

# Land Use and Building Department

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## ***Planning and Zoning Commission Staff Report **Addendum***** ***Case: CUP-2024-08    Agenda Item: J.R. Simplot New CAFO***

### **Elmore County Staff:**

Mitra Mehta-Cooper, AICP, CFM  
David Abrahamson, Planner

### **Elmore County Consultants:**

Elizabeth Allen, Bristlecone Land Use Consulting  
Abbey Germaine, Elam & Burke, P.A.

### **Attachment:**

**Exhibit 5c:** Idaho Fish and Game comment

### **STAFF REPORT ADDENDUM**

The purpose of this addendum is to add to the record an agency comment received after the staff report was published and to revise the staff recommendation from approval to continuance.

#### **1. STAFF RECOMMENDATION**

On June 20, 2024, staff learned that some agencies had not received the agency notification that was sent out by staff on June 5, 2024. One of those agencies, Idaho Fish and Game (IDFG), had not received the notification and reached out to the Land Use and Building Department after hearing about the request to get more information. In discussions with Idaho Fish and Game, staff learned that the contact information on the agency notification list is outdated. Therefore, the notification was not received. To remedy the error, staff is changing the recommendation of approval to a recommendation to continue the public hearing to send out a second round of agency notifications. Before sending out agency notifications, staff will reach out to all agencies to check that the agency contact list is up to date.

#### **2. IDAHO FISH AND GAME COMMENT**

On June 24, 2024, after receiving the application and staff report, IDFG provided comments on the proposed CAFO. This comment will be added to the existing Exhibits as Exhibit 5c. IDFG identified that the proposed CAFO is within close proximity to the nest of Burrowing Owls, which would be negatively impacted by the CAFO operation. IDFG has provided four recommendations to help mitigate their concerns related to construction activities, access, pest control, and ravens.

#### **3. UPDATED RECOMMENDED CONDITIONS OF APPROVAL**

Below are the updated recommended conditions of approval incorporating the requested conditions from IDFG.

**A. Conditions to be satisfied prior to commencement of construction**

1. The Approval of this Application and CUP is contingent on the Applicant submitting a written request for a variance of the one and one-half mile setback from the Zone A floodplain and receiving approval of such variance. Should such variance not be applied for or approved, this CUP shall not be valid. No building permit shall be approved without variance approval.
2. Before commencement of construction, the Applicant shall provide to the Director updated site plans meeting all setback requirements and showing the location of all private and community domestic wells, irrigation wells, monitoring wells, irrigation conveyance and drainage structures, streams, ponds, reservoirs, and wetlands within one (1) mile of the CAFO facility. The site plan shall be stamped by an Idaho-licensed engineer.
3. Before commencement of construction, the Applicant shall submit a site grading plan and calculations for the runoff storage pond to the Director.
4. Before commencement of construction, the Applicant shall submit a hold harmless agreement pertaining to noise from the Orchard Training Range to the Director.
5. The CAFO Siting Permit holder shall notify the Director in writing when construction starts. Additionally, if the construction of an animal waste management system commences after the initial commencement of construction notice, the CAFO Siting Permit holder shall provide the Director with separate written notice of the date of the animal waste management system construction commencement.
6. No construction activities and feedlot implementation may occur before August 31, 2024 to avoid negative affects during burrowing owl fledging.
7. The Applicant must commence construction of the CAFO within one (1) year of issuance of this CUP. If construction of the CAFO does not commence within one (1) year, the Applicant shall appear before the Commission to show proof of measurable progress toward a complete project and must be presented before the Commission. The Applicant shall reappear on a yearly basis thereafter to show cause why the CAFO has not been completed. If the CAFO is not a working CAFO within five (5) years, or one (1) year if the Applicant has not sought an extension, of the permit being issued, the Commission may revoke the permit.

**B. Conditions to be satisfied before issuance of the CAFO Operation Permit**

8. Prior to the issuance of the CAFO Operation Permit, the Applicant shall submit a liquid waste closure plan to the Director.
9. After completion of the construction of the new CAFO authorized by the CAFO Siting Permit, completion of any approved change requests or noncompliance corrections, and receipt of proof by the Director that all required permits have been obtained and management plans approved where all responsible regulatory agencies requires approval of those plans, the Director shall issue a CAFO Operation Permit to the CAFO Siting Permit holder. The Applicant shall provide copies of all permits and management plans of the Facility to the Director. The CAFO Operation Permit shall certify that the new CAFO has been inspected and conforms to the terms of the CAFO Siting permit, with approved changes, and the CAFO Siting Permit holder is fully authorized to operate the new CAFO.
10. Inspection of the construction progress of the CAFO facility authorized by the CAFO permit shall occur as governed by the adopted building code. For those sections for which a building code inspection is not required, inspection may be made at the Building Official's discretion. In addition, inspections may be done when requested by the CAFO Permit holder. The inspections shall be performed by the Building Official or the Idaho State Department of Agriculture and reported to the Commission.

### C. On-going Conditions

11. The CAFO and all facility plans shall comply with all relevant Federal, State, and local laws and ordinances. Any such violation will revoke the approval of this Conditional Use Permit.
12. The total number of bovine animal units shall not exceed 55,000 without further jurisdictional approval required. No other species of animal are permitted.
13. Access will be restricted to Frederick Road down through the solar as the route and amount of traffic is less likely to affect nesting owls.
14. Rodenticides shall be limited to FGARs or non-coagulant rodenticides to control pests in the CAFO to reduce the risk of secondary poisoning of burrowing owls as requested by IDFG.
15. The installation of tall structures that could be used by ravens for perching or nesting should be avoided and deterrent techniques shall be implemented to keep ravens away from the CAFO.
16. The Applicant shall comply with all site setbacks. These setbacks shall not apply to land application.
  - a. The location of animal waste management systems, corrals, wells, and septic systems shall conform to all applicable rules, regulations, and specifications as required by any regulatory agencies.
  - b. Silage, potatoes, or any feed product resulting from the ensilage process shall be located a minimum of seven hundred (700') feet from any existing residence not belonging to the CAFO's owner or operator.
  - c. All agricultural buildings, feed bunks or feed racks, corrals, and feed storage areas shall be setback a minimum of one hundred (100') from property lines and public rights of way.
  - d. Lights shall be placed and shielded to direct the light source down and inside the CAFO's property lines. All direct glare from the CAFO lights shall be contained within the CAFO facility area.
  - e. Any animal waste management system shall not be located closer than one thousand three hundred twenty (1,320') feet from an existing residence belonging to someone other than the applicant or be located and/or operated closer than a minimum of three hundred (300') feet from property lines. Such setbacks may be reduced if the owner and the occupant of the residence consent in writing.
  - f. No animal waste management system shall be located and/or operated closer than five hundred feet (500') from a domestic well.
  - g. No animal waste management system shall be located and/or operated closer than three hundred (300') feet from a public right of way.
  - h. The setbacks contained herein shall not apply to land application.
17. Any new lagoons shall be constructed in accordance with state and federal regulations.
18. Liquid animal waste shall not be applied on snow, ice, or frozen soil.
19. The CAFO shall comply with IDAPA rules governing dead animal disposal.
20. Any proposed changes to the CAFO operation that are not included in the original Application shall be reviewed by the Department and may require approval by the Commission.
21. After approval of the CAFO Siting Permit, if the permit holder desires to make changes to the proposal authorized under the CAFO Siting Permit that may violate the terms or conditions of the permit as the

application was presented to the Commission, the permit holder shall present a written change request to the Director as outlined in §7-12-11 Process for CAFO Operation Permit and Modifications.

22. The Applicant shall submit proof of liability insurance to the County annually so long as liquid waste is managed.
23. The CAFO shall comply with the terms of the Nutrient Management Plan approved by the Idaho State Department of Agriculture (ISDA).
24. The CAFO shall comply with stock and/or commercial water rights requirements per Idaho Department of Water Resources (IDWR).
25. The CAFO shall comply with the Odor, Waste, Dust, and Pest best management practices in compliance with an approved Nutrient Management Plan and consistent with Idaho Department of Environmental Quality (DEQ) and Idaho State Department of Agriculture (ISDA) requirements.
26. The Applicant shall be required to provide a pest abatement plan if it is required by any governing agencies.
27. The Applicant shall ensure all property taxes are kept current and the property is maintained in compliance with all state, federal, and local laws and regulations.

# **EXHIBIT 5**

## **Agency Comments c. Idaho Fish and Game**



**IDAHO DEPARTMENT OF FISH AND GAME**

SOUTHWEST REGION

15950 N. Gate Blvd.

Nampa, Idaho 83687

Brad Little / Governor  
Jim Fredericks / Director

June 24, 2024

David Abrahamson, Planner  
Elmore County Land Use and Building Department  
520 E 2<sup>nd</sup> St.  
Mountain Home, ID 83647

**RE: Confined Animal Feeding Operation CUP-2024-08**

Dear David,

Thank you for requesting comments from the Idaho Department of Fish and Game (IDFG) regarding the Confined Animal Feeding Operation (CAFO) proposed by Simplot and referred to as the “Grand View Calf Ranch” on the application. IDFG has reviewed the information in the application provided by the Elmore County Land Use and Building Department.

J.R. Simplot Company Land & Livestock is requesting the approval of a Conditional Use Permit (CUP) for a Siting Permit to operate a CAFO consisting of a calf ranch with a maximum of 55,000 animal units on approximately 410 acres within an Agriculture zone located in Township 5S Range 3E and Range 4E; Sections 1, 6, 5, and 4. Access to the facility is proposed via Nicholson Rd. off State Hwy 167. Rainfall and snow melt runoff from the facility is proposed to be collected in engineer-designed storage ponds on the south and east sides of the site. As outlined in the Nutrient Management Plan (NMP), solid waste is proposed to be removed from the calving pens and stored at an offsite agricultural field for processing and use. Solid waste and liquid waste from the storage ponds will subsequently be used on 22 properties covered by the NMP.

The purpose of these comments is to assist Elmore County during the CUP process by providing technical information addressing potential effects on fish, wildlife, fish and wildlife habitat, and associated recreation and how any adverse effects might be mitigated. Resident species of fish and wildlife are property of all Idaho citizens, and IDFG and the Idaho Fish and Game Commission are expressly charged with statutory responsibility to preserve, protect, perpetuate, and manage all fish and wildlife in Idaho (Idaho Code § 36-103(a)). In fulfillment of our statutory charge and direction as provided by the Idaho Legislature, we offer the following Technical Memo containing our comments and suggestions.

*Keeping Idaho's Wildlife Heritage*

IDFG appreciates the opportunity to provide information pertinent to the proposed project. If you have any questions or need additional information, please contact Brandon Flack, the Technical Assistance Manager in the Southwest Region (208-465-8465; brandon.flack@idfg.idaho.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Josh Royse", with a long horizontal line extending to the right.

Josh Royse  
Southwest Regional Supervisor

JR/BF

ecc: Josh Royse, Brandon Flack; IDFG Southwest Region  
David Abrahamson; Elmore County Land Use and Building Department  
Elizabeth Allen; Bristlecone Land Use Consulting (contracted by Elmore County)

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# TECHNICAL MEMORANDUM



Subject: CAFO CUP-2024-08

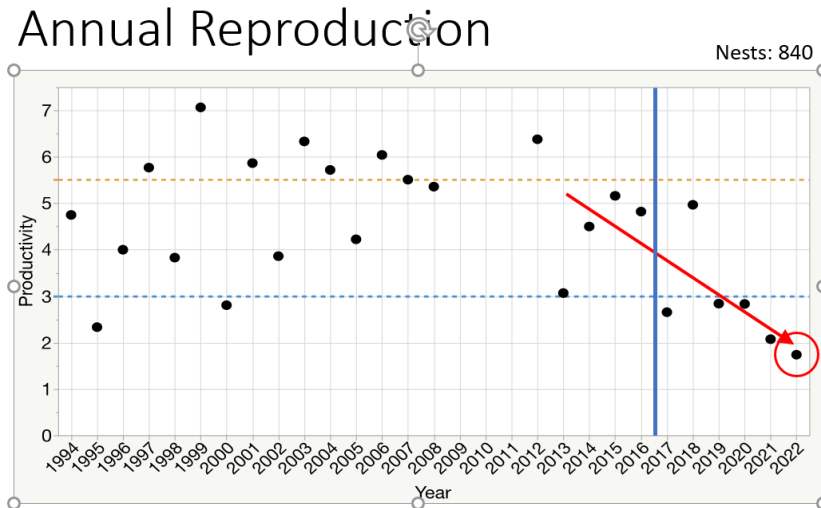
IDFG Contact: Brandon Flack

Prepared for Elmore County Land Use and Building Department

June 24, 2024

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The goal of our comments and recommendations is to help the county and applicant avoid and/or minimize effects to nesting burrowing owls. Burrowing owls use natural and artificial burrows on the BLM managed lands that border the Simplot property to the north and the west. There are 11 borrows/nests within 0.5 miles and 29 burrows/nests within 1 mile of the project boundary. BSU researcher, Dr. Jim Belthoff, has been studying burrowing owls in the NCA since at least 1994. He indicated via email communication that this congregation of burrowing owls is the most important in the NCA. Although burrowing owls are widespread throughout Southwest Idaho and adult abundance is stable, productivity (# of nestlings making it to adulthood) has declined precipitously in the last 10 years (see graph below). This could signal some future decline in abundance or could indicate a sink habitat. The reasons for the decline are unclear currently but it is important to avoid obvious disturbance that could result in negative effects on this burrowing owl population.







use will increase, and by how much, to operate the CAFO. In addition, the staff report indicates that the CAFO will be accessed via Frederick Rd. Site drawings provided by Simplot also indicate the access road will come in via Frederick Rd to a weigh station located in between the solar fields. Increased vehicle traffic on Nicholson Rd along the western edge of the solar field could affect nesting burrowing owls.

IDFG's preferred access route is via Frederick Rd down through the solar field as the route and the amount of traffic is less likely to affect nesting owls.

3) Pest control at the Calf Ranch:

Burrowing owls eat small rodents and some pesticides used to control rodents can injure or kill predators or scavengers of the rodents leading to even lower reproductive rates in owls. These pesticides are known as second-generation anticoagulant rodenticides (SGARs). Their poisons do not break down in the target animals and can be ingested into the system of the scavenger or predator and have the same effect. First-generation anticoagulant rodenticides (FGARs) like warfarin, coumatetralyl, and diphacinone are less dangerous to raptors and other members of the local food web. The best option would be a non-coagulant like sodium chloride that specifically targets the pest (NPIC Fact Sheet 2016).

IDFG recommends using FGARs or non-coagulant rodenticides to control pests in the CAFO to reduce the risk of secondary poisoning of burrowing owls.

4) Ravens:

Ravens are the most common predator of owl nests and have been found to be a leading cause of nestling mortality (Belthoff et. al. 2017). IDFG is concerned that this feed lot may attract more ravens to the area that would then key in on nearby burrowing owl nests. This could exacerbate declines in burrowing owl production.

IDFG recommends avoiding the installation of tall structures that could be used by ravens for perching or nesting. Simplot should utilize deterrent techniques to keep ravens away from the Calf Ranch.

## **REFERENCES:**

Belthoff, J., S. Pourzamani, L. Belthoff, D. Schmidt, and K. Weckwerth. 2017. Results of Point-count Surveys and Nest Monitoring for Burrowing Owls in the Morley Nelson Snake River Birds of Prey National Conservation Area, 2017. Annual Summary Report prepared for USDI Bureau of Land Management. Department of Biological Sciences and Raptor Research Center, Boise State University, Boise, ID.

Rodenticides Topic Fact Sheet. 2016. National Pesticide Information Center. Revised in 2016. <http://npic.orst.edu/factsheets/rodenticides.html>