not mentioned, still less defined, in the Elmore County template which was used as a guide in the preparation of the WMP. Second, these lists of surveys conducted, etc., shall be part of the documents prepared as part of any subsequent federally-initiated NEPA process. They are typical of an Environmental Impact Study, not of the kind of environmental assessment on the basis of which the County can give Conditional Approval to a development project.*

See the Introduction (last paragraph, page 1) and General Comments (third paragraph, page 3) in this document regarding the Checklist, which is what the terms "adequate" and "inadequate" are based on. The implicit purpose of a wildlife management plan is to inform readers of a project's impacts on wildlife and the mitigation measures that will compensate for the impacts. CCE's WMP does not do this based on the criteria listed in the Checklist (Appendix B). For example, there was no complete list of special status species that are documented or have potential to occur in the project area, nor was habitat discussed in the context of wildlife species. This and related deficiencies listed in Appendix B resulted in evaluation criteria in the Checklist being deemed inadequate.

4. Comments relevant to Chapter 3 – General Site Description (pages 4-5 of CCE's Response)

- CCE: *The current countywide zoning for these ranches is Agriculture. Only 23% of Elmore County is privately owned; it is imperative for both economic and environmental reasons to keep the uses under this zoning intact. It is clearly indicated in several places in the WMP (for example, in section 3.1, page 27, and again in section 6.1.2, page 70) that historic land use at the project site is, and will continue to be, primarily livestock grazing.*

None of the major components associated with the five CUP applications indicate livestock grazing will be a part of the project. If it is CCE's intention to keep agricultural areas in use for livestock grazing, it should be stated clearly in the CUP applications as a major component of the project.

- CCE: *First, this sort of assessment, on the basis of a single photograph, is of little value unless accompanied by a more detailed analysis e.g., existing vegetation, and a description of the species for which it is "excellent habitat." Second, what is at issue in a*

project of this scope, viz. located on 23,000 acres of private land, is not whether the 4% of it occupied by an important Idaho power and irrigator/municipal storage reservoir would be "lost" wildlife habitat, but whether the species resident on or migrating through ranch property would be impacted negatively in the process. Moreover, as the WMP makes clear (e.g., on page 6), water stored in the reservoir may be made available, as necessary and appropriate, to uses downstream from Anderson Ranch Dam, among such uses may help sustain fish habitat on the South Fork of the Boise River in late summer. As is spelled out in more detail below (Section 7, pages 7-8), we take a much more "holistic" approach to land management issues, i.e., not looking in a piecemeal way at acreage "lost" or "gained" in one place or another, but at the way in which some changes implemented in landscape location balance or can be integrated with other changes so that there is little overall harm and in at least some cases genuine benefit.

A representative photograph, as CCE provided in the WMP, often reveals vegetation characteristics not captured by words or numbers. POWER fully agrees that a more detailed analysis of existing vegetation would be necessary to make a valid assessment. The process of Formal Section 7 Consultation by the USFWS regarding bull trout will be beneficial to assess the direct, indirect, and cumulative impact context of water storage in the reservoir for sustaining fish habitat.

5. Comments relevant to Chapter 4 – Site Resources (pages 5-7 of CCE's Response)

- *CCE: First, and as above, no standard by which "incompleteness" is to be judged is indicated. Figure 4 in the WMP provides a mapping of the main soil types in the CCE project area. The WMP has been deemed adequate by Elmore County. Nothing more should be needed at this point in the process. Second, a full ground cover survey has been performed by Ecosystem Sciences, from which the submission plat/map is derived.*

The Checklist provides evaluation criteria upon which to base analysis (Appendix B). Figure 4 in the WMP does provide a map of the main soil types in the CCE project area; however, as it is currently displayed in Figure 4, there are too many overlapping colors representing different soil types and a reader cannot easily discern which soils occur in a particular project component. Should the data be provided in a table, these details could be more easily interpreted. The WMP has been accepted as a submission and has not yet been "deemed adequate by Elmore County" (see letter from Alan Christy to CCE dated February 10, 2016). If a full soils survey has been performed, the survey dates, methods, surveyor qualifications, and results need to be incorporated in the WMP.

- *CCE: This bullet point is typical of the almost 3 pages (almost ¼ of the total report narrative) devoted to Chapter 4. Our comment on all of them comes to the same bottom-lines: there is no argument given why "this section should provide more information" and, as has been made clear from the outset of my comments, the information identified in this and other bullet-points of Chapter 4 shall be provided as the NEPA process unfolds and moves forward at the federal level. As stated above, Power Engineers appears to have taken a standard Environmental Impact Statement, and not Elmore County's description of a Wildlife Mitigation Plan, as its template, asserting that what normally comes at the end of the pre-construction phase of the project should come at its very beginning. This said; we are glad to see that PE is on the same page with CCE as to listing the wildlife resources that should, and eventually shall, be described in detail in an EIS.*

As stated above, see comments regarding the Checklist for the criteria used to assess adequacy and inadequacy of the WMP (Appendix B). The implicit purpose of the WMP is to inform readers of the proposed project's potential impacts on wildlife and the mitigation measures that will compensate for the impacts. CCE asserts that the NEPA process would eventually address the issues and provide enough information for an informed decision—after the County has made its decision.

- *CCE: It should be noted, first, that in his letter of 10/2/2015 to you, Bill Doering explained that Power Engineers does not have expertise on aquatic and fisheries resource issues. The five CUP applications up for approval do not include any public lands or the South Fork of the Boise River water or the Anderson Ranch Reservoir. But, second, it would be remiss of CCE not to mention how the larger water-resource picture pertains to these applications. This section deals largely with water quality, that is, with a fundamental dimension of fish habitat, and includes Table 11: Surface Water Quality Criteria For Cold Water Aquatic Life Use Designation (pages 43-44), which lists the dissolved oxygen intergravel and water column WQ parameters for salmonid spawning and the water temperature parameters for salmonid spawning and bull trout criteria as well as the WQ turbidity parameter. As is made abundantly clear in the WMP (see especially pages 59-60), oxygenation and temperature are the crucial parameters of bull trout, in particular, and more generally salmonid species (among the leading game fish in the ARR, kokanee salmon) habitat. The bull trout is a "threatened" ESA species; its habitat parameters are indispensable in this WMP even if the discussion in it includes the Anderson Ranch Reservoir as well and; thus, does not fall under County but federal jurisdiction.*

The water resources information CCE presents would be better suited for Section 3.0, but not in Section 4.0, where it distracts from the content, unless it can be incorporated more explicitly into what it means for wildlife.

6. Comments relevant to Chapter 5 – Impacts (pages 7-8 of CCE's Response)

- *CCE: First, and once again, no criteria of "adequacy" are indicated. Second, and to repeat as well, initiation of the NEPA process will result in a much more detailed and site-specific description of potentially impacted species, their habitats, and the most effective ways of mitigating potential impacts. But there is sufficient published information to adequately address wildlife concerns at the level required by the WMP.*

As stated above, see comments regarding the Checklist for the template which was used to assess adequacy and inadequacy of the WMP (Appendix B).

- *CCE: First, although the specific bearing in this section of water quantity and quality on the local fishery is not made as explicit as it might be, other sections of the WMP make clear how important both are. Second, bull trout are a "threatened" species, protected by federal statute, the ARR fishery is very important biologically and economically. Moreover, the CCE Team has a great deal of experience integrating wind and solar facilities in a way compatible with avian and terrestrial wildlife species. The Team's history is also strong in hydropower, but the pump-hydro-storage component of the project is not a widely used component of renewable energy projects in the West as it is in the world energy mix and therefore needs to receive a great deal of emphasis. This said, the relationship of all of the components to what, in Power Engineers apparently narrower use of the term constitutes "wildlife," must be fully taken into account.*

POWER agrees that water quantity and quality has important implications to aquatic wildlife, such as fish. However, POWER stands by our original statement that the relationship of this information as it is written in the WMP is not explained. This information should either be put more explicitly into the context of what it means for wildlife, or removed from the WMP.

- CCE: *First, the point that the sentence in question makes is that there is nothing particularly critical or in any way unique or special about the habitat that the new reservoir and the solar facility would displace. Occupied sage-grouse leks and nests, for example, would not be displaced.*

Given that much of the project area is classified as important sage-grouse habitat by IDFG and that two leks occur within 0.5 mile of the Project, sage-grouse breeding habitat would certainly be lost—displacing the local breeders. Also, lacking timing stipulations, occupied sage-grouse nests could be harmed. The location of the reservoir and solar array—within important ungulate migration corridors and within the gap between Anderson Ranch Reservoir and Camas Reservoir, indicates that impacts to migrating elk and deer is an issue that should be explored more deeply.

- CCE: *Second, a variety of mitigation plans for various wildlife species that might be impacted by the habitat loss are included in the WMP; they will be refined as we move through the NEPA process and gather more information. This is important because taken in isolation the sentence might suggest that mitigation is not needed since there will be no impacts of any kind.*

POWER has not seen these, as they do not appear to have been included in the WMP that was submitted to Elmore County.

- CCE: *Third, the unstated premise in the sentence is that a "holistic approach to wildlife management should be taken. That is, the impact of the potential habitat forage loss on something like 6% of a ranch area of 23,000 acres has to be placed in the perspective of an overall management plan and within the context of the larger local landscape. Specifically, 2/3rds of the potential habitat loss results in a 1,000-acre lake as the Upper Reservoir. Steps to mitigate potential wildlife impacts are outlined in the WMP as are plans to monitor species population trends and assess their effectiveness. The steps to mitigation will be adapted as the assessment of data makes necessary.*

POWER has previously asserted and still maintains that steps to mitigate potential wildlife impacts have not been clearly outlined in the WMP, except for a few BMPs and mitigation ideas which are presented for bull trout and sage-grouse. Many of these are vague (e.g., sage-grouse lek buffers are mentioned but no distance is specified) while, for others, are questionable (e.g., within important sage-grouse habitat “site the nearest turbine a minimum of 2 miles from [sage-grouse] nesting grounds”). A detailed map of sage-grouse habitat relative to the proposed project is not even provided (Figure 13 is a very coarse scale map—approximately 50 miles to one inch). Some monitoring ideas are briefly mentioned, but are not detailed as to be implemented as part of a plan. CCE needs to work very closely with IDFG to create a measureable approach for wildlife mitigation, which has not happened based on IDFG’s response letter dated February 1, 2016.

7. Comments relevant to Chapter 6 – Management Actions to Avoid, Minimize, or Mitigate Adverse Impacts (pages 8-10 of CCE's Response)

- *CCE: The plain truth is that private property across the West supports wildlife and ranchers have generally accepted that responsibility because of their caring stewardship for the land, even when it impacts their operations. CCE does not believe the sum total of 6.6.1 suggests that the ranches shall in perpetuity continue their current use. To do so denies that any externalities, from economic depression to climate change, would ever influence the ranches or change the character of their operations. There is nothing within the scope of the WMP to conclude unequivocally that wildlife movement will be inhibited. What the WMP sentence says is that the ranches within which the project is located shall continue to function in the same way that they have for the last 100 years or so, supporting both livestock operations and wildlife populations, and that the layout of the renewable energy facilities shall be planned in such a way as to respect traditional wildlife migration corridors and minimize related impacts. It is unclear how a Conservation Easement might promote wildlife movement, except as some kind of perpetual guarantee that the land will always be devoted primarily to livestock grazing.*

POWER is not questioning the importance and integrity of private land stewardship. The issue here is that CCE's statement—that a portion of the existing open rangeland is proposed for development, while the surrounding area is anticipated to remain open rangeland—does not qualify as an avoidance, minimization, or mitigation measure. A conservation easement may or may not be an appropriate step in this particular case, but we simply point out that it would qualify as a mitigation measure because it would be additive and would provide a guarantee that the surrounding area would remain open as opposed to anticipating that it will.

Second, there is insufficient analysis to conclude one way or the other the extent to which wildlife movement will be inhibited. That kind of information is lacking from the WMP; however, there is sufficient information provided in the WMP and in IDFG's comments to conclude that there is substantial potential for effects on wildlife movement. Fencing of proposed components would be sufficient to "conclude unequivocally that wildlife movement will be inhibited".

- *CCE: Power Engineers assumes that "a few pinch points would remain" and then says that this assumption, for which no evidence is given, needs to be discussed and analyzed.*

As shown in the maps within the WMP, the current gap between the two existing reservoirs is approximately 2.8 miles wide. It appears that the proposed new reservoir would fill approximately 2.1 miles of this gap and the solar array would occupy an additional 0.4 mile. This would leave two or three small gaps totaling approximately 0.3 miles in width. These are the pinch points referred to in POWER's review. Thus, the evidence is the simple geography provided in the Project maps, along with the assumption that ungulates are less likely to swim long-distance across a reservoir than walk across open rangeland. It also is questionable whether ungulates would move through the midst of a solar array as readily as through open rangeland. If CCE is asserting that the solar array will not affect movement, they should provide evidence supporting the likelihood of regular ungulate movement through solar arrays.

- CCE: *Two points must be emphasized. One is that major barriers to big game movement exist currently which are much larger than what might currently be hypothesized for the components of the CCE project and those barriers have significantly modified ungulate movement over the years. The largest of which is Anderson Ranch Reservoir itself and, equally as impactful, the length and breadth of US 20 bisecting north/south corridors which are across the entire project area. It should be added by way of further clarification that the private property immediately to the west of the Upper Reservoir, comprising roughly 4,000 acres to the rim of ARR, is tilled and in crop rotation, and some of this farmed area fall within the Area of Critical Concern overlay. But big game during these same years has accommodated themselves to these barriers.*

That is what makes the location of the proposed project likely to impede movement. The proposed project will plug the 2.8-mile gap between the two existing reservoirs, leaving approximately 0.3-miles in two or three narrow “pinch points” for movement. It is very plausible that US 20 affects movement, but traffic on US 20 is relatively light, especially at night, and likely poses a much less substantial barrier than reservoirs and solar arrays. As CCE points out, cropland to the west of the proposed Project may also affect big game movement in the vicinity of the Project. The effect would likely depend on which crops are planted. Hayfields provide high quality forage that often attracts big game, while most other crops are less likely to be utilized, and could be additional impediments to movement. From information provided in the WMP, it is not clear what effect the cropland has on current patterns of big game movement through the proposed Project area. In the WMP, CCE briefly discusses an east-west big-game migration corridor through the Project area. It would be useful to have more information about the location of this corridor, and its level of use by big game, in order to better predict the impact the Project may or may not have on the corridor.

- CCE: *The other, more important point is that we take existing big game (largely ungulate) corridors very seriously. The PE document notes, and rather casually dismisses, the discussion (page 70) of the two most important of these corridors- along the rim rock of the canyon bordering ARR and in the hilly country to the east of Wood Mountain which represents the primary movement corridor and in the general vicinity of the proposed second wind turbine array. To maintain the first corridor, penstocks and other components of the hydro pumping/generation system would be buried. There would then be no "pinching." As regards the second, there is ample open space to the east of Wood Mountain and among any turbine towers to maintain movement. As mentioned, the final facilities layout shall take into account and access the many factors noted before final placement design is settled. Before it is, and in cooperation with several governmental agencies including IDFG, we will gain a more precise grasp of migration patterns, and plan accordingly. As is the case with bull trout and sage-grouse, ungulate migration corridors are a very high priority.*

With buried penstocks, the gap between the proposed reservoir and Anderson Ranch Reservoir might be an important movement corridor, but it would be substantially narrower than the currently existing corridor; i.e., it would be “pinched.” The coordination with agencies that CCE mentions would be an important step in the planning process. It is expected that CCE demonstrate agency coordination has taken place and led to effective avoidance, minimization, and mitigation measures prior to Elmore County’s decision.

8. Comments relevant to Chapter 7 – Mitigation Activities and Implementation (pages 10-11 of CCE’s Response)

- [In response to POWER's comment: "There is a lot of emphasis on the protection of sage-grouse habitat, but not on other habitats (i.e. winter range, riparian/wetland). Rehabilitation measures need to mitigate for all wildlife species to the extent practicable"]
CCE: *First, there is a lot of emphasis on sage-grouse habitat for many obvious reasons, the most important of which has been the precipitous decline in the western sage-grouse population. It is the object of a variety of state and federal protection and restoration programs, in a way in which ungulate populations, for example, are not.*

POWER agrees that an emphasis on sage-grouse is appropriate, but it is also appropriate (and listed in the Checklist) to discuss impacts and measures to protect habitat for other wildlife, including other special status species documented or likely to occur in the Project area.

- CCE: *Second, it is not true that there is no focus on riparian/wetland habitats. Specific mitigation measures to offset the loss of whatever wetlands there are in the area to be excavated for the new reservoir or disturbed in any other field of construction are described in the WMP (for example in sections 7.0 (WMP, pages 71-72 and 79).*

There are no wetland measures discussed on pages 71-72. Page 79 includes only two measures:

- 1) A statement that "the Applicant plans to create and/or augment wetland habitat elsewhere onsite and/or offsite in consultation with agencies" with no details provided regarding the location, size, or process of wetland creation.
- 2) A plan to plant wetland species along the margins of the upper reservoir. The shorelines of reservoirs with highly fluctuating water levels do not support wetland vegetation except in rare cases where the surrounding topography and hydrology provides for the right conditions. Given CCE's assertion that the proposed reservoir shoreline would support wetland vegetation, a description is needed as to how this would be accomplished.

- CCE: *Finally, the advice to "mitigate for all wildlife species to the extent possible" is praiseworthy, but unhelpful when you come down to cases. It is then a question of adjusting trade-offs and keeping your eye on the overall mix and balance of plant and animal species. For one notable example, we are advised by state and federal agencies to protect raptor and sage-grouse, when in fact raptors (and corvids) represent a major threat to sage-grouse (particularly nestlings). A basic mathematical theorem has to guide all environmental policy: you can't maximize for more than one variable. As concerns the basic "holistic" perspective of CCE, the fact is that only a small percentage of the ranches within which the CCE project is located will be given over to the project. The rest of the acreage will remain in its traditional uses.*

Coordination with USFWS and IDFG is highly recommended to facilitate this balance. It is not up to a project proponent to unilaterally decide what has to be done (especially when federal lands are involved, such as in this project). Most of what CCE is referring to here needs to be vetted through the NEPA process, including coordination and sign-off from affected public agencies.

- CCE: *First, the sentence quoted rested on the natural preconstruction progress of a project of this size and overall scope whereby cooperation between IDFG and CCE is necessary. At least 3 productive meetings have taken place among IDFG and CCE*

personnel. Second, we shall be working in close cooperation with IDFG. Third, our biological consultants have a long and successful record of collaborating with the Fish and Game Department in Idaho; it shall continue. Since the results of any such collaboration are "in process," they cannot yet be listed in the WMP. There are a number of useful references to state and federal agencies in this section of the PE document. We have already met and made progress with the BOR, the USFS, the US FWS, BLM, and IDFG (among others, including FERC, which has already granted a preliminary permit to CCE). A longer list of agencies is included in the WMP. Generally, CCE has a good understanding of what is the authority of each of these agencies with respect to specific parameters of the project, but that collaborative determination has as yet to be determined. While the CUPs on which PE has commented on are all on private property, CCE acknowledges that some elements of the overall project will be on federal property or under federal regulation and that interaction with federal agencies commenced as early as 2012.

It is the results of the process that are important. At a minimum, a statement from IDFG could be provided indicating that coordination is making demonstrable progress toward mutually satisfactory approaches to avoid, minimize, and mitigate for Project impacts. Based on IDFG's letter dated February 1, 2016, CCE is not yet making demonstrable progress such as this. It would have been helpful in the WMP had CCE documented dates of the three meetings between CCE and IDFG.

9. Comments relevant to Chapters 8, 9, 10,+ References (page 12 of CCE's Response) and last general paragraph of CCE's Response

- *CCE: Helpful points are made in these sections of the PE document, but none of them are substantive (they have to do in large part with formatting issues, although there is a useful definition of "Adaptive Management" and a good short list of references), and all shall be addressed as further studies for federal permitting are carried out and new plans are developed.*

Comment noted.

- *CCE: Of the various sources referenced, the one that startled us was Bennett and Hale's (2014) "Red lights on wind turbines do not increase bat-turbine collisions." It is contrary to what we have read, other wind project operations report, and have learned from personal experience, and deserves additional reflection on our part.*

Comment noted. If CCE is aware of peer-reviewed scientific literature pointing to red lights increasing bat collisions, please provide references.

- *CCE: The two brief paragraphs containing "POWER'S RECOMMENDATIONS" note the "innovative and commendable" character of the project, and then proceed in three sentences to say that the WMP submitted to the County needs "more information" and "greater understanding," and "is inadequate to address impacts to wildlife that may result for the CCEGF." This is the general theme of the PE review. As we said at the outset, it mistakes the purpose of the WMP as provided by Elmore County, does not take into account the NEPA process, which is to follow, downplays, and at times ignores, the very valuable assessment of wildlife impacts, formulation of preliminary mitigation plans, and outline of critical studies to be performed that the WMP does contain. Further, it does not respect the regulatory differences that exist in the case of private as distinct from public*

land. CCE followed the Wildlife Mitigation Plan form provided us by Elmore County completely and fully. For a complex project at this stage of both its conceptualization and governmental permitting, it is an entirely thorough and appropriate assessment.

The WMP provides sparse information regarding impacts and mitigation and many important unanswered questions remain. For example, there is no project-scale map of sage-grouse habitat relative to Project features and no discussion of the nearby leks or habitat use in the area by sage-grouse. Numerous other deficiencies were identified in POWER's initial review of the WMP. Information brought to light in the NEPA process will only be able to aid Elmore County's decision process if it occurs prior to CUP issuance. In regards to "regulatory differences that exist in the case of private as distinct from public land", see the first paragraph under General Comments on page 2.

POWER'S RECOMMENDATIONS

As originally stated in POWER's WMP Review of CCE's WMP, the WMP generally follows the Elmore County WMP outline with some omissions, but the content is insufficiently developed in most areas. More information is needed, more agency coordination is needed, and a greater understanding of direct and indirect project impacts is needed. As presented, the WMP is inadequate to address impacts to wildlife that may result from the proposed project. Additional detail is requested to address the deficiencies in the WMP.

Specifically, evaluation criteria in the Checklist (Appendix B) that are marked "no" or "incomplete" need to be developed further. In particular, amendments to the existing WMP that would address key deficiencies are listed below. Meeting most of the criteria in the Checklist and the requested amendments below would likely result in an adequate wildlife mitigation plan.

- Include more information on existing habitat, and habitat requirements of wildlife species documented or likely to be present, and reference data sources.
- List, discuss, and address impacts and mitigation measures for potentially occurring special status species. This should include adding USFS Sensitive Species and USFWS Birds of Conservation Concern, and updating Idaho Species of Greatest Conservation Need to reflect correct habitat associations); and discussing these species in context with project impacts, avoidance, and minimization measures.
- Idaho Fish and Wildlife Information System data should be incorporated disclosing documented special status species in and near project.
- Sage-grouse habitat and lek locations relative to specific project features should be described and specific impacts to them should be addressed.
- Direct and indirect impacts should be presented and addressed.
- Methods should be presented.
- Avoidance and mitigation measures should be revised to be direct, measurable and to address all potential impacts.
- Coordination with IDFG should be demonstrated.

It is POWER's recommendation that CCE submit an updated WMP once the NEPA process is near complete. The NEPA process will ensure that potential environmental impacts are properly identified and addressed regardless of land ownership. Through the NEPA process, CCE will have the information needed to update their WMP.

REFERENCES

Ada County. 2007. Checklist for Completeness of Wildlife Mitigation Plan, Planned Community Application, Ada County, Idaho.

Bennett, V.J. and A.M. Hale. 2014. Red aviation lights on wind turbines do not increase bat-turbine collisions. *Animal conservation*. 17(4): 354-358.

**APPENDIX A ELMORE COUNTY'S WILDLIFE MITIGATION PLAN
OUTLINE**



WILDLIFE MITIGATION PLAN

In addition to any information that may be required by law Elmore County can request a written Wildlife Mitigation Plan (WMP). The WMP shall be prepared by a Qualified Wildlife Biologist as defined in the Elmore County Zoning and Development Ordinance. The County also has the right to require additional environmental studies based on the scope of the project. The following outline and plan requirements shall be followed and incorporated into the WMP.

Elmore County Wildlife Assessment and Mitigation Plan

Chapter 1 Introduction

- 1.0 General Project Description and Overview
- 1.1 Mitigation Goals and Objectives
- 1.2 Elmore County Regulatory Framework and Requirements
- 1.3 Qualifications of WMP authors

Chapter 2 Methods

- 2.0 Narrative of Methods Used

Chapter 3 General Site Description

- 3.0 Geographical Setting
- 3.1 Historic Land Use
- 3.2 Neighboring Land Use

Chapter 4 Site Resources

- 4.0 Vegetation/Habitat Types (as referenced by the Elmore County Soil Survey and USDA, Soil Conservation Service)
 - 4.0.1 Wetlands as defined by U.S. Corps of Engineers
 - 4.0.2 All the others (native grassland, introduced grassland, riparian, bitterbrush/sage, etc.)
 - 4.0.3 Noxious Weeds
- 4.1 Wildlife
 - 4.1.1 Game and Travel Corridors
 - 4.1.2 Raptors
 - 4.1.3 Migratory Birds
 - 4.1.4 Other Terrestrial Wildlife

- 4.1.5 Aquatic Wildlife
- 4.1.6 Threatened, Endangered, and Candidate Species (plant and animal)
- 4.1.7 Special Status Species

Chapter 5 Impacts

- 5.0 Direct
- 5.1 Indirect
- 5.2 Cumulative Effects

Chapter 6 Activities to Avoid and Minimize Project Impacts and Open Space

- 6.0 Activities Narrative
 - 6.0.1 Avoided
 - 6.0.2 Minimized
- 6.1 Open Space Management
 - 6.1.1 How Open Space Plan Correlates to WMP
 - 6.1.2 How Wildlife Might Benefit From Proposed Open Space
 - 6.1.3 Funding Source for Management of Open Space
 - 6.1.4 Connectivity Opportunities with Abutting Property, Trails, Etc.

Chapter 7 Mitigation Activities and Implementation (written format)

- 7.0 Wildlife
 - 7.0.1 Actions and Methods to Meet Goals
 - 7.0.2 Timeline & Cost
 - 7.0.3 Management and Monitoring Plans (duties and responsibilities)
 - 7.0.4 Financing Plan with Funding Source
 - 7.0.5 Alt. Mitigation Strategy
- 7.1 Wetlands
 - 7.1.1 Actions and Methods to Meet Goals
 - 7.1.2 Timeline & Cost
 - 7.1.3 Management and Monitoring Plans (duties and responsibilities)
 - 7.1.4 Financing Plan with Funding Source
 - 7.1.5 Alt. Mitigation Strategy
- 7.2 Noxious Weeds

- 7.2.1 Actions and Methods to Meet Goals
- 7.2.2 Timeline & Cost
- 7.2.3 Management and Monitoring Plans (duties and responsibilities)
- 7.2.4 Financing Plan with Funding Source
- 7.2.5 Alt. Mitigation Strategy

Chapter 8 Federal Permitting

- 8.0 Summary of Federal applications or permits that may be required.

Chapter 9 Overall Actions and Methods to Meet Goals

- 9.0 Timeline & Cost
- 9.1 Management and Monitoring Plans (duties and responsibilities)
- 9.2 Financing Plan with Funding Source
- 9.3 Alt. Mitigation Strategy

Chapter 10 Adaptive Management Strategies

References

Tables

Figures

Appendix

**APPENDIX B CHECKLIST FOR COMPLETENESS OF WILDLIFE
MITIGATION PLAN**

APPENDIX B CROSSWALK BETWEEN ELMORE COUNTY'S WILDLIFE MITIGATION PLAN OUTLINE AND ADA COUNTY'S CHECKLIST FOR COMPLETENESS OF WILDLIFE MITIGATION PLAN

ELMORE COUNTY'S OUTLINE ¹	CONTENT GUIDELINES BY WHICH CCE'S WMP WAS EVALUATED ²	EVALUTATION CRITERIA MET?		
		YES	NO	INCOMPLETE
CHAPTER 1: INTRODUCTION				
1.0 General Project Description and Overview	Does the WMP provide information on total acreage, a summary and map of the proposed land use plan including housing units, open space, and trails?		X	
1.1 Mitigation Goals and Objectives	Mitigation Goals and Measurable Objectives			X
1.2 Elmore County Regulatory Framework and Requirements	Elmore County Regulatory Framework and Requirements			X
1.3 Qualifications of WMP Authors	See Elmore County's Outline ¹		X	
CHAPTER 2: METHODS				
2.0 Narrative of Methods Used	Does the WMP describe the methods used to map and classify vegetative communities and condition?		X	
	Does the WMP describe how presence/absence was determined:			
	Of wildlife species?		X	
	Of sensitive plants?		X	
	Was a site visit conducted by an Elmore County biologist and IDFG?		X	
CHAPTER 3: GENERAL SITE DESCRIPTION				
3.0 Geographical Setting	Geographical description of the site	X		
3.1 Historic Land Use	Description of historic land use	X		
3.2 Neighboring Land Use	Description and map of neighboring land use and ownership			X
CHAPTER 4: SITE RESOURCES				
4.0 Vegetation/Habitat Types (as referenced by the Elmore County Soil Survey and USDA, Soil Conservation Service)	Does the WMP describe vegetative types?		X	
	Condition/quality of vegetative types?		X	
	Acreages of vegetative types by condition?		X	
	Patchiness, functionality, etc.?		X	
	Do locations and acreages of vegetative types appear accurate?		X	
4.0.1 Wetlands as defined by U.S. Corps of Engineers	Does the WMP describe all wetlands, including non-jurisdictional wetlands that provide wildlife habitat regardless of jurisdictional status?			X
	Was a preliminary wetlands determination or legal jurisdictional determination mapped and submitted to the U.S. Army Corps of Engineers? (Note: ACOE determination may not be needed until final plat)		X	

4.0.2 All the others (native grassland, introduced grassland, riparian, bitterbrush/sage, etc.)	Same as 4.0 above	
4.0.3 Noxious Weeds	Were noxious weeds identified and locations/extent described?	X
	Was potential habitat correctly identified for appropriate wildlife communities, sensitive species, and special status plants?	X
4.1 Wildlife	Was the quality of habitat or likelihood of occurrence described for each species/species group?	X
	Was a qualitative index of abundance provided of big game species and special status species for those potentially affected?	X
4.1.1 Game and Travel Corridors	Were known locations provided of big game?	X
4.1.2 Raptors	Same as 4.1 above	
4.1.3 Migratory Birds	Same as 4.1 above	
4.1.4 Other Terrestrial Wildlife	Same as 4.1 above	
4.1.5 Aquatic Wildlife	Same as 4.1 above	
4.1.6 Threatened, Endangered, and Candidate Species (plant and animal)	Same as 4.1 above and 4.1.7 below	
4.1.7 Special Status Species	Were known locations provided of sensitive/special status species?	X
	Were surveys for special status species conducted at the correct time of year and day (by a qualified person)?	X
CHAPTER 5: IMPACTS		
	Were all direct and indirect effects to wildlife and special status plants addressed?	X
5.0 Direct	Were the effects evaluated appropriately?	X
	Was the acreage of habitat lost or otherwise impacted listed by vegetative type and condition?	X
	Were effects addressed to wildlife and special status plants on adjacent public lands, where appropriate?	X
5.1 Indirect	Same as 5.0 above	
5.2 Cumulative Effects	Was reasonably foreseeable land use on surrounding lands addressed?	X
	Were the potential landscape effects evaluated, such as connectivity, habitat fragmentation, and how much similar habitat in the county?	X

CHAPTER 6: ACTIVITIES TO AVOID AND MINIMIZE IMPACTS

6.0 Activities Narrative		
6.0.1 Avoided	Does the WMP clearly describe which impacts can be avoided, how, and for which species/species group?	X
6.0.2 Minimized	Does the WMP clearly describe which impacts will be minimized, how, and which species/species group might "benefit" from these measures?	X
6.1 Open Space Management	Does the WMP relate the open space plan and wildlife habitat?	X
6.1.1 How Open Space Plan Correlates to WMP	No crosswalk available.	X
6.1.2 How Wildlife Might Benefit From Proposed Open Space	Does the WMP accurately assess the ecological value of open space for species affected by the project?	X
6.1.3 Funding Source for Management of Open Space	Does the WMP Identify a funding source for open space management?	X
6.1.4 Connectivity Opportunities with Abutting Property, Trails, Etc.	No crosswalk available.	X

CHAPTER 7: MITIGATION ACTIVITIES AND IMPLEMENTATION

7.0 Wildlife		
7.0.1 Actions and Methods to Meet Goals	Does the WMP list actions to meet mitigation goals?	X
	Does the WMP describe how mitigation objectives will be achieved?	X
7.0.2 Timeline & Cost	Does the WMP establish measurable benchmarks (e.g. phasing)?	X
	Does the WMP establish a reasonable timeline to achieve mitigation objectives?	X
	Does the WMP establish reasonable costs to achieve the objectives?	X
	Does the WMP describe mitigation measures including habitat enhancement projects, fire risk reduction, conservation easements, etc.?	X
7.0.3 Management and Monitoring Plans (duties and responsibilities)	Does the WMP describe what the enhanced habitats will look like?	X
	Does the WMP include management plan for open space?	X
	Does the WMP include a monitoring plan to quantify the success of the various mitigation objectives/measures?	X
	Does the WMP identify a Community Conservation Director to manage/monitor the WMP?	X

7.0.4 Financing Plan with Funding Source	Does the WMP include an appropriate financing plan?	X
7.0.5 Alt. Mitigation Strategy	Does the WMP identify any alternative or adaptive mitigation strategies, particularly in the event that mitigation objectives are not achieved within a specified timeframe?	X
7.1 Wetlands		
7.1.1 Actions and Methods to Meet Goals	Same as 7.0 above	
7.1.2 Timeline & Cost	Same as 7.0 above	
7.1.3 Management and Monitoring Plans (duties and responsibilities)	Does the WMP include a Wetland Mitigation Plan, if appropriate?	X
7.1.4 Financing Plan with Funding Source	Same as 7.0 above	
7.1.5 Alt. Mitigation Strategy	Same as 7.0 above	
7.2 Noxious Weeds		
7.2.1 Actions and Methods to Meet Goals	Same as 7.0 above	
7.2.2 Timeline & Cost	Same as 7.0 above	
7.2.3 Management and Monitoring Plans (duties and responsibilities)	Does the WMP include a Noxious Weed Abatement Plan?	X
7.2.4 Financing Plan with Funding Source	Same as 7.0 above	
7.2.5 Alt. Mitigation Strategy	Same as 7.0 above	
CHAPTER 8: FEDERAL PERMITTING		
8.0 Summary of Federal applications or permits that may be required	Was the need for any federal or state permits identified?	X
	If yes, were the permits obtained?	X
CHAPTER 9: OVERALL ACTIONS AND METHODS TO MEET GOALS		
9.0 Timeline & Cost	Same as 7.0 above	
9.1 Management and Monitoring Plans (duties and responsibilities)	Same as 7.0 above	
9.2 Financing Plan with Funding Source	See Chapter 7 above	
9.3 Alt. Mitigation Strategy	See Chapter 7 above	
CHAPTER 10: ADAPTIVE MANAGEMENT STRATEGIES		

Chapter 10	Does the WMP include an adaptive management approach?	X
	Is there a process established for periodic WMP review and revision by an oversight committee that includes Elmore County and IDFG?	X

References

Tables

Figures

Appendix

Source: See Elmore County's wildlife mitigation plan outline¹ (Appendix A) and Ada County 2007²



STATE OF IDAHO
DEPARTMENT OF ENVIRONMENTAL QUALITY
BOISE REGIONAL OFFICE
1445 North Orchard Street • Boise, ID 83706-2239 • (208) 373-0550

received
6-3-16 KW

DEQ Response to Request for Environmental Comment

Date: 05/31/2016
Agency Requesting Comments: Elmore County Land Use & Building Department
Date Request Received: 03/29/2016
Applicant/Description: CUP Transmission Lines
CUP Hydro Electric Generating Facility
CUP PV Solar Generating Facility
CUP Substation
CUP Wind Turbine Generating Facility

Thank you for the opportunity to respond to your request for comment. While DEQ does not review projects on a project-specific basis, we attempt to provide the best review of the information provided. DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply. This guide can be found at <http://www.deq.idaho.gov/ieq/>.

The following information does not cover every aspect of this project; however, we have the following general comments to use as appropriate:

1. Air Quality

- *Please review IDAPA 58.01.01 for all rules on Air Quality, especially those regarding fugitive dust (58.01.01.651), trade waste burning (58.01.01.600-617), and odor control plans (58.01.01.776).*

For questions, contact David Luft, Air Quality Manager, at 373-0550.

- *IDAPA 58.01.01.201 requires an owner or operator of a facility to obtain an air quality permit to construct prior to the commencement of construction or modification of any facility that will be a source of air pollution in quantities above established levels. DEQ asks that cities and counties require a proposed facility to contact DEQ for an applicability determination on their proposal to ensure they remain in compliance with the rules.*

For questions, contact the DEQ Air Quality Permitting Hotline at 1-877-573-7648.

2. Wastewater and Recycled Water

- *DEQ recommends verifying that there is adequate sewer to serve this project prior to approval. Please contact the sewer provider for a capacity statement, declining balance report, and willingness to serve this project.*
- *IDAPA 58.01.16 and IDAPA 58.01.17 are the sections of Idaho rules regarding wastewater and recycled water. Please review these rules to determine whether this or future projects will require DEQ approval. IDAPA 58.01.03 is the section of Idaho rules regarding subsurface disposal of wastewater.*

007050

Please review this rule to determine whether this or future projects will require permitting by the district health department.

All projects for construction or modification of wastewater systems require preconstruction approval. Recycled water projects and subsurface disposal projects require separate permits as well.

- *DEQ recommends that projects be served by existing approved wastewater collection systems or a centralized community wastewater system whenever possible. Please contact DEQ to discuss potential for development of a community treatment system along with best management practices for communities to protect ground water.*
- *DEQ recommends that cities and counties develop and use a comprehensive land use management plan, which includes the impacts of present and future wastewater management in this area. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.*

For questions, contact Todd Crutcher, Engineering Manager, at 373-0550.

3. Drinking Water

- *DEQ recommends verifying that there is adequate water to serve this project prior to approval. Please contact the water provider for a capacity statement, declining balance report, and willingness to serve this project.*
- *IDAPA 58.01.08 is the section of Idaho rules regarding public drinking water systems. Please review these rules to determine whether this or future projects will require DEQ approval.*

All projects for construction or modification of public drinking water systems require preconstruction approval.

- *DEQ recommends verifying if the current and/or proposed drinking water system is a regulated public drinking water system (refer to the DEQ website at <http://www.deq.idaho.gov/water-quality/drinking-water.aspx>). For non-regulated systems, DEQ recommends annual testing for total coliform bacteria, nitrate, and nitrite.*
- *If any private wells will be included in this project, we recommend that they be tested for total coliform bacteria, nitrate, and nitrite prior to use and retested annually thereafter.*
- *DEQ recommends using an existing drinking water system whenever possible or construction of a new community drinking water system. Please contact DEQ to discuss this project and to explore options to both best serve the future residents of this development and provide for protection of ground water resources.*
- *DEQ recommends cities and counties develop and use a comprehensive land use management plan which addresses the present and future needs of this area for adequate, safe, and sustainable drinking water. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.*

For questions, contact Todd Crutcher, Engineering Manager at 373-0550.

4. Surface Water

- *A DEQ short-term activity exemption (STAE) from this office is required if the project will involve de-watering of ground water during excavation and discharge back into surface water, including a description of the water treatment from this process to prevent excessive sediment and turbidity from entering surface water.*
- *Please contact DEQ to determine whether this project will require a National Pollution Discharge Elimination System (NPDES) Permit. If this project disturbs more than one acre, a stormwater permit from EPA may be required.*
- *If this project is near a source of surface water, DEQ requests that projects incorporate construction best management practices (BMPs) to assist in the protection of Idaho's water resources. Additionally, please contact DEQ to identify BMP alternatives and to determine whether this project is in an area with Total Maximum Daily Load stormwater permit conditions.*
- *The Idaho Stream Channel Protection Act requires a permit for most stream channel alterations. Please contact the Idaho Department of Water Resources (IDWR), Western Regional Office, at 2735 Airport Way, Boise, or call 208-334-2190 for more information. Information is also available on the IDWR website at:
<http://www.idwr.idaho.gov/WaterManagement/StreamsDams/Streams/AlterationPermit/AlterationPermit.htm>*
- *The Federal Clean Water Act requires a permit for filling or dredging in waters of the United States. Please contact the US Army Corps of Engineers, Boise Field Office, at 10095 Emerald Street, Boise, or call 208-345-2155 for more information regarding permits.*

For questions, contact Lance Holloway, Surface Water Manager, at 373-0550.

5. Hazardous Waste And Ground Water Contamination

- **Hazardous Waste.** *The types and number of requirements that must be complied with under the federal Resource Conservation and Recovery Act (RCRA) and the Idaho Rules and Standards for Hazardous Waste (IDAPA 58.01.05) are based on the quantity and type of waste generated. Every business in Idaho is required to track the volume of waste generated, determine whether each type of waste is hazardous, and ensure that all wastes are properly disposed of according to federal, state, and local requirements.*
- *No trash or other solid waste shall be buried, burned, or otherwise disposed of at the project site. These disposal methods are regulated by various state regulations including Idaho's Solid Waste Management Regulations and Standards, Rules and Regulations for Hazardous Waste, and Rules and Regulations for the Prevention of Air Pollution.*
- **Water Quality Standards.** *Site activities must comply with the Idaho Water Quality Standards (IDAPA 58.01.02) regarding hazardous and deleterious-materials storage, disposal, or accumulation adjacent to or in the immediate vicinity of state waters (IDAPA 58.01.02.800); and the cleanup and reporting of oil-filled electrical equipment (IDAPA 58.01.02.849); hazardous materials (IDAPA 58.01.02.850); and used-oil and petroleum releases (IDAPA 58.01.02.851 and 852).*

Petroleum releases must be reported to DEQ in accordance with IDAPA 58.01.02.851.01 and 04. Hazardous material releases to state waters, or to land such that there is likelihood that it will enter state waters, must be reported to DEQ in accordance with IDAPA 58.01.02.850.

- **Ground Water Contamination.** *DEQ requests that this project comply with Idaho's Ground Water Quality Rules (IDAPA 58.01.11), which states that "No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that causes a ground water quality standard to be exceeded, injures a beneficial use of ground water, or is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method."*

For questions, contact Dean Ehlert, Waste & Remediation Manager, at 373-0550.

6. Additional Notes

- *If an underground storage tank (UST) or an aboveground storage tank (AST) is identified at the site, the site should be evaluated to determine whether the UST is regulated by DEQ. EPA regulates ASTs. UST and AST sites should be assessed to determine whether there is potential soil and ground water contamination. Please call DEQ at 373-0550, or visit the DEQ website (<http://www.deq.idaho.gov/waste-mgmt-remediation/storage-tanks.aspx>) for assistance.*
- *If applicable to this project, DEQ recommends that BMPs be implemented for any of the following conditions: wash water from cleaning vehicles, fertilizers and pesticides, animal facilities, composted waste, and ponds. Please contact DEQ for more information on any of these conditions.*

We look forward to working with you in a proactive manner to address potential environmental impacts that may be within our regulatory authority. If you have any questions, please contact me, or any our technical staff at 208-373-0550.

Sincerely,



Aaron Scheff
aaron.scheff@deq.idaho.gov
Regional Administrator
Boise Regional Office
Idaho Department of Environmental Quality

C: File # 2148

007053

Beth Bresnahan

From: Beth Bresnahan
Sent: Thursday, June 02, 2016 9:49 AM
To: 'Gordon Brittan'
Subject: Reply
Attachments: 6866_Letter_from_Faddis_4-6-2016.pdf

Gordon,

I am sorry for sending this one late, it slipped through the cracks. This is a response from an individual.

Beth Bresnahan

Planner

Elmore County Land Use and Building Department

520 E 2nd South

Mountain Home, ID 83647

(208) 587-2142 ext 256

bbresnahan@elmorecounty.org

received
4-11-2016

Elmore County Land Use and Building Department
520 E. 2nd South Street
Mountain Home Idaho 83647

Case # CUP-2015-06

April 6, 2016

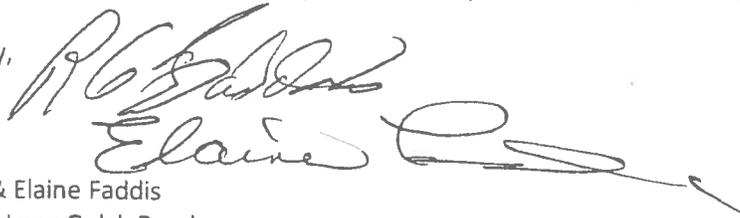
To Whom It May Concern:

Our question is who will receive the power that the plant will generate? We are also curious as to the name and origin of the company building the plant.

Too much of our state's resources are used to provide power to other states, while the residents in Idaho pay a high price to for the privilege of having power for their homes. Also of great concern is the high cost of the power to provide irrigation water for farming in our area.

It would be a shame to see the water in Anderson utilized to provide power and a big profit for some company, while irrigations users downstream suffer from a lack of water. We would much rather see more wind turbines to provide the power needed, than our unreliable water source.

Sincerely,



Robert & Elaine Faddis
1218 W. Long Gulch Road
Prairie Idaho 83647
208-868-3257

rfaddis@prairieidaho.com

006866

007055

Beth Bresnahan

From: Gordon Brittan
Sent: Thursday, June 02, 2016 10:14 AM
To: bbresnahan@elmorecounty.org
Subject: Re: Reply

Thanks, Beth.

See you shortly,

Corky

From: Beth Bresnahan [<mailto:bbresnahan@elmorecounty.org>]
Sent: Thursday, June 02, 2016 09:49 AM
To: Gordon Brittan
Subject: Reply

Gordon,

I am sorry for sending this one late, it slipped through the cracks. This is a response from an individual.

Beth Bresnahan

Planner

Elmore County Land Use and Building Department

520 E 2nd South

Mountain Home, ID 83647

(208) 587-2142 ext 256

bbresnahan@elmorecounty.org

Beth Bresnahan

From: Beth Bresnahan
Sent: Friday, June 03, 2016 10:41 AM
To: 'Gordon Brittan'
Cc: Alan Christy
Subject: Agency response
Attachments: 7050_DEQ_Response_5-31-2016.pdf

Gordon,

We just received this in the mail today.

Beth Bresnahan

Planner

Elmore County Land Use and Building Department

520 E 2nd South

Mountain Home, ID 83647

(208) 587-2142 ext 256

bbresnahan@elmorecounty.org



STATE OF IDAHO
DEPARTMENT OF ENVIRONMENTAL QUALITY
BOISE REGIONAL OFFICE
1445 North Orchard Street • Boise, ID 83706-2239 • (208) 373 0550

received
10-3-16 KA

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Date: 05/31/2016
Agency Requesting Comments: Elmore County Land Use & Building Department
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For questions, contact the DEQ Air Quality Permitting Hotline at 1-877-573-7648.

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- DEQ recommends verifying that there is adequate sewer to serve this project prior to approval. Please contact the sewer provider for a capacity statement, declining balance report, and willingness to serve this project.
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007050

007050

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- *DEQ recommends that projects be served by existing approved wastewater collection systems or a centralized community wastewater system whenever possible. Please contact DEQ to discuss potential for development of a community treatment system along with best management practices for communities to protect ground water.*
- *DEQ recommends that cities and counties develop and use a comprehensive land use management plan, which includes the impacts of present and future wastewater management in this area. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.*

For questions, contact Todd Crutcher, Engineering Manager, at 373-0550.

3. Drinking Water

- *DEQ recommends verifying that there is adequate water to serve this project prior to approval. Please contact the water provider for a capacity statement, declining balance report, and willingness to serve this project.*
- *IDAPA 58.01.08 is the section of Idaho rules regarding public drinking water systems. Please review these rules to determine whether this or future projects will require DEQ approval.*

All projects for construction or modification of public drinking water systems require preconstruction approval.

- *DEQ recommends verifying if the current and/or proposed drinking water system is a regulated public drinking water system (refer to the DEQ website at <http://www.deq.idaho.gov/water-quality/drinking-water.aspx>). For non-regulated systems, DEQ recommends annual testing for total coliform bacteria, nitrate, and nitrite.*
- *If any private wells will be included in this project, we recommend that they be tested for total coliform bacteria, nitrate, and nitrite prior to use and retested annually thereafter.*
- *DEQ recommends using an existing drinking water system whenever possible or construction of a new community drinking water system. Please contact DEQ to discuss this project and to explore options to both best serve the future residents of this development and provide for protection of ground water resources.*
- *DEQ recommends cities and counties develop and use a comprehensive land use management plan which addresses the present and future needs of this area for adequate, safe, and sustainable drinking water. Please schedule a meeting with DEQ for further discussion and recommendations for plan development and implementation.*

For questions, contact Todd Crutcher, Engineering Manager at 373-0550.

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4. Surface Water

- A DEQ short-term activity exemption (STAE) from this office is required if the project will involve de-watering of ground water during excavation and discharge back into surface water, including a description of the water treatment from this process to prevent excessive sediment and turbidity from entering surface water.
- Please contact DEQ to determine whether this project will require a National Pollution Discharge Elimination System (NPDES) Permit. If this project disturbs more than one acre, a stormwater permit from EPA may be required.
- If this project is near a source of surface water, DEQ requests that projects incorporate construction best management practices (BMPs) to assist in the protection of Idaho's water resources. Additionally, please contact DEQ to identify BMP alternatives and to determine whether this project is in an area with Total Maximum Daily Load stormwater permit conditions.
- The Idaho Stream Channel Protection Act requires a permit for most stream channel alterations. Please contact the Idaho Department of Water Resources (IDWR), Western Regional Office, at 2735 Airport Way, Boise, or call 208-334-2190 for more information. Information is also available on the IDWR website at: <http://www.idwr.idaho.gov/WaterManagement/StreamsDams/Streams/AlterationPermit/AlterationPermit.htm>
- The Federal Clean Water Act requires a permit for filling or dredging in waters of the United States. Please contact the US Army Corps of Engineers, Boise Field Office, at 10095 Emerald Street, Boise, or call 208-345-2155 for more information regarding permits.

For questions, contact Lance Holloway, Surface Water Manager, at 373-0550.

5. Hazardous Waste And Ground Water Contamination

- **Hazardous Waste.** The types and number of requirements that must be complied with under the federal Resource Conservation and Recovery Act (RCRA) and the Idaho Rules and Standards for Hazardous Waste (IDAPA 58.01.05) are based on the quantity and type of waste generated. Every business in Idaho is required to track the volume of waste generated, determine whether each type of waste is hazardous, and ensure that all wastes are properly disposed of according to federal, state, and local requirements.
- No trash or other solid waste shall be buried, burned, or otherwise disposed of at the project site. These disposal methods are regulated by various state regulations including Idaho's Solid Waste Management Regulations and Standards, Rules and Regulations for Hazardous Waste, and Rules and Regulations for the Prevention of Air Pollution.
- **Water Quality Standards.** Site activities must comply with the Idaho Water Quality Standards (IDAPA 58.01.02) regarding hazardous and deleterious-materials storage, disposal, or accumulation adjacent to or in the immediate vicinity of state waters (IDAPA 58.01.02.800); and the cleanup and reporting of oil-filled electrical equipment (IDAPA 58.01.02.849); hazardous materials (IDAPA 58.01.02.850); and used-oil and petroleum releases (IDAPA 58.01.02.851 and 852).

Petroleum releases must be reported to DEQ in accordance with IDAPA 58.01.02.851.01 and 04. Hazardous material releases to state waters, or to land such that there is likelihood that it will enter state waters, must be reported to DEQ in accordance with IDAPA 58.01.02.850.

- **Ground Water Contamination.** *DEQ requests that this project comply with Idaho's Ground Water Quality Rules (IDAPA 58.01.11), which states that "No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that causes a ground water quality standard to be exceeded, injures a beneficial use of ground water, or is not in accordance with a permit, consent order or applicable best management practice, best available method or best practical method."*

For questions, contact Dean Ehlert, Waste & Remediation Manager, at 373-0550.

6. Additional Notes

- *If an underground storage tank (UST) or an aboveground storage tank (AST) is identified at the site, the site should be evaluated to determine whether the UST is regulated by DEQ. EPA regulates ASTs. UST and AST sites should be assessed to determine whether there is potential soil and ground water contamination. Please call DEQ at 373-0550, or visit the DEQ website (<http://www.deq.idaho.gov/waste-mgmt-remediation/storage-tanks.aspx>) for assistance.*
- *If applicable to this project, DEQ recommends that BMPs be implemented for any of the following conditions: wash water from cleaning vehicles, fertilizers and pesticides, animal facilities, composted waste, and ponds. Please contact DEQ for more information on any of these conditions.*

We look forward to working with you in a proactive manner to address potential environmental impacts that may be within our regulatory authority. If you have any questions, please contact me, or any our technical staff at 208-373-0550.

Sincerely,



Aaron Scheff
aaron.scheff@deq.idaho.gov
Regional Administrator
Boise Regional Office
Idaho Department of Environmental Quality

C: File # 2148

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received
6-8-16 KN

Via email

June 8, 2016

Mr. Alan Christy
Director
Elmore County Land Use
and Building Department
520 East 2nd South Street
Mountain Home, ID 83647

Re: Cat Creek Energy, LLC Conditional Use Permits:
CUP-2015-03, CUP-2015-04, CUP-2015-05, CUP-2015-06, CUP-2015-07

Dear Mr. Christy:

Please accept this as a letter of concern regarding the above Cat Creek Energy, LLC (CCE) Conditional Use Permits that have been filed with the Elmore County Planning and Zoning Commission.

As a resident or property owner on Anderson Ranch Bluffs (ARB) at Anderson Ranch Reservoir (ARR), adjacent and/or across the reservoir from the proposed CCE site, I hereby outline my serious concerns as follows:

- I believe the proposed CCE site location lies within a major migration corridor for mule deer, elk, pronghorn, raptors, songbirds, water fowl, bats, kokanee and bull trout. Vast numbers of wildlife at ARR all the way to Little Camas Reservoir will be significantly compromised by the CCE project.
- I believe the proposed CCE project poses an unacceptably high risk to state and federally protected wildlife species/public trust resources (during and post construction) such as the greater sage grouse, bald and golden eagles, peregrine falcon, possible yellow billed cuckoo and bull trout.
- Migratory birds will be compromised due to continual low lying fog on ARR during the spring and fall migration.
- I believe the proposed site will obstruct the view of the Goodell Cutoff (Oregon Trail) Historical Lookout and Castle Rock on US-20 and actually wind turbines could be placed on or near the historic site.
- The wildlife I currently enjoy is an integral part of ARR. They bring pleasure and add to the experience of owning a residence on ARB. Wildlife also enhances property values. These will be significantly compromised by the CCE project.
- Due to the undesirable and obstructed views and noise pollution caused by the CCE project (during and post construction) ARB property values will be compromised. Thus, any properties intended for sale now or in the future will be compromised.
- The proposed CCE site would cause undue harm to ARB residents and property owners as the aesthetics, beautiful views and peaceful environment we currently enjoy would be significantly affected.

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- I believe that road traffic to and from ARR, Fairfield, Sun Valley and Mountain Home will be compromised (during construction) due to the vast amount of equipment and materials needed to build a project of this scope. There will be major delays on the existing road and the potential for crashes and fatalities from vehicles trying to pass.
- I believe that the road traffic (during construction) to and from ARR will pose a significant risk to migratory wildlife, particularly mule deer, elk and pronghorn road mortalities.
- I was advised that Elmore County is not requiring CCE to perform an Environmental Impact Statement for this project. I insist that Elmore County requires an EIS and that CCE follow all federal and state guidelines regarding hydroelectric, wind, solar development and wildlife studies to the letter.
- I believe the proposed project will hurt all businesses from Little Camas Reservoir to Pine/Featherville due to loss in recreational visitors and difficulty getting to and from Mountain Home or Fairfield during and after the construction phase. Also a loss of recreational visitors is imminent post construction due to the undesirable views and noise pollution caused by the project.
- I am extremely disappointed that Elmore County only sent the notice of the June 15 hearing to two property owners across the reservoir/adjacent from the proposed site. A notice should have at least been sent to the Treasurer of the Anderson Ranch Bluffs Homeowners Association but that did not happen. A public notice should have been posted on US-20 at the Wood Creed Road for the public to see but that did not happen. The town of Pine and the Little Camas Reservoir area should have received the notice, but that did not happen. This project has been going on for a year and a half with not one person receiving a notice until a few months ago but only two people received the notice on ARB. Someone should be held accountable for that and a public notice should be immediately posted on US-20 at Wood Creek Road.

For the reasons listed above, I strongly oppose approval of the Conditional Use Permits related to the CCE project at ARR and Little Camas Reservoir and trust you will take our concerns into consideration during the decision-making process.

Respectfully submitted,


John Combs


Wendi Combs

704 Lindenwood Dr., Nampa, ID 83686 - (1726 Aspen Drive, Pine, ID)

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**ELMORE COUNTY
PLANNING AND ZONING COMMISSION**

MINUTES

Wednesday, June 1, 2016 at 7:00 pm

Chairperson Patti Osborn called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Vice Chairman K.C. Duerig, Jeff Blanksma, Ed Oppedyk, Sue Fish, Shane Zenner and Dave Holland. Also present were Attorney of record Phil Miller, Director Alan Christy and staff members Beth Bresnahan and Kacey Ramsauer.

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

Update the Flood Hazard Mitigation and Development Requirements Pertaining to Flooding in Chapter 13 of the Elmore County Zoning and Development Ordinance.

Christy gave staff report and background.

The commission discussed changes in the ordinance.

Christy stated that there was one letter for the record in addition to four attachments. He stated that staff has provided an analysis for the required findings for a zoning ordinance amendment.

Christy stated that the Planning and Zoning Commission is a recommending body so any findings will be recommended to the Board of County Commissioners for approval.

There was no one signed up to testify in support or in opposition to the ordinance amendment.

John Kieffer signed in as neutral. He wanted to speak to FEMA and the floodplain and updating the boundaries.

Christy stated that the county is in preliminary steps with the city of Mountain Home to get some of the flood boundaries re-drawn using new technology and new data to get it up to date and accurate.

Duerig stated that he would like to see clarification in the definitions stating that they only apply to this chapter.

Christy stated that he did add language saying "*definitions listed below apply only to this chapter of the ordinance.*" He stated that he can add a sentence saying other definitions are found in chapter 2.

There was no further discussion.

Osborn closed this public hearing.

Duerig moved to forward this to the Board of County Commissioners with a positive recommendation with the additional language presented.

Blanksma seconded.

Motion carried unanimously.

MINUTES

Minutes from 05-18-2016

Oppedyk moved to approve.

Duerig seconded.

Motion carried with Blanksma, Holland and Zenner abstaining as they were absent for this meeting.

INFORMATION ITEMS

Upcoming P & Z Schedule

Christy stated that the findings for Blue Sage Subdivision may be signed by the Board on Friday June 3, 2016.

Christy stated that he anticipates a lengthy meeting on June 15, 2016 and due to this there may be a need to schedule extra meetings.

Osborn suggested the meeting on June 15 should end at 10:00 pm and if need be continued to a date certain at that time.

Commission consensus was to end this meeting at 10:00 pm.

Christy stated that he will be meeting with the applicant tomorrow and will discuss time limits for presenting and extra meeting dates.

MEETING ADJOURNED at 7:30 pm.

Patti Osborn, Chairperson

Date:

Attest: _____
Alan Christy, Director

Date: