



Land Use and Building Department

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Sandra Nuner,
Permit Technician

Alyssa Nieto,
Admin Assistant

Board of County Commissioners Staff Report

Hearing Date: 12/20/2024

Date Report Completed: 12/17/2024

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.

Agenda Item: Variance for CAFO Floodplain Setback

Case Number: VAR-2024-05

Owner/Applicant:

J.R. Simplot Company Land & Livestock

Location/Site: 5S3E and 5S4E Sections 1, 6, 5, and 4.

Current Zoning District and Future Land Use:

Agriculture with Orchard Training Range Buffer Overlay

REQUEST

J.R. Simplot Company Land & Livestock ("Applicant") has submitted a Variance application to the Elmore County Land Use and Building Department ("Department") to request the approval of a variance to allow a Confined Animal Feeding Operation (CAFO) within one and one-half (1 ½) miles of a mapped floodplain setback.

EXHIBITS OF THE RECORD

The documents and exhibits referenced in the Application record are numbered sequentially as they become available. This staff report references the following portions of the Application record, which are included as Exhibits:

1. Application Materials
 - a. Application Packet
 - b. Applicant Response to Staff Report
 - c. Applicant P&Z Public Hearing Presentation
2. Maps and Images
 - a. Vicinity Map
 - b. 1 ½ Mile Radius Map
 - c. Site Photos
3. Public Hearing Notices
 - a. Agency Notice
 - b. Newspaper Notice

- c. Neighborhood Notice
 - d. Site Posting
4. Planning and Zoning Commission FCOs

The Variance (“VAR”) record includes all written public comments submitted to the Department by physical or electronic delivery by 5:00 p.m. Friday, December 13, 2024, for the Public Hearing scheduled for Friday, December 20, 2024. The VAR record also includes all documents obtained as part of the Department and Elmore County Consultant (“Consultant”) staff’s analysis and review of the Application and all documents and exhibits submitted before the close of the public hearing as received by the Board of County Commissioners (“Board”). Those portions of the VAR record available at the time this report is submitted have been provided to the Board as a part of the Board’s packet. The VAR record also includes the Planning and Zoning Commission Findings of Fact Conclusions of Law and Order from the Public Hearing held on November 21, 2024 in which the Planning and Zoning Commission recommended approval of this request with the recommended Conditions of Approval (Exhibit 4).

BACKGROUND AND REVIEW

On August 22, 2024, the Elmore County Planning and Zoning Commission (“Commission”) conditionally approved CUP-2024-08 submitted by the Applicant for a Confined Animal Feeding Operation Siting Permit on portions of three (3) parcels with a site area totaling approximately 410 acres (Parcels RP05S04E053030, RP05S04E80010, and RP05S04E070010). The approved CUP-2024-08 contained twenty-five (25) conditions of approval, which the Applicant expressly agreed to abide by. Condition A.1 is required to be satisfied prior to the commencement of construction of the CAFO operation and states:

“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 CAFO Operation Permit or building permit shall be approved without variance approval.”

The Applicant had a pre-application meeting with the Department on September 4, 2024, pursuant to Elmore County Zoning Ordinance (“Zoning Ordinance”) §7-3-2(A). The Applicant sent out neighborhood meeting letters on September 4, 2024, giving notice of the time, date, and location of the meeting to neighboring property owners within one and one-half (1 ½) miles requested by staff per Zoning Ordinance §7-3-3(B) and conducted the required neighborhood meeting on September 14, 2024, per Zoning Ordinance §7-3-3 (attached as Exhibit 1a to this Report). A Variance (“VAR”) application and the required four hundred dollars (\$400) fee were submitted to the Department on September 16, 2024. On September 30, 2024, Planner David Abrahamson, Consulting Planner Elizabeth Allen, and Consulting Engineer Angie Michaels conducted a site visit. On October 1, 2024, staff requested that the Applicant provide a narrative addressing the basis for the requested Variance and the information it believed supported approving such Variance. This narrative was needed in order to deem the Application complete. The requested information was submitted by the Applicant on October 10, 2024. The Application was deemed complete on October 14, 2024. A public hearing before the Commission was held on Thursday, November 21, 2024. The Commission recommended that the Board approve the request with conditions of approval outlined in this report.

The public hearing notice and application were mailed to agencies on November 27, 2024, per Zoning Ordinance §7-3-4 (Exhibit 3a). The public hearing notice was published in the Mountain Home News on December 4, 2024, as required by Zoning Ordinance §7-3-5(A) (Exhibit 3b). The public hearing notice was sent to landowners within 1.5 miles of the subject properties on November 27, 2024, per Zoning Ordinance §7-12-6(C) (Exhibit 3c). The public hearing notice was posted on the property on December 4, 2024, per Zoning Ordinance §7-12-6(C) (Exhibit 3d).

SITE AND AREA DETAILS

The Application includes three parcels: RP05S04E053030 (Parcel 1), RP05S04E080010 (Parcel 2), and RP05S04E070010 (Parcel 3), as shown in Image 1 on the next page. All properties surrounding the site are zoned General Agriculture (Ag), and surrounding uses and characteristics include farmland and desert. Elmore County Zoning Ordinance Title 7 Chapter 12 Confined Animal Feeding Operations (CAFOs) provide design standards under Section 7. Standard 9 requires the CAFO facility area to be setback a minimum of one and one-half (1 ½) miles from the Snake and/or Boise Rivers and any floodplain. The code section provides an exemption to these setbacks with the approval of a variance. The mapped floodplain of Canyon Creek is approximately one (1) mile from the site. As the site falls within one and one-half (1 ½) miles of the floodplain, a variance is needed.



Image 1. Aerial image of the site and Canyon Creek Flood Zone.

REQUIRED FINDINGS FOR IDAHO CODE 67-6516. VARIANCE – DEFINITION – APPLICATION – NOTICE – HEARING.

Each governing board shall provide, as part of the zoning ordinance, for the processing of applications for variance permits. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. Prior to granting a variance, notice and an opportunity to be heard shall be provided to property owners adjoining the parcel under consideration and the manager or person in charge of the local airport if the variance could create an aviation hazard as defined in section 21-501, Idaho Code. Denial of a variance permit or approval of a variance permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.

Elmore County Code 7-3-13(B) provides that a variance shall comply with Idaho Code § 67-6516.

Commission Response: The State of Idaho Local Land Use Planning Act (LLUPA), Title 67, Chapter 65 provides for variance in setbacks only upon showing undue hardship. The Applicant would like to operate the CAFO within the one and one-half mile floodplain setback since the topography of the area would likely prevent contamination of water within the floodplain or floodplain impacts on the CAFO. Approval of this Variance would allow the CAFO to operate within one and one-half miles of the Canyon Creek Flood Zone A. A ridge exists between the site and the floodplain. Thus, the topography between the CAFO and the floodplain is such that it would be virtually impossible for flow from the CAFO to reach the floodplain, or vice versa. In addition to the characteristics of the area, the Commission found that the Applicant has demonstrated undue hardship due to the inability to relocate the CAFO to the west to maintain one and one half miles from the floodplain. The landownership adjacent to the property to the west prohibits expansion in this direction. In addition, reducing the CAFO in size to remain out of the one and one half mile setback from the floodplain would result in undue financial hardship making the facility essentially economically infeasible.

REQUIRED FINDINGS FOR APPROVAL OF A VARIANCE

In accordance with Elmore County Zoning and Development Ordinance § 7-3-13, in order to grant a variance, the Board is required to make the following findings. An analysis of those findings is included below:

- 1. The variance shall not grant a right or special privilege that is not otherwise allowed in the base zone.**

Commission Response: The base zone of the subject properties is Ag (Agriculture), in which a CAFO may be permitted through a Conditional Use Permit (CUP). Any property owner within an Ag zone is allowed the right to submit a Conditional Use Permit (CUP) application to site a CAFO and request a variance of the CAFO setbacks outlined in Elmore County Zoning Ordinance. Based on the Elmore County Comprehensive Plan Future Land Use Map, the area is intended to remain as Agriculture. The approval of this variance request would not grant a right or special privilege that otherwise would not be available in the Ag zoning district.

- 2. The variance relieves an undue hardship due to characteristics of the site.**

Commission Response: The subject properties are less than a mile from a FEMA flood zone A, as shown in Image 2 below.

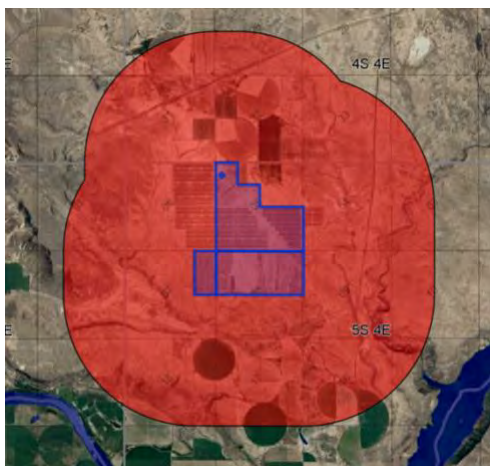


Image 2. The image shows the area within one and one-half miles from the site's boundaries in red.



Image 3. The image shows the Zone A Flood Zone in blue located within one and one-half miles of the site's boundary.

Staff originally found that the Applicant had failed to show that the requested variance relieves an undue hardship due to the characteristics of the Site. Instead, as shown in the images in Exhibit 2c and images provided in the Application materials, the area where the subject properties are located has a unique topography that prevents water runoff from the site from entering the flood zone, as well as making it

improbable that, in the event of a 100-year flood, water within the flood zone could reach the site. A variance may be granted if that applicant shows an undue hardship is based on site characteristics and not the characteristics of adjacent properties, as stated in Idaho State Statute 67-6516 “A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.”

At the public hearing on November 21, 2024, the Commission found that, as explained by the Applicant during testimony, has shown an undue hardship. As explained in the staff report and application materials, the area where the subject properties are located has a unique topography that prevents water runoff from the site from entering the flood zone, as well as makes it improbable that, in the event of a 100-year flood, water within the flood zone could reach the site. The Commission finds that, as explained by the Applicant, 50% of the site falls within the floodplain setback, due to the Bureau of Land Management owning properties to the west, the Applicant is unable to shift the operations to the west to be out of the floodplain setback and therefore to meet the one and one-half (1 ½) mile floodplain setback the operation would have to be reduced by 50% which would substantially reduce or eliminate the economic viability of the CAFO on the subject properties and creates a financial undue hardship. The Commission finds that reducing the floodplain setback to 0.75 miles, added as Condition 1, relieves the undue hardship.

3. The variance shall not be detrimental to the public health, safety, and welfare.

Commission Response: Staff and the Commission has not found evidence that a variance from the floodplain setback would be detrimental to the public health, safety, and welfare. As explained in Finding Two (2), the area around the site has unique features that cut the site off from the Canyon Creek floodplain and, as conditioned, will not be detrimental to public health, safety, and welfare. As explained previously, the topography of the area is unique in that it prevents water runoff from the site from entering the flood zone, as well as making it improbable that, in the event of a 100-year flood, water within the flood zone could reach the site. For water from the site to reach the floodplain, it would need to run uphill, as would floodwater from the floodplain to reach the site. The Commission agreed with this analysis.

COMMISSION RECOMMENDATION

Based on the findings outlined in its Findings of Facts, Conclusions of Law, Order, the Commission recommends **APPROVAL WITH CONDITIONS** of the proposed Variance (VAR-2024-05).

Conditions of Approval

1. Variance (VAR-2024-05) shall be granted on parcel numbers RP05S04E053030, RP05S04E80010, and RP05S04E070010 for the Angel Farm CAFO operated by J.R. Simplot Company Land and Livestock to reduce the floodplain setback to 0.75 miles.
2. Prior to the commencement of construction, engineered drawings shall be provided showing that all storm and wastewater shall be contained on-site.
3. The Applicant shall comply with all CUP-2024-08 Conditions of Approval as approved by the Planning and Zoning Commission on August 22, 2024.
4. The Applicant shall keep the property up to date with all taxes related to the uses of the property.
5. Failure to comply with any of the above conditions of approval shall result in the revocation of the approval of the Variance (VAR-2024-05).

Exhibit 1
Application Materials

- a. Application Packet**
- b. Applicant Response to P&Z Staff Report**
- c. Application P&Z Public Hearing Presentation**



Elmore County Land Use & Building Department

520 East 2nd South Street
Mountain Home, ID 83647
Phone: (208) 587-2142 Fax: (208) 587-2120

Application for a Variance

Fee: \$400.00

This application must comply with the process and standards of **Section 6-3-10** or the Elmore County Zoning and Development Ordinance and Idaho code **Section 67-6516**. This application must be typed or filled out in ink. The Land Use & Building Department does not accept faxed applications. Please attach and reference additional sheets of paper if necessary.

Applicant:

David Modde	2085909141 david.modde@simplot.com
Name	Phone/Fax/Email
1301 Highway 67	Grand View, ID, 83624
Street Address	City, State, Zip

Property Owner:

J.R. Simplot	2088342231
Name	Phone/Fax/Email
1301 Highway 67	Grand View, ID, 83624
Street Address	City, State, Zip

Legal Description of property: Please see attached deed

Common Directions from a known point: turn off highway 67 on to Nicholson road, follow road to termination.

Current Zoning? Agriculture

Is the property located within an Area of City Impact? Y / N If so, which one? _____

Is the property located within a Fire District? Y / N If so, which one? Grand View

Is the property located within an Area of Critical Concern? Y / N

Is the property located within a Flood Zone? Y / N

Agency Comments & Signatures

Notes for agency signatures.

1. It is recommended that applicants set up appointments with the following agencies once the application is complete with all required information.
2. Agency signature does not guarantee any future approvals.
3. Agencies may attach additional sheets of paper for comment and/or conditions if necessary.
4. Agencies may have additional comments and/or conditions at a later time.

Bruce W. Cooper 7/10/24
 Date

• Central District Health (or other Sewer District) Sewer Permit (580-6003)

Comment: CDH has no objection to the variance, < 1.5 miles to flood zone.

Please Contact IDE!

Lee Lee MHHM 8-28-24
 Date

• Roadway Jurisdiction (MHHD 587-3211) (GFHD 366-7744) (AHD 864-2115)

Comment: _____

[Signature] 7-9-24 GVF
 Date

• Fire District (MHRFD 587-2115) (Sasis 788-2115) (GFHD 366-2689) (BGRFD 834-2511) (AFD 2182) Date

Comments: _____

[Signature] July 9, 2024
 Date

• Assessor's Office (Verify Legal Description) (ext. 247)

Comments: _____

[Signature] 7-9-2024
 Date

• Treasurer's Office (Verify Tax Status) (ext. 501)

Comments: 2023 P.I.F

NOTICE TO APPLICANT

A neighborhood meeting must be conducted prior to submitting application. Requirements for neighborhood meetings are outlined in Elmore County Zoning and Development Ordinance Chapter 4 Section 6-4-3.

The Planning and Zoning Commission shall hold a public hearing on a Variance application. The public hearing(s) will only be scheduled once the application is complete. The Land Use and Building Department has the discretion to schedule the hearing agencies and department staff has adequate time to review the applications.

The Land Use & Building Department will mail public hearing notices to the property owners or purchasers of records and to any other agencies that may have an interest in the proposal. A Notice of Public Hearing will be published in the Mountain Home News at least 15-days prior to the public hearing. The Land Use & Building Department will post notice of the hearing on the premises not less than seven (7) days prior to the hearing. The applicant will be given notice of the hearing and must be present.

Section 6-3-11: Variances:

Applications for floodplain variance shall comply with the regulations of the Floodplain Chapter within this Title and are not subject to the regulations of this variance section within this Title.

A. Process:

1. The applicant shall complete a pre-application conference with the Director prior to submittal of an application for a variance; and

For Administrative Use Only

File Number: VAR- 2024-05

Fee: \$400.00 Date Paid: 9-16-2024

Receipt Number: paid

Date Accepted: 9-16-2024 By: Allyssa



ELMORE COUNTY LAND USE & BUILDING DEPARTMENT

520 East 2nd South • Mountain Home, ID • 83647 • Phone: (208) 587-2142

Fax: (208) 587-2120 • www.elmorecounty.org

Neighborhood Meeting Sign Up Sheet

Date of Neighborhood Meeting: September 14, 2024

Start Time of Neighborhood Meeting: 10:00 a.m.

End Time of the Neighborhood Meeting: 11:00 a.m.

Location of Meeting: Simplot L&L Conference room Grand View, ID

Description of the proposed project: The original project is CUP 2024-04 CAFO was approved with the condition that a variance is needed as the project is located within the 1.5 mile setback for Zone A flood plain.

Notice Sent to neighbors on: September 4, 2024

Location of the neighborhood meeting: 1301 Highway 67, Grand View, ID 83624

Attendees:

<u>Name</u>	<u>Address</u>
1. David Modde	1301 Highway 67, Grand View, ID 83624
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

- 11. _____
- 12. _____
- 13. _____
- 14. _____
- 15. _____
- 16. _____
- 17. _____
- 18. _____
- 19. _____
- 20. _____

Neighborhood Meeting Certification:

Applicants shall conduct a neighborhood meeting for comprehensive plan amendments, variance, conditional uses, zoning ordinance map amendments and expansions or extensions of nonconforming uses as per Elmore County Zoning and Development Ordinance Title 7 Chapter 3 Section 7-3-3.

Applicant:

Name: David Modde

Address: 1301 Highway 67

City: Grand View State: ID Zip: 83624

Telephone: 2085909141 Fax: _____

I certify that a neighborhood meeting was conducted at the time and location noted on this form and in accord with the Elmore County Zoning and Development Ordinance Title 7 Chapter 3 Section 7-3-3.

David E Modde

4-16-2024

Signature: (Applicant)

Date

Simplot Land and Livestock
1307 Highway 67
Grand View, ID 83624

September 5, 2024

To: Property Owner

You are invited to attend a neighborhood meeting on September 14, 2024, at 10:00 a.m. The meeting is to inform property owners of variances applications to the approved confined animal feeding operation CUP 2024-08. The variances to be discusses will include a flood plain within 1.5 miles of the site and setbacks of property lines for the site location final build. Your comments are greatly appreciated as me move forward with our variance application.

The meeting will be held at Simplot Land and Livestock Office, 1307 Highway 67 starting at 10:00 a.m.

Warm Regards,

David Modde

Environmental Manager
(208)590-9141

PARCEL #	OWNER	ADDRESS 1	CITY	STATE	ZIP
RP04S04E301810	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E317210	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E319010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E320610	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E329010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E336010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E045410	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E050610	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E053030	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E060010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E061810	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E070010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E080010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E097210	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E153210	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E167200	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E170010	SIMPLOT INDUST INC INLAND TERMINAL	P O BOX 27	BOISE	ID	83707
RP05S04E173040	WAREHOUSE CO C/O GRANDVIEW FARMS	P O BOX 27	BOISE	ID	83707
RP05S03E120010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S03E137810	J R SIMPLOT COMPANY INLAND TERMINAL	P O BOX 27	BOISE	ID	83707
RP05S04E180010	WAREHOUSE CO C/O GRANDVIEW FARMS	P O BOX 27	BOISE	ID	83707
RP05S04E186620	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E186630	J R SIMPLOT COMPANY INLAND TERMINAL	P O BOX 27	BOISE	ID	83707
RP05S04E200010	WAREHOUSE CO C/O GRANDVIEW FARMS	P O BOX 27	BOISE	ID	83707
RP05S04E213010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S03E250010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S03E360010	STATE OF IDAHO	P O BOX 83720	BOISE	ID	83720
RP04S04E280010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E290010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E300010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E310010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E320010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E323000	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E330010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E340010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E030010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E040010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709

RP05S04E062400	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E070600	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E085400	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E090010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E100010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E160010	STATE OF IDAHO	P O BOX 83720	BOISE	ID	83720
RP05S04E170600	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E175400	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S03E010010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S03E120600	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S03E130010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E182400	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E203000	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E053025	IDAHO POWER COMPANY	1221 W IDAHO ST	BOISE	ID	83702

Narrative

The location of the Calf Ranch has unique characteristics that make strict adherence to the zoning regulations unnecessarily burdensome. The floodplain variance is necessary to alleviate this specific hardship, which is tied to the individual nature of the property rather than an attempt to circumvent zoning laws. The purpose of variances is to allow flexibility in situations like these, where rigid enforcement would deny the property owner reasonable use without causing harm to the broader goals of the base zone. Although the property is located within 9/10 of a miles of a flood zone for regulatory purposes, the significant elevation difference and the presence of natural barriers provide an additional buffer that effectively eliminate the possibility of flood waters from Canyon Creek reaching the Calf Ranch.

The elevation gradient within and around a floodplain significantly impacts the behavior of floodwaters small variations in elevation can make a significant difference in whether a particular area is inundated. From the lowest point in the floodplain to the highest points surrounding the floodplain southeast of Canyon Creek is 80 ft higher in elevation. This elevation will act as a natural barrier. Canyon Creek Zone A floodplain crosses Idaho Highway 167 four miles north of Fredricks road and flows southeast to the Snake River. The Canyon Creek dry bed flows down the canyon that was created by centuries of erosion cutting a path to and through the Snake River Canyon with rock walls and outcroppings throughout. Dry creek beds serve a vital role in natural drainage systems, helping water flow along the path of least resistance and managing runoff, especially during storms or flood events. These channels not only divert and slow floodwaters but also protect the surrounding land from erosion. When naturally occurring, dry creek beds help maintain the landscape's hydrological balance and reduce flood risks in nearby areas. Canyon Creek is a very large dry creek bed.

While Simplot's CAFO is in proximity to a high-risk floodplain (Zone A), the natural terrain—including significant elevation barriers—provides substantial protection against flood waters reaching the CAFO. The unique topography ensures that any overflow from the Canyon Creek floodplain would require an extraordinary and highly improbable event to threaten the facility. Therefore, the CAFO's operations are expected to remain unaffected by the 100-year storm event as defined by FEMA. Given the property's elevation, there is no significant risk of flooding even in extreme weather conditions, as the water would need to rise 80 feet to escape the natural elevation barrier of the bluff on which Strike Dam Road is located.

This minimizes potential environmental impact from any stormwater from the Simplot Calf Ranch reaching the Canyon Creek Floodplain. The elevation from the bluff and highpoint near Strike Dam Road is 140 feet higher in elevation than the proposed stormwater retention ponds located on the property. Strict adherence to permits that are granted and audited by IDEQ, ISDA and EPA will ensure that our environmental impact is managed in accordance with State laws. As a portion of these permits, the storm water containment ponds will be calculated to retain a 25-year 24-hour storm event with no stormwater leaving the property. All the stormwater runoffs will be contained on the calf ranch and our operation will be a zero-release facility.

The denial of the requested variance would impose a significant and undue hardship on our planned calf ranch. The undue hardship on our operation would include financial strain and logistical disruptions. These hardships are not justified given the property's natural characteristics, which inherently reduce the flood risk.

The requested variance does not pose any threat to public health, safety, or welfare. The specific nature of the variance relates to floodplain regulations, and approval would allow the continued use of the property for agricultural purposes, including the CAFO. Importantly, health and safety aspects of these operations are already regulated by relevant state agencies.

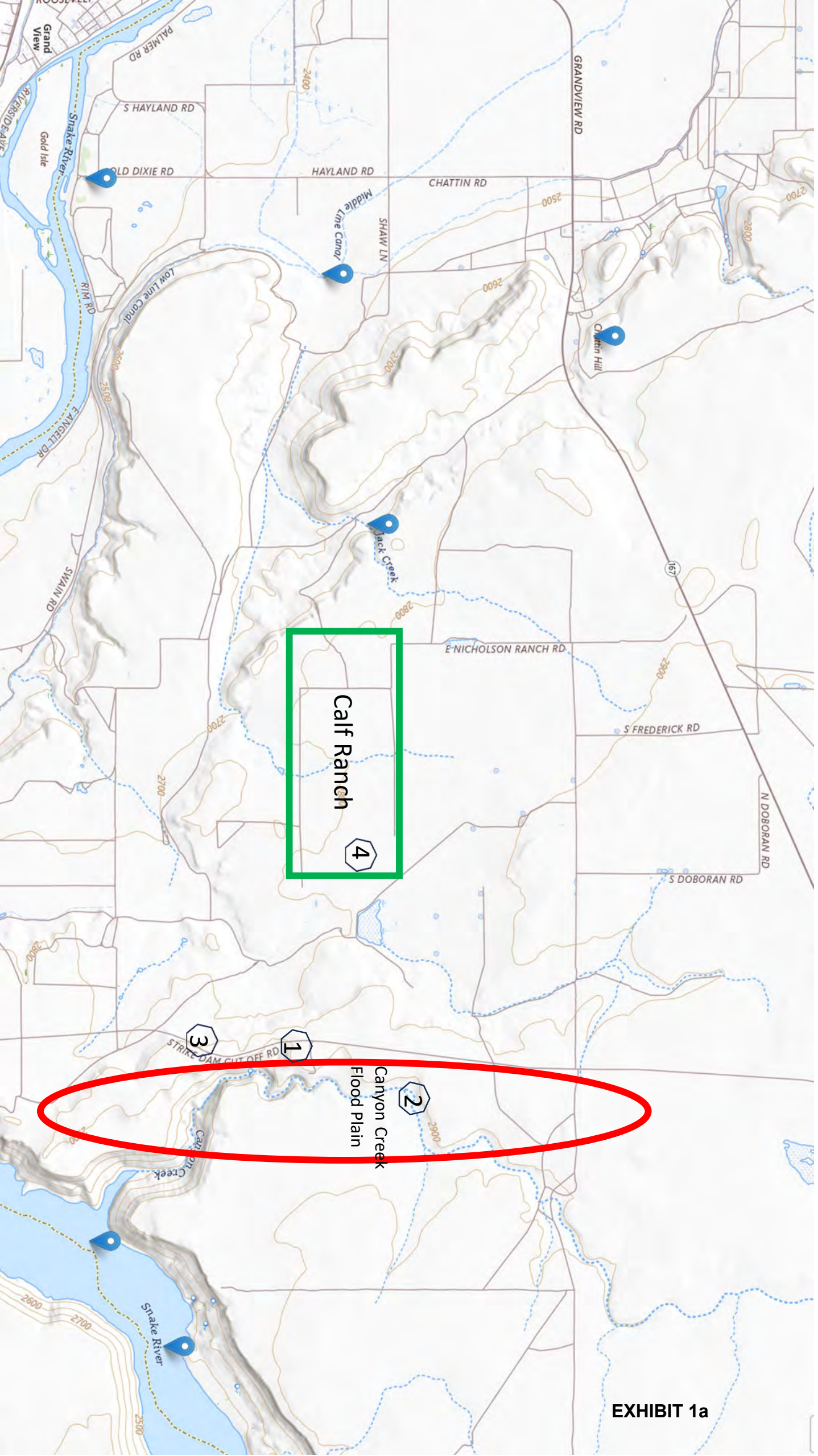
The agricultural and operational activities planned for the property, including the CAFO, are subject to stringent oversight by state agencies responsible for public health and safety. This includes regulations on water quality, animal welfare, environmental impacts, and overall farm safety. Compliance with these state-enforced standards ensures that there will be no adverse effects on the health or safety of the public because of the variance.

Agencies such as the Department of Environmental Quality (DEQ) and state health departments monitor environmental and health-related impacts of agricultural operations, ensuring that no hazards arise from water runoff, soil contamination, or other factors that could affect public welfare.

The property's zoning is strictly agricultural, and the CUP approval allows for the continued use of the land for agricultural purposes. The operations on the property, including those permitted under the CAFO, are entirely consistent with the agricultural activities for which is consistent with the base zone. Therefore, granting the variance will not lead to a deviation from the intended use of the land or zoning regulations.



Canyon Creek Floodplain Zone A



Calf Ranch

4

Canyon Creek
Flood Plain

2

EXHIBIT 1a



Photo #1 denoted on Map: Canyon Creek Dry Creek Floodplain facing Northeast, the canyon that feeds to the Snake River.



**Photo #2 denoted on Map: Canyon Creek
Dry Creek Floodplain from floodplain facing
Southeast from the lowest point from flood
plain looking up at the bluff.**

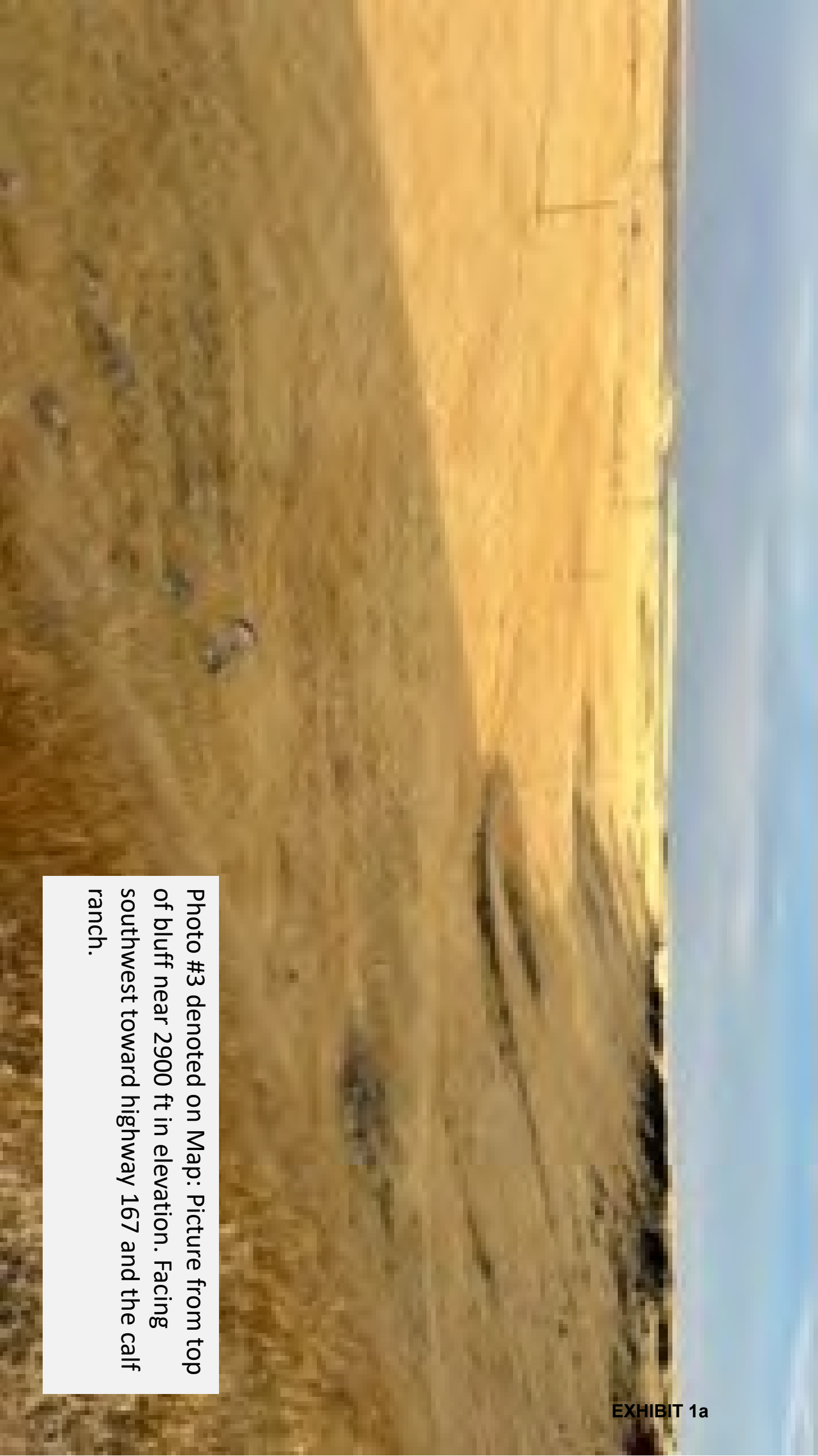
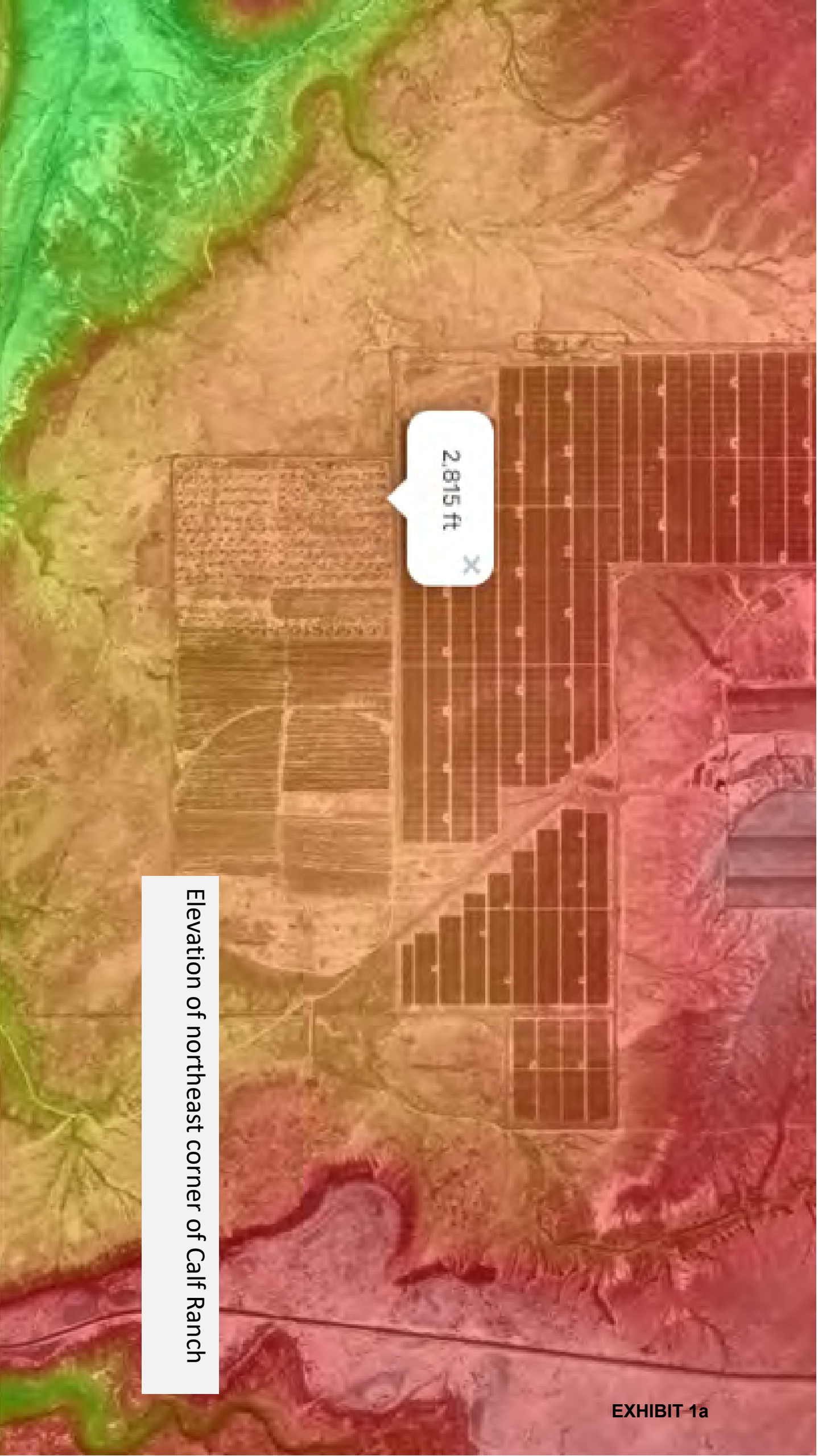


Photo #3 denoted on Map: Picture from top of bluff near 2900 ft in elevation. Facing southwest toward highway 167 and the calf ranch.



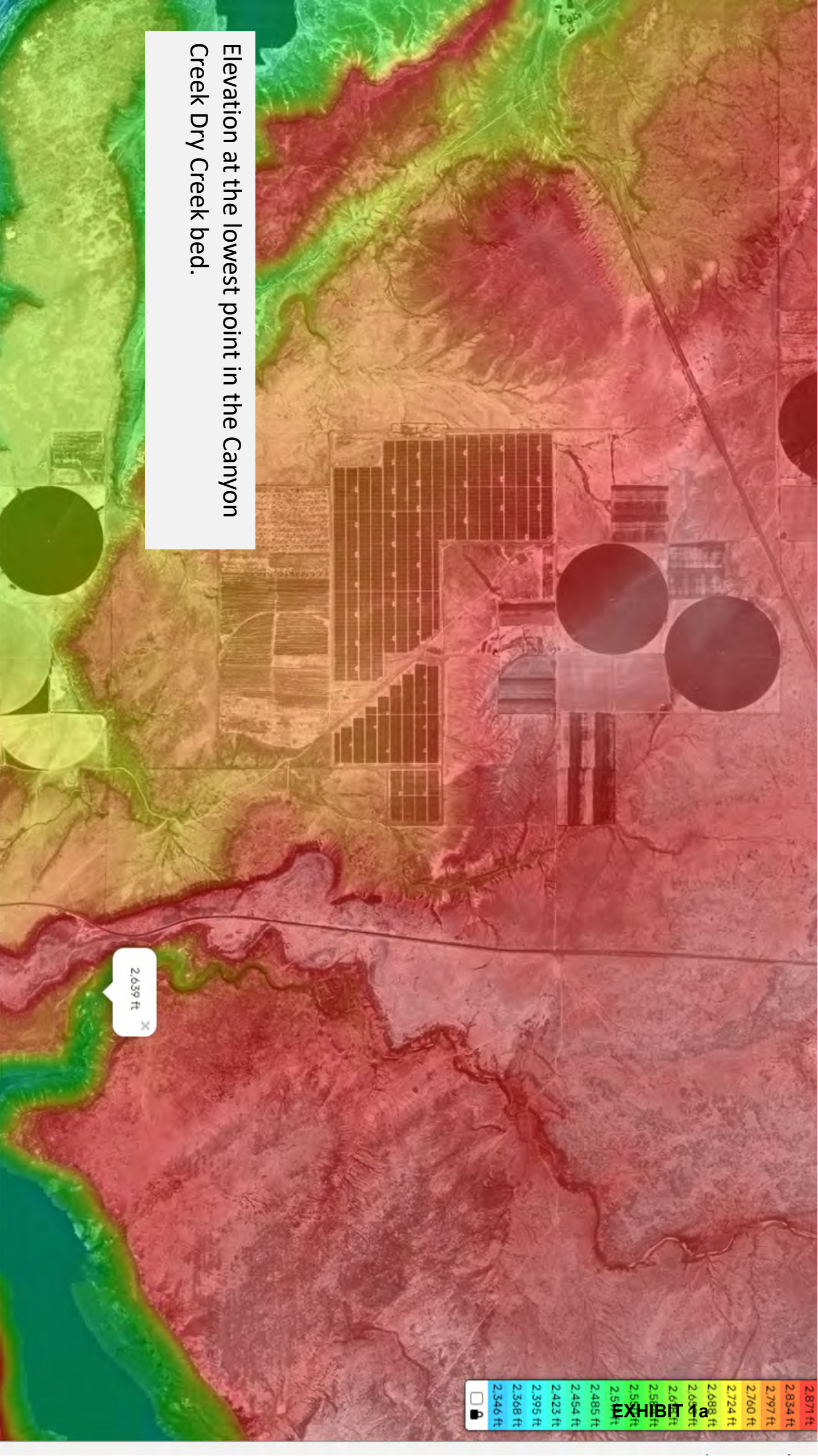
Photo #4 denoted on Map: Picture from calf ranch facing northeast. Picture shows the bluff between Canyon Creek and the calf ranch. Strike dam road runs along his bluff and the power lines follow that road.



2,815 ft



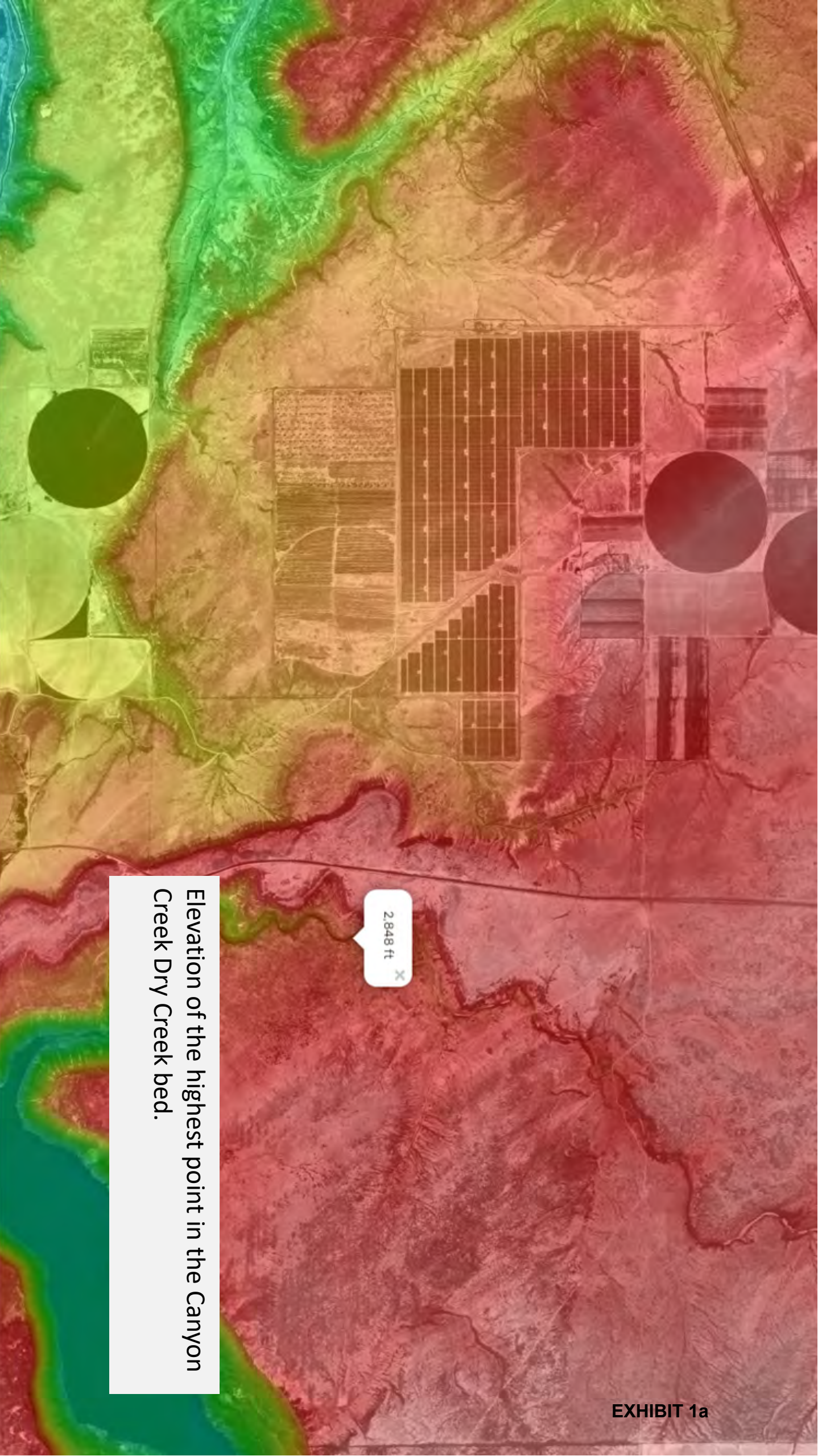
Elevation of northeast corner of Calf Ranch



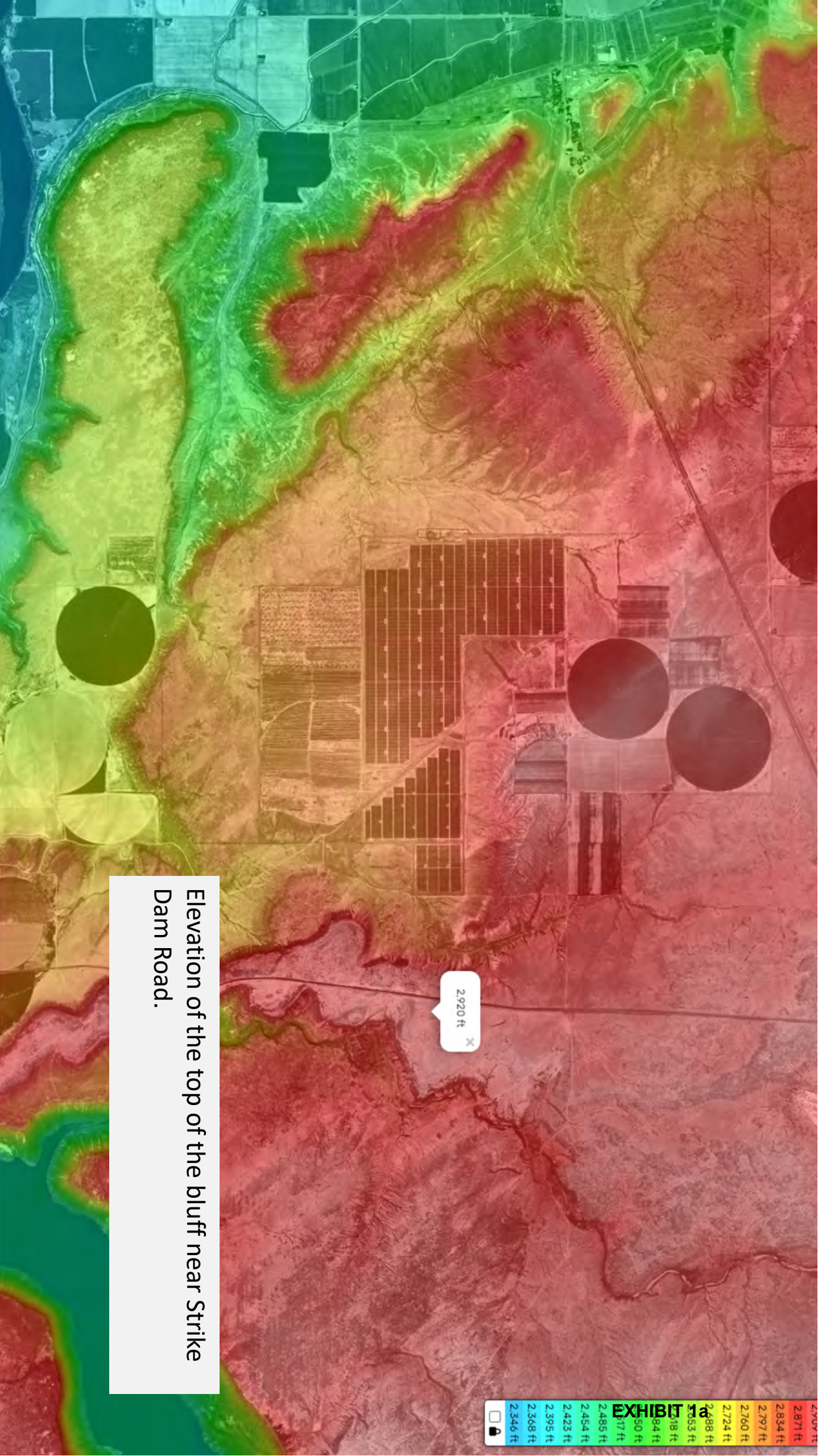
Elevation at the lowest point in the Canyon
Creek Dry Creek bed.

2,639 ft





Elevation of the highest point in the Canyon
Creek Dry Creek bed.



- 2,907 ft
- 2,871 ft
- 2,834 ft
- 2,797 ft
- 2,760 ft
- 2,724 ft
- 2,688 ft
- 2,653 ft
- 2,618 ft
- 2,584 ft
- 2,550 ft
- 2,517 ft
- 2,485 ft
- 2,454 ft
- 2,423 ft
- 2,395 ft
- 2,368 ft
- 2,346 ft

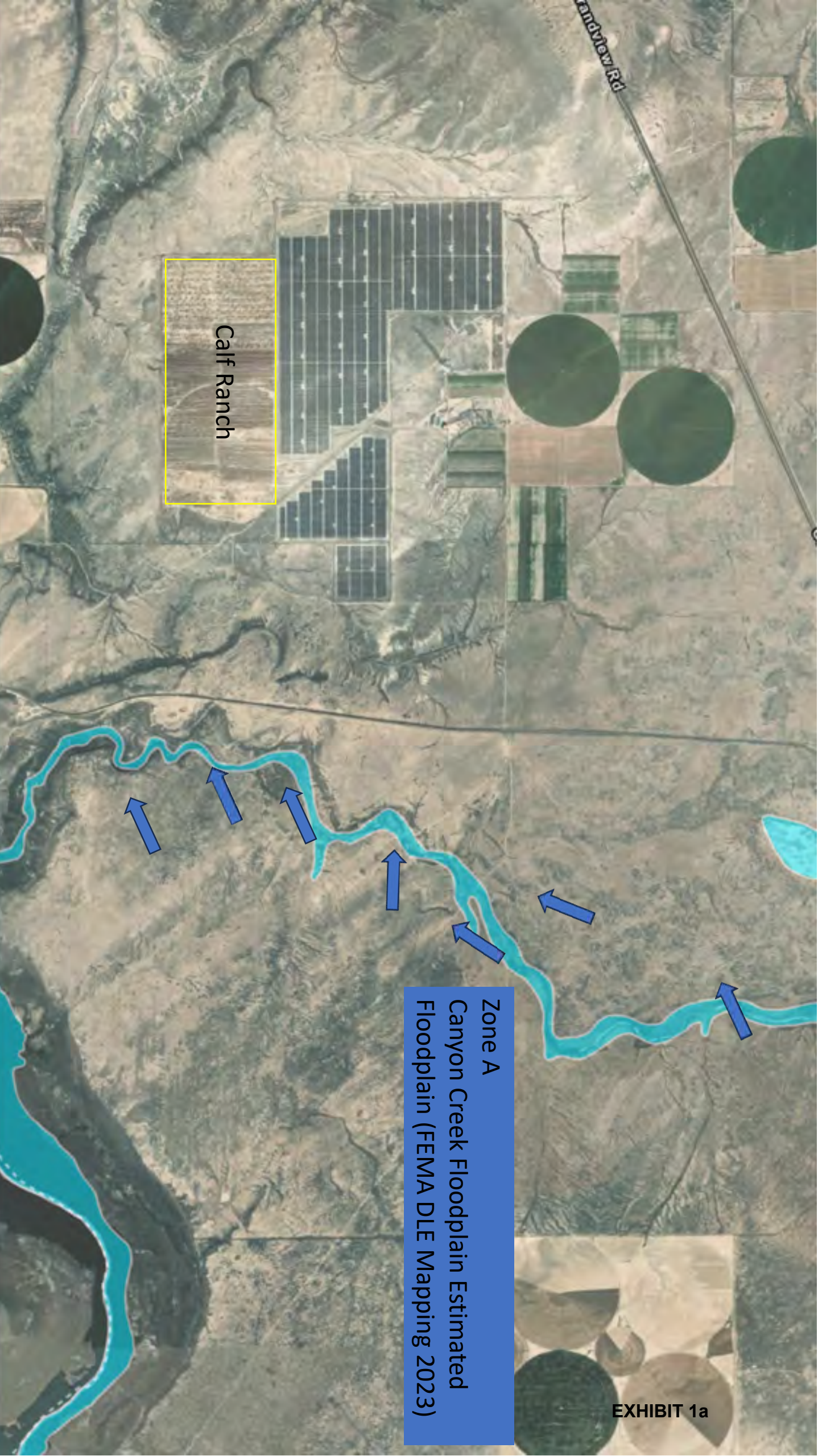
Elevation of the top of the bluff near Strike Dam Road.



Calf Ranch

Zone A Canyon Creek Floodplain A
Effective Floodplain map (FEMA DLE
mapping 2024)

EXHIBIT 1a



Calf Ranch

Zone A
Canyon Creek Floodplain Estimated
Floodplain (FEMA DLE Mapping 2023)

Base Level Engineering (BLE) is an automated map-modeling process that allows FEMA to produce a "first-level" approximation of the hydrology, hydraulics, and flood risk potential over broad areas using the most recent and best available data.

When FEMA is beginning a flood study for a community, the BLE can also provide a valuable reference as an early indicator of potential flood analysis results, modeling, or flood boundary changes. The Estimated Floodplains and associated data (e.g. 1 percent annual chance Water Surface Elevations) can provide an early opportunity to reveal areas where a detailed analysis or model refinements may be required.

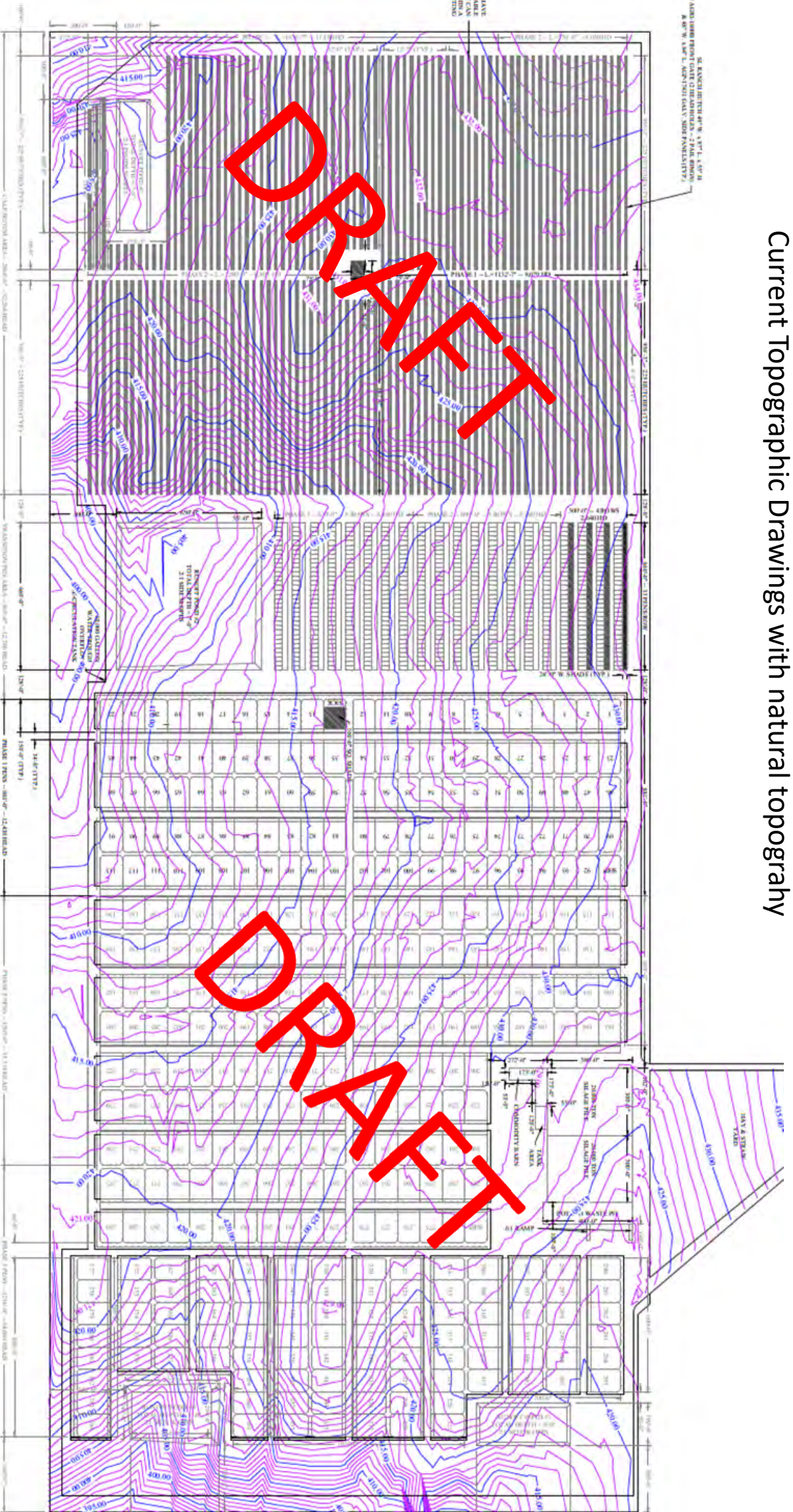
This study was conducted in 2023 and 2024 and the previous two maps were generated on this site:

Esri. (n.d.). *Estimated floodplains*. ArcGIS Experience. Retrieved October 8, 2024, from <https://experience.arcgis.com/experience/1a6bd4203b364642b60537b6c3485ac5/page/Estimated-Floodplains/>

Current Topographic Drawings with natural topography

NO. 43281 (2018) PROJECT NO. 18-0001-001
SHEET NO. 18-0001-001-001 (1 OF 1)
DATE: 11/15/2018

REVISIONS TO THIS DRAWING
DATE: 11/15/2018
BY: [UNRECOGNIZABLE]
REASON: [UNRECOGNIZABLE]



Simplot Land and Livestock
1307 Highway 67
Grand View, ID 83624

September 4, 2024

To: Property Owner

You are invited to attend a neighborhood meeting on September 14, 2024, at 10:00 a.m. The meeting is to inform property owners of variance applications to the approved confined animal feeding operation CUP 2024-08. The variances to be discussed will include variance of the one and one-half mile setback from the Zone A floodplain and variance from locating an animal waste management system within 300 feet of a property line. Your comments are greatly appreciated as we move forward with our variance application.

The meeting will be held at Simplot Land and Livestock Office, 1307 Highway 67 starting at 10:00 a.m.

Warm Regards



David Modde

Environmental Manager
(208)590 9141

257482

ELMORE COUNTY, IDAHO 50 #564

at of GUARANTY TITLE, INC.

Time 2:53 P.M.

Date February 12, 1990

Book

Page

By RAMONA YRAZABAL

By Merla L Becker Deputy

Fee \$9.00

WARRANTY DEED

GRANTOR, CARL E. NICHOLSON and BLANCHE NICHOLSON, husband and wife, of Meridian, County of Ada, State of Idaho, for a good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto J.R. SIMPLOT COMPANY, whose current address is 999 Main Street, Suite 1300, County of Ada, State of Idaho as GRANTEE, and to grantee's heirs and assigns forever, all of the following described real estate located in County of Elmore, State of Idaho:

TRACT I

TOWNSHIP 4 SOUTH, RANGE 4 EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

SECTION 31: S $\frac{1}{2}$ SE $\frac{1}{2}$

TOWNSHIP 5 SOUTH, RANGE 4 EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

SECTION 4: NW $\frac{1}{4}$ SW $\frac{1}{4}$

SECTION 5: E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$
NW $\frac{1}{4}$ SW $\frac{1}{4}$ AND LOT 4

SECTION 6: LOTS 1 AND 2

TRACT II

TOWNSHIP 5 SOUTH, RANGE 4 EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

SECTION 6: S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$

SECTION 7: E $\frac{1}{2}$ NE $\frac{1}{4}$

SECTION 8: N $\frac{1}{2}$

TOGETHER with all improvements, water, water rights, ditches, ditch rights, easements, hereditaments and appurtenances, specifically including but not limited to all mineral rights, hydrocarbon rights, geothermal rights, grazing rights, water rights, and any and all additional rights SUBJECT TO reservations of mineral rights in the U.S. Government's patents on the property.

Grantors, for themselves, their heirs and assigns do hereby covenant, warranty and shall defend the quiet and peaceable possession of said premises by the grantee, its successors, heirs and assigns forever against the lawful claims of all persons.

Thomas T. Nicholson and Carl V. Nicholson are executing this document as well in order to confirm that all water rights appurtenant to the premises are transferred to the Grantee.

In construing this deed, and where the context so requires, the singular includes the plural and the masculine, the feminine and the neuter.

IN WITNESS WHEREOF, Grantors have hereunto subscribed their name to this instrument this 8 day of February, 1990.

Carl E. Nicholson
Carl E. Nicholson

Blanche Nicholson
Blanche Nicholson

Thomas T. Nicholson
Thomas T. Nicholson

Carl V. Nicholson
Carl V. Nicholson

STATE OF IDAHO)
) ss:
COUNTY OF ADA)

On this 8 day of February, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared CARL E. NICHOLSON and BLANCHE NICHOLSON, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.



11/20/2024

Mitra Mehta-Cooper
Director, Elmore County Planning and Zoning Department
520 East 2nd South
Mountain Home, Idaho 83647
mmehtacopper@elmorecounty.org

Sent via email

Elizabeth Allen
Owner/Principal Planner
Bristlecone Land Use Consulting
elizabeth@bristleconelanduseconsulting.com

Sent via email

Re: VAR-2024-05 Staff Report

Ms Mehta-Cooper and Ms Allen,

This letter is in response to VAR-2024-05 Staff Report for the November 21, 2024 public hearing. Simplot would like to provide additional information regarding the undue hardship created by the flood plain setbacks on the Nicholson property I am pleased the Staff Report found that the proposed CAFO would not negatively affect public health, safety or welfare because of the unique topographic features of the property.

In terms of undue hardship caused by the setback requirements, Simplot considered several alternative sites within Elmore County. However, all alternative sites had characteristics that made them not feasible for a CAFO compared to the Nicholson farm site. Some of those characteristics were smaller acreage, proximity to floodplain zones, and distance from Simplot's other supporting operations. Therefore, the Nicholson property was the only viable alternative site for a CAFO and it would cause undue hardship to Simplot if that property cannot be a site for the CAFO.

In terms of the Nicholson property itself, the Staff Report asserted that no evidence has been provided to explain why the site could not be adjusted to meet the floodplain setback. It is important to note that approximately 50% of the Nicholson property lies outside of the 1.5 mile floodplain setback. Because of the configuration of the property, facility designs that do not encroach on the setback, would similarly reduce the capacity of the proposed CAFO by approximately 50%. This reduction in capacity substantially reduces or eliminates the economic viability of the CAFO and therefore creates an undue hardship. Even if another site could be found which could make up the additional 50% lost capacity (which is doubtful), having two separate CAFOs substantially adds to siting and operational costs placing undue hardship on Simplot.





Alternatively, we note that Elmore County Amended Zoning and Development Ordinance 7-12-7(D) states “Exemption to Site Setbacks: Certain land parcels may not be conducive to the setback requirements due to unique locations and demographics. Where appropriate, the Commission and/or Board may grant a variance to the setback requirements pursuant to the requirements of the Ordinance.” As acknowledged by the Staff Report, the Nicholson property has unique topographic characteristics and is therefore not conducive to the floodway set back.

The proposed Nicholson CAFO site has a unique location and demographic that makes it a prime candidate for a variance. There is a ridge that runs between the proposed Nicholson CAFO site and the Canyon Creek floodplain. This ridge creates a natural barrier making it improbable if not virtually impossible for waters to comingle between the proposed CAFO and the Canyon Creek Floodplain.

Given that the proposed CAFO site meets the 3 criteria for a variance: 1) the variance does not grant a right or special privilege that is not otherwise allowed in the base zone, 2) the variance relieves an undue hardship due to characteristics of the site, and 3) the variance is not detrimental to public health, safety and welfare, Simplot requests that the Commission approve this variance.

Respectfully submitted,

David Modde
Environmental Manager
J.R. Simplot Company
208-590-9141
david.modde@simplot.com

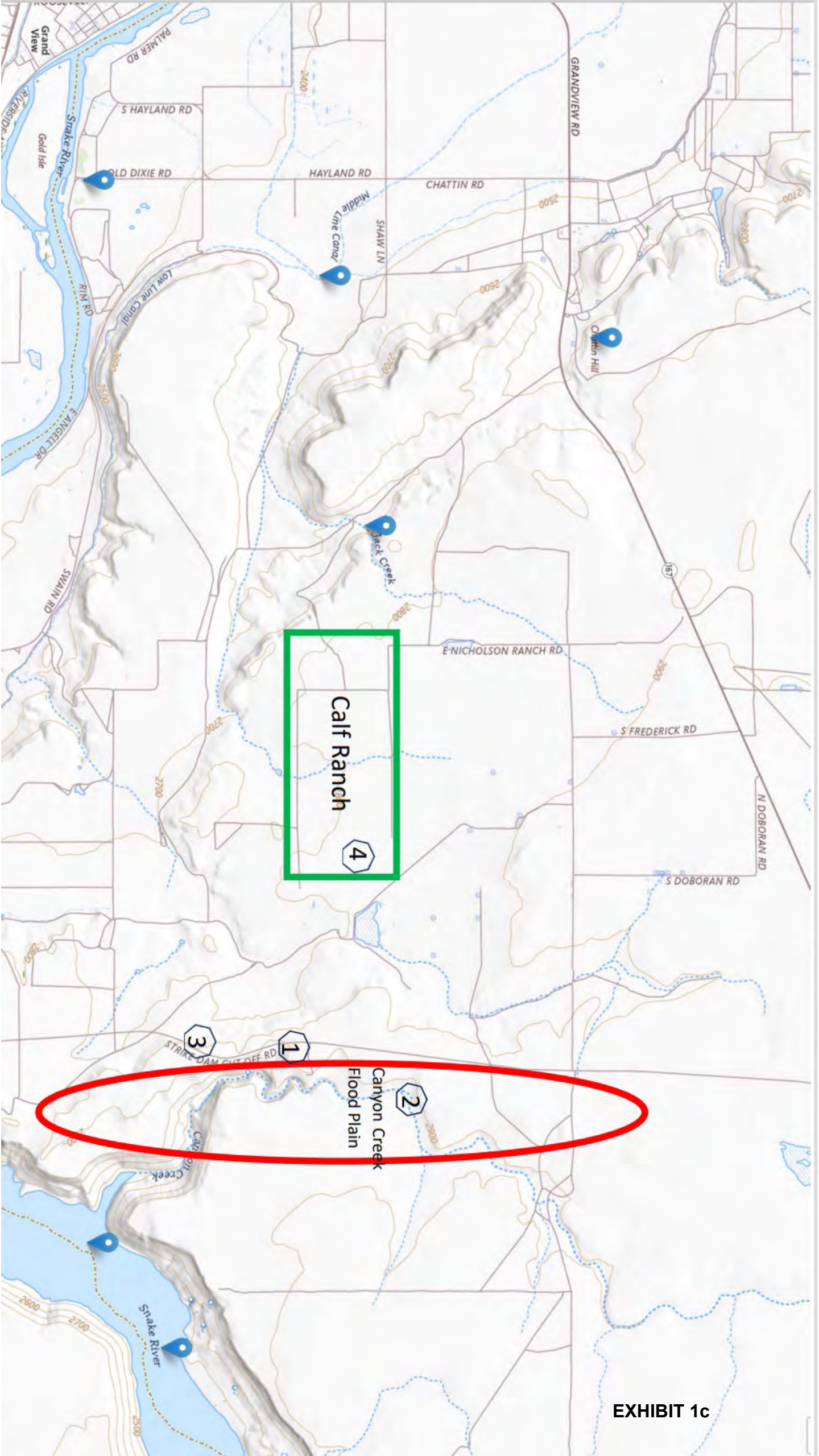
Elmore County Zoning and Development Ordinance 7-3-13 section C

EXHIBIT 1c

- C. Required Findings: In order to grant a variance, the Board shall make the following findings:
 - 1. The variance shall not grant a right or special privilege that is not otherwise allowed in the base zone; and
 - 2. The variance relieves an undue hardship due to characteristics of the site; and
 - 3. The variance shall not be detrimental to the public health, safety, and welfare.

Undue Economic Hardship

- The site location in the characteristic that creates the undue hardship
- Complying with the setback would take away 50% of the site and 50% of the capacity.
- Alternative sites were inferior for various reasons including
 - Size of the site
 - Proximity to flood plain zones
 - Distance to Simplot's supporting operations
 - Value as farmland
- Complying with the floodplain zone set backs would substantially add to siting and operational costs placing undue hardship on Simplot.
 - Site Construction costs (multiple sites)
 - Increased Operational Costs
 - Increased infrastructure costs – Water, electricity, etc
 - Duplicate Labor



Calf Ranch
4

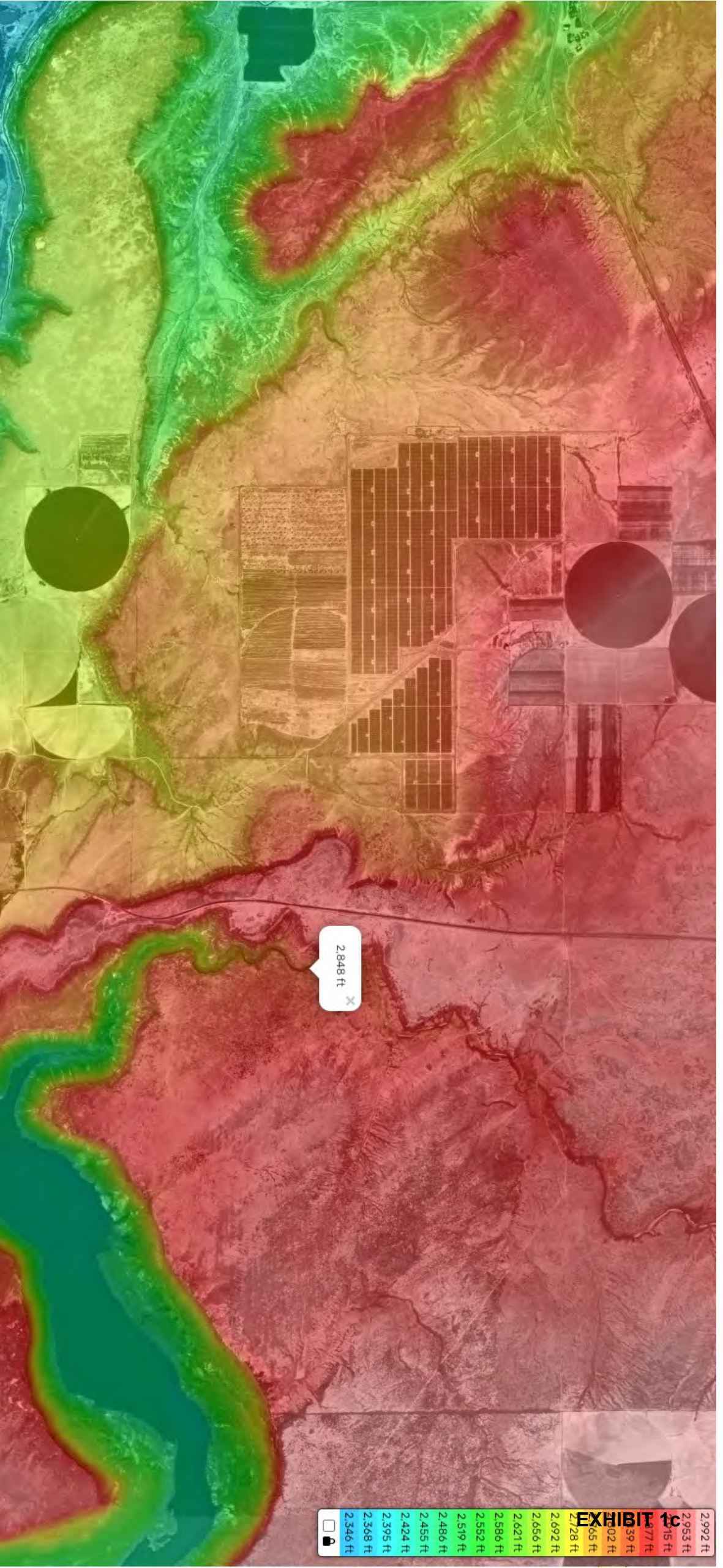
Canyon Creek
Flood Plain
2

EXHIBIT 1c



Calf Ranch

Zone A Canyon Creek Floodplain A
Effective Floodplain map (FEMA DLE
mapping 2024)



2,992 ft
2,953 ft
2,915 ft
2,877 ft
2,839 ft
2,802 ft
2,765 ft
2,728 ft
2,692 ft
2,656 ft
2,621 ft
2,586 ft
2,552 ft
2,519 ft
2,486 ft
2,455 ft
2,424 ft
2,395 ft
2,368 ft
2,346 ft

EXHIBIT 1c

2,848 ft

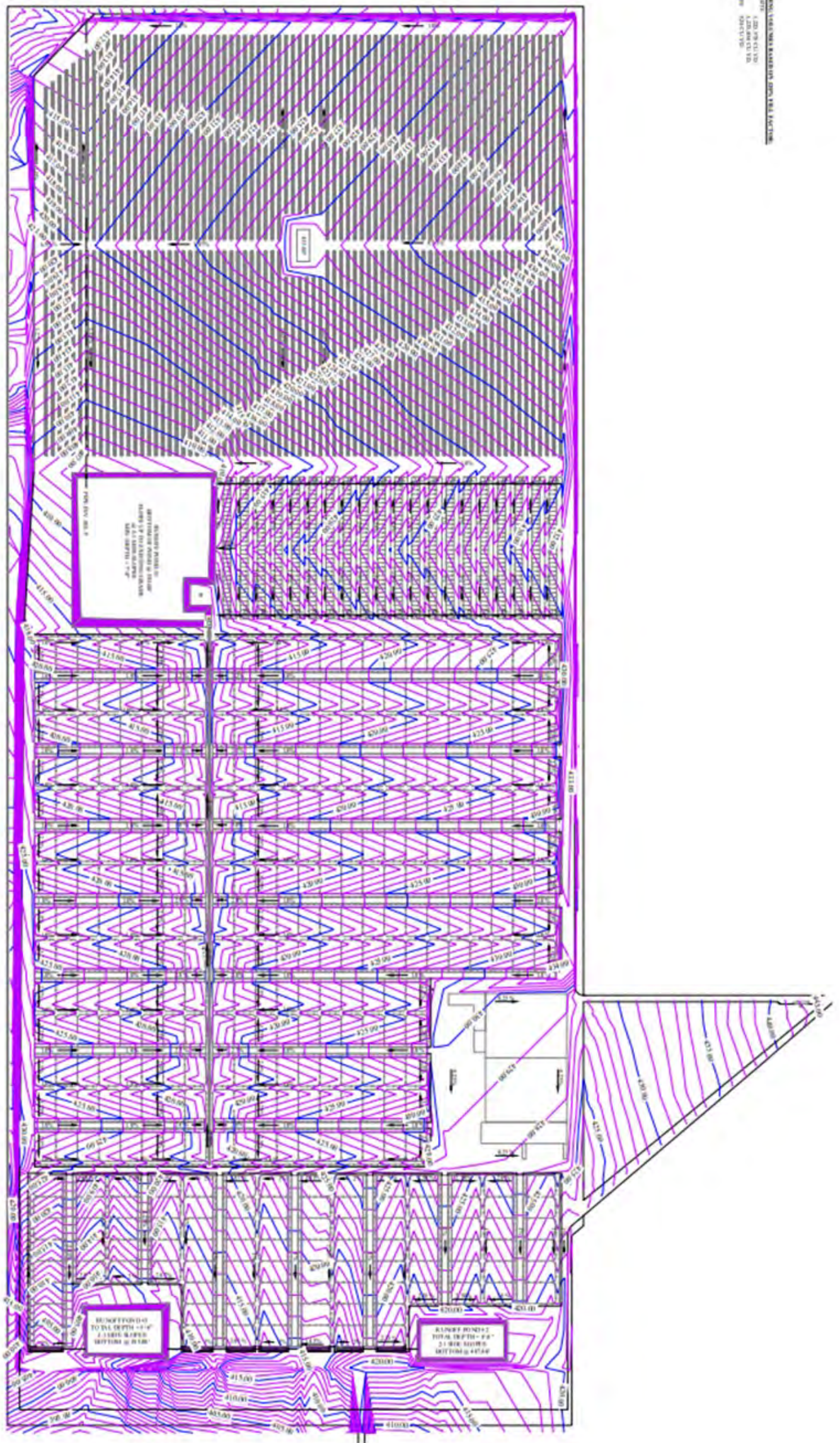
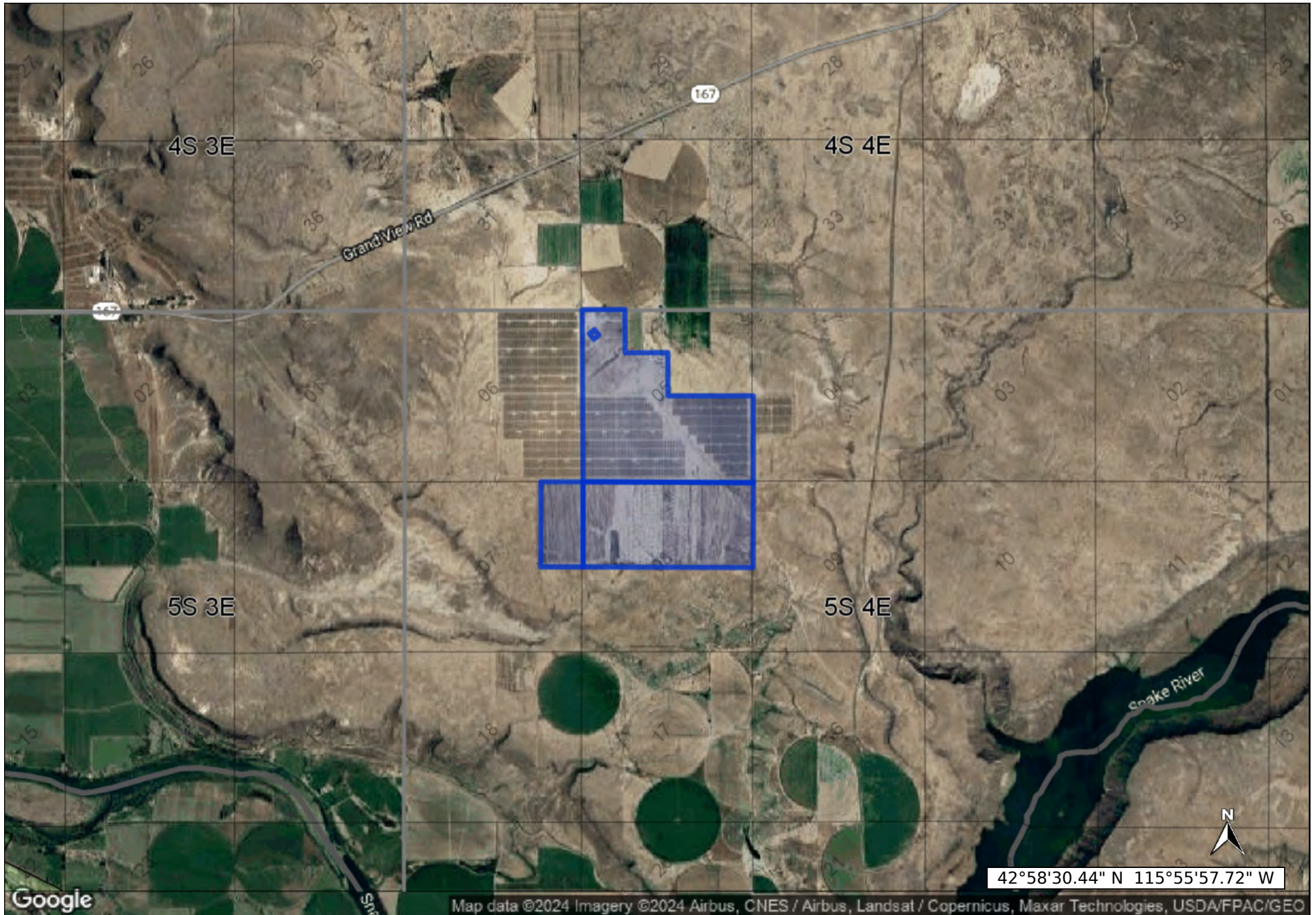


EXHIBIT 1c

Exhibit 2

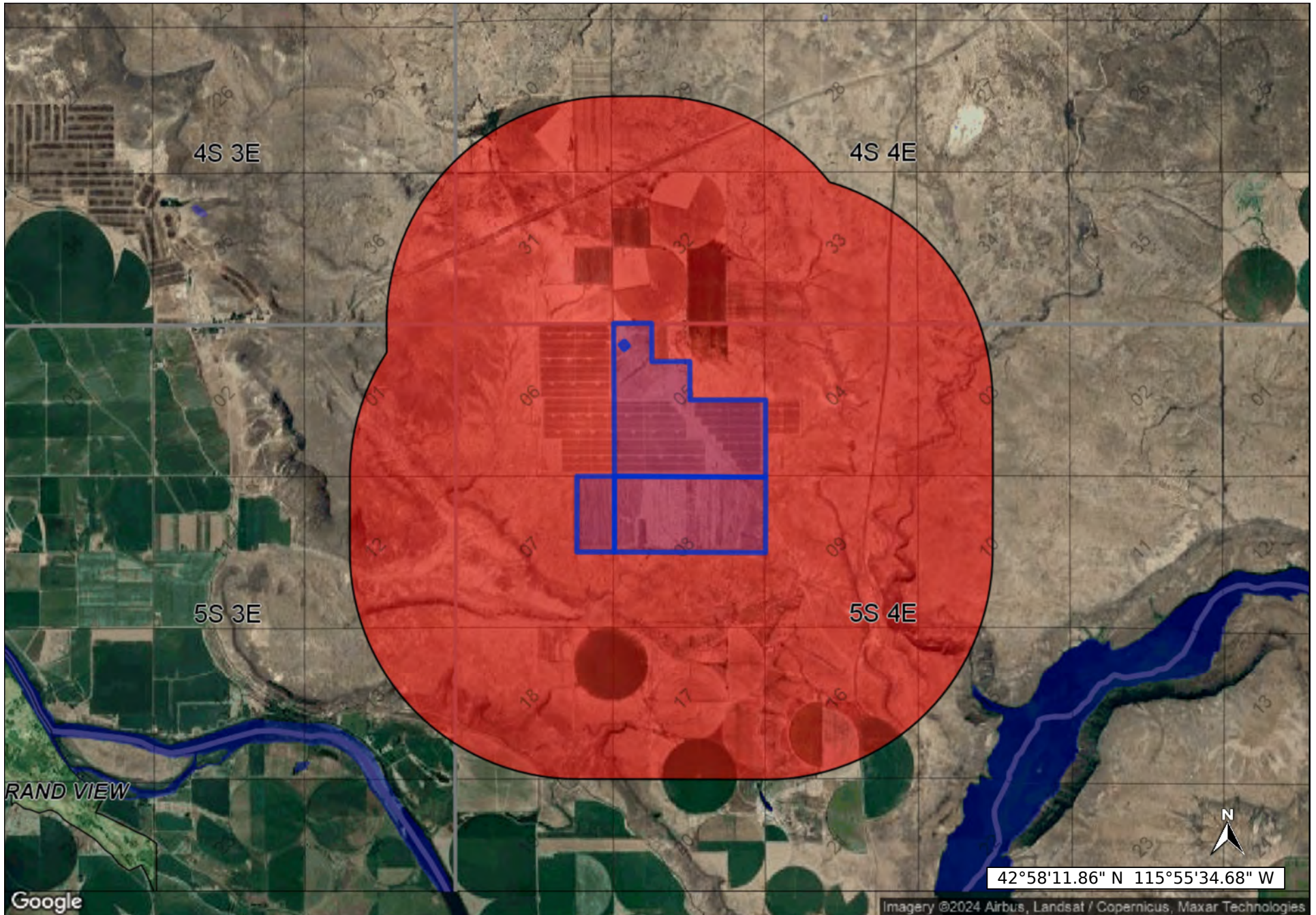
Maps and Images

- a. Vicinity Map**
- b. 1 ½ Radius Map**
- c. Site Photos**





landproDATA PDF



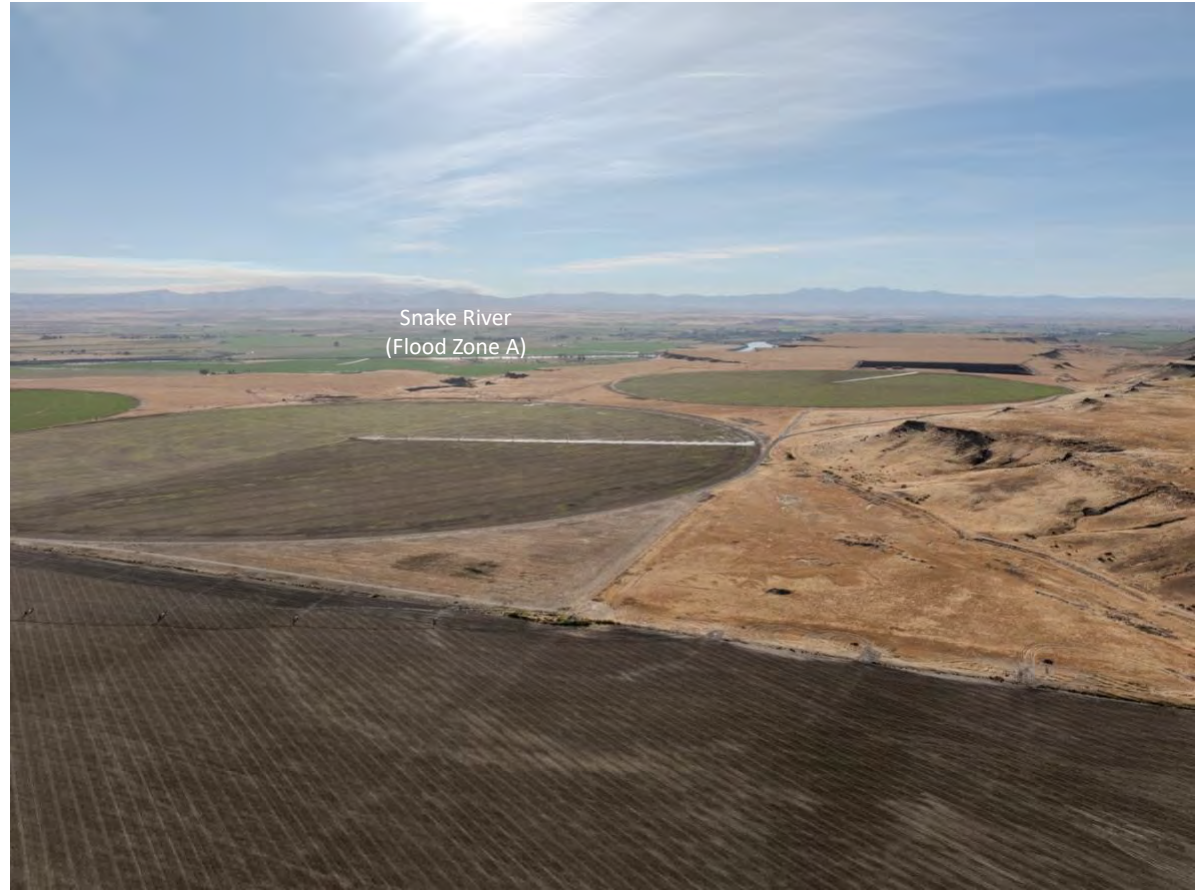


Image 1. This image is looking west from the area south of the CAFO showing farmland with the Snake River in the distance (approximately two miles away).



Image 2. This image is looking south from the area south of the CAFO showing neighboring farmland and desert.



Image 3. This image is looking east from south of the CAFO showing desert and farmland. SW Strike Dam Road runs between the site and Canyon Creek (flood zone A).



Image 4. This image is looking northeast from the south showing the adjacent solar operation and desert. SW Strike Dam Road runs between the site and Canyon Creek (Flood zone A).



Image 5. This image is looking north at the CAFO from the south showing neighboring farmland and the CAFO.



Image 6. This image is looking northwest at the CAFO from the south showing neighboring farmland and the CAFO.

Exhibit 3

Public Hearing Notices

- a. Agency Notice
- b. Newspaper Notice
- c. Neighborhood Notice
- d. Site Posting



Land Use and Building Department

520 East 2nd South Street
Mountain Home, Id. 83647
Phone: (208) 587-2142 ext. 1256
Fax: (208) 587-2120
www.elmorecounty.org

Mitra Mehta-Cooper,
Director

Kacey Ramsauer,
Planner

David Abrahamson,
Planner

Johnny Hernandez,
Building Official

Colton Janousek,
Building Inspector

James Roddin,
*Administrative
Manager/Code
Enforcement*

Sandra Nuner,
Permit Technician

Alyssa Nieto,
*Administrative
Assistant*

Date: November 25, 2024
To: Whom It May Concern
Subject: Notice of Public Hearing
Case #: VAR-2024-05
Applicant: J.R. Simplot Company Land & Livestock

Proposal: The applicant has applied for a Variance of Elmore County Ordinance Confined Animal Feeding Operations floodplain setback to allow a Concentrated Animal Feeding Operation within the one and one-half (1 ½) mile floodplain setback required in Elmore County Zoning Ordinance §7-12-7 Confined Animal Feeding Operations. The subject parcels include RP05S04E0800100, RP05S04E070010, and RP05S04E053030. The site is accessed via Frederick Road from State Highway 167. The subject lands are not addressed and are located northeast of Grand View, as shown in the image and described below:

Tract I

Township 4 South, Range 4 East, Boise Meridian, Elmore County
Section 31, S ½ SE ¼;
Township 5 South Range 4 East, Boise Meridian, Elmore County
Section 4: NW ¼ SW ¼
Section 5: E ½ SW ¼, SE ¼, S ½ NW ¼, NW ¼ SW ¼ and Lot 4
Section 6: Lots 1 and 2

Tract II

Township 5 South, Range 4 East, Boise Meridian, Elmore County
Section 6: S ½ NE ¼, SE ¼
Section 7: E ½ NE ¼
Section 8: N ½



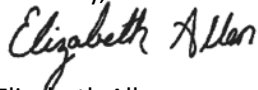
At a public hearing on Thursday, November 21, 2024, after staff presentation, public testimony, and deliberations, the Planning and Zoning Commission recommended approval with conditions to the Board of County Commissioners.

A public hearing will be held before the Board of County Commissioners on the proposed changes. The hearing is scheduled for **Friday, December 20, 2024, at 1:30 p.m.** in the Commissioners Hearing Room located in the basement of the Elmore County Courthouse at 150 S 4th E St., Mountain Home, Idaho

Please review the attached application and return your written comments to the Elmore County Land Use and Building Department, 520 East 2nd South Street, Mountain Home, ID 83647, by 5 p.m. on Friday, October 13, 2024, or email them to planners@elmorecounty.org so your comments are included in the staff report. If you prefer, please come to the hearing to testify before the Commission.

The Elmore County Board of Commissioners is responsible for ensuring compliance with the American Disabilities Act of 1990 (ADA). Any person needing special accommodations to participate in the public hearing should contact the Elmore County ADA Coordinator, Kacey Ramsauer, 24 hours prior to the Public Hearing at 208-598-5247 ext. 1254, via email kramsauer@elmorecounty.org or in person at 520 East 2nd South Street, Mountain Home, Idaho.

Sincerely,



Elizabeth Allen

Consulting Planner for Elmore County Land Use and Building Department
Bristlecone Land Use Consulting
elizabeth@bristleconelanduseconsulting.com
907-978-3439

Enclosures for Agencies: Application Materials

CC:
Aspen Engineers, Chartered
Dept of Environmental Quality Boise Reg
Federal Emergency Management Agency
Idaho Army National Guard
Idaho State Department of Agriculture
Idaho Department of Water Resources
Bureau of Land Management
Central District Health Department
Elmore County Assessor
Idaho Department of Lands



Elmore County Land Use & Building Department

520 East 2nd South Street
Mountain Home, ID 83647
Phone: (208) 587-2142 Fax: (208) 587-2120

Application for a Variance

Fee: \$400.00

This application must comply with the process and standards of **Section 6-3-10** or the Elmore County Zoning and Development Ordinance and Idaho code **Section 67-6516**. This application must be typed or filled out in ink. The Land Use & Building Department does not accept faxed applications. Please attach and reference additional sheets of paper if necessary.

Applicant:

David Modde	2085909141 david.modde@simplot.com
Name	Phone/Fax/Email
1301 Highway 67	Grand View, ID, 83624
Street Address	City, State, Zip

Property Owner:

J.R. Simplot	2088342231
Name	Phone/Fax/Email
1301 Highway 67	Grand View, ID, 83624
Street Address	City, State, Zip

Legal Description of property: Please see attached deed

Common Directions from a known point: turn off highway 67 on to Nicholson road, follow road to termination.

Current Zoning? Agriculture

Is the property located within an Area of City Impact? Y / N If so, which one? _____

Is the property located within a Fire District? Y / N If so, which one? Grand View

Is the property located within an Area of Critical Concern? Y / N

Is the property located within a Flood Zone? Y / N

Agency Comments & Signatures

Notes for agency signatures.

1. It is recommended that applicants set up appointments with the following agencies once the application is complete with all required information.
2. Agency signature does not guarantee any future approvals.
3. Agencies may attach additional sheets of paper for comment and/or conditions if necessary.
4. Agencies may have additional comments and/or conditions at a later time.

Bruce W. Cooper 7/10/24

 Central District Health (or other Sewer District) Sewer Permit (580-6003) Date

Comment: CDH has no objection to the variance, < 1.5 miles to flood zone.

Lee Lee MHHD 8-28-24

 Roadway Jurisdiction (MHHD 587-3211) (GFHD 366-7744) (AHD 864-2115) Date

Comment: _____

[Signature] 7-9-24 GVFD

 Fire District (MHRFD 587-2115) (Sasis 788-2115) (GFFD 366-2689) (BGRFD 834-2511) (AFD 2182) Date

Comments: _____

[Signature] July 9, 2024

 Assessor's Office (Verify Legal Description) (ext. 247) Date

Comments: _____

[Signature] 7-9-2024

 Treasurer's Office (Verify Tax Status) (ext. 501) Date

Comments: 2023 P.I.F

Please Contact IDE!

NOTICE TO APPLICANT

A neighborhood meeting must be conducted prior to submitting application. Requirements for neighborhood meetings are outlined in Elmore County Zoning and Development Ordinance Chapter 4 Section 6-4-3.

The Planning and Zoning Commission shall hold a public hearing on a Variance application. The public hearing(s) will only be scheduled once the application is complete. The Land Use and Building Department has the discretion to schedule the hearing agencies and department staff has adequate time to review the applications.

The Land Use & Building Department will mail public hearing notices to the property owners or purchasers of records and to any other agencies that may have an interest in the proposal. A Notice of Public Hearing will be published in the Mountain Home News at least 15-days prior to the public hearing. The Land Use & Building Department will post notice of the hearing on the premises not less than seven (7) days prior to the hearing. The applicant will be given notice of the hearing and must be present.

Section 6-3-11: Variances:

Applications for floodplain variance shall comply with the regulations of the Floodplain Chapter within this Title and are not subject to the regulations of this variance section within this Title.

A. Process:

1. The applicant shall complete a pre-application conference with the Director prior to submittal of an application for a variance; and

For Administrative Use Only

File Number: VAR- 2024-05

Fee: \$400.00 Date Paid: 9-16-2024

Receipt Number: paid

Date Accepted: 9-16-2024 By: Allyssa



ELMORE COUNTY LAND USE & BUILDING DEPARTMENT

520 East 2nd South • Mountain Home, ID • 83647 • Phone: (208) 587-2142

Fax: (208) 587-2120 • www.elmorecounty.org

Neighborhood Meeting Sign Up Sheet

Date of Neighborhood Meeting: September 14, 2024

Start Time of Neighborhood Meeting: 10:00 a.m.

End Time of the Neighborhood Meeting: 11:00 a.m.

Location of Meeting: Simplot L&L Conference room Grand View, ID

Description of the proposed project: The original project is CUP 2024-04 CAFO was approved with the condition that a variance is needed as the project is located within the 1.5 mile setback for Zone A flood plain.

Notice Sent to neighbors on: September 4, 2024

Location of the neighborhood meeting: 1301 Highway 67, Grand View, ID 83624

Attendees:

<u>Name</u>	<u>Address</u>
1. David Modde	1301 Highway 67, Grand View, ID 83624
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

- 11. _____
- 12. _____
- 13. _____
- 14. _____
- 15. _____
- 16. _____
- 17. _____
- 18. _____
- 19. _____
- 20. _____

Neighborhood Meeting Certification:

Applicants shall conduct a neighborhood meeting for comprehensive plan amendments, variance, conditional uses, zoning ordinance map amendments and expansions or extensions of nonconforming uses as per Elmore County Zoning and Development Ordinance Title 7 Chapter 3 Section 7-3-3.

Applicant:

Name: David Modde

Address: 1301 Highway 67

City: Grand View State: ID Zip: 83624

Telephone: 2085909141 Fax: _____

I certify that a neighborhood meeting was conducted at the time and location noted on this form and in accord with the Elmore County Zoning and Development Ordinance Title 7 Chapter 3 Section 7-3-3.

David E Modde

4-16-2024

Signature: (Applicant)

Date

Simplot Land and Livestock
1307 Highway 67
Grand View, ID 83624

September 5, 2024

To: Property Owner

You are invited to attend a neighborhood meeting on September 14, 2024, at 10:00 a.m. The meeting is to inform property owners of variances applications to the approved confined animal feeding operation CUP 2024-08. The variances to be discusses will include a flood plain within 1.5 miles of the site and setbacks of property lines for the site location final build. Your comments are greatly appreciated as me move forward with our variance application.

The meeting will be held at Simplot Land and Livestock Office, 1307 Highway 67 starting at 10:00 a.m.

Warm Regards,

David Modde

Environmental Manager
(208)590-9141

PARCEL #	OWNER	ADDRESS 1	CITY	STATE	ZIP
RP04S04E301810	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E317210	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E319010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E320610	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E329010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S04E336010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E045410	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E050610	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E053030	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E060010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E061810	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E070010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E080010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E097210	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E153210	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E167200	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP05S04E170010	SIMPLOT INDUST INC INLAND TERMINAL	P O BOX 27	BOISE	ID	83707
RP05S04E173040	WAREHOUSE CO C/O GRANDVIEW FARMS	P O BOX 27	BOISE	ID	83707
RP05S03E120010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S03E137810	J R SIMPLOT COMPANY INLAND TERMINAL	P O BOX 27	BOISE	ID	83707
RP05S04E180010	WAREHOUSE CO C/O GRANDVIEW FARMS	P O BOX 27	BOISE	ID	83707
RP05S04E186620	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E186630	J R SIMPLOT COMPANY INLAND TERMINAL	P O BOX 27	BOISE	ID	83707
RP05S04E200010	WAREHOUSE CO C/O GRANDVIEW FARMS	P O BOX 27	BOISE	ID	83707
RP05S04E213010	J R SIMPLOT COMPANY	P O BOX 27	BOISE	ID	83707
RP04S03E250010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S03E360010	STATE OF IDAHO	P O BOX 83720	BOISE	ID	83720
RP04S04E280010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E290010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E300010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E310010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E320010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E323000	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E330010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP04S04E340010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E030010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E040010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709

RP05S04E062400	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E070600	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E085400	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E090010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E100010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E160010	STATE OF IDAHO	P O BOX 83720	BOISE	ID	83720
RP05S04E170600	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E175400	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S03E010010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S03E120600	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S03E130010	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E182400	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E203000	USA IDAHO STATE OFFICE	1387 SOUTH VINNELL WAY	BOISE	ID	83709
RP05S04E053025	IDAHO POWER COMPANY	1221 W IDAHO ST	BOISE	ID	83702

Narrative

The location of the Calf Ranch has unique characteristics that make strict adherence to the zoning regulations unnecessarily burdensome. The floodplain variance is necessary to alleviate this specific hardship, which is tied to the individual nature of the property rather than an attempt to circumvent zoning laws. The purpose of variances is to allow flexibility in situations like these, where rigid enforcement would deny the property owner reasonable use without causing harm to the broader goals of the base zone. Although the property is located within 9/10 of a miles of a flood zone for regulatory purposes, the significant elevation difference and the presence of natural barriers provide an additional buffer that effectively eliminate the possibility of flood waters from Canyon Creek reaching the Calf Ranch.

The elevation gradient within and around a floodplain significantly impacts the behavior of floodwaters small variations in elevation can make a significant difference in whether a particular area is inundated. From the lowest point in the floodplain to the highest points surrounding the floodplain southeast of Canyon Creek is 80 ft higher in elevation. This elevation will act as a natural barrier. Canyon Creek Zone A floodplain crosses Idaho Highway 167 four miles north of Fredricks road and flows southeast to the Snake River. The Canyon Creek dry bed flows down the canyon that was created by centuries of erosion cutting a path to and through the Snake River Canyon with rock walls and outcroppings throughout. Dry creek beds serve a vital role in natural drainage systems, helping water flow along the path of least resistance and managing runoff, especially during storms or flood events. These channels not only divert and slow floodwaters but also protect the surrounding land from erosion. When naturally occurring, dry creek beds help maintain the landscape's hydrological balance and reduce flood risks in nearby areas. Canyon Creek is a very large dry creek bed.

While Simplot's CAFO is in proximity to a high-risk floodplain (Zone A), the natural terrain—including significant elevation barriers—provides substantial protection against flood waters reaching the CAFO. The unique topography ensures that any overflow from the Canyon Creek floodplain would require an extraordinary and highly improbable event to threaten the facility. Therefore, the CAFO's operations are expected to remain unaffected by the 100-year storm event as defined by FEMA. Given the property's elevation, there is no significant risk of flooding even in extreme weather conditions, as the water would need to rise 80 feet to escape the natural elevation barrier of the bluff on which Strike Dam Road is located.

This minimizes potential environmental impact from any stormwater from the Simplot Calf Ranch reaching the Canyon Creek Floodplain. The elevation from the bluff and highpoint near Strike Dam Road is 140 feet higher in elevation than the proposed stormwater retention ponds located on the property. Strict adherence to permits that are granted and audited by IDEQ, ISDA and EPA will ensure that our environmental impact is managed in accordance with State laws. As a portion of these permits, the storm water containment ponds will be calculated to retain a 25-year 24-hour storm event with no stormwater leaving the property. All the stormwater runoffs will be contained on the calf ranch and our operation will be a zero-release facility.

The denial of the requested variance would impose a significant and undue hardship on our planned calf ranch. The undue hardship on our operation would include financial strain and logistical disruptions. These hardships are not justified given the property's natural characteristics, which inherently reduce the flood risk.

The requested variance does not pose any threat to public health, safety, or welfare. The specific nature of the variance relates to floodplain regulations, and approval would allow the continued use of the property for agricultural purposes, including the CAFO. Importantly, health and safety aspects of these operations are already regulated by relevant state agencies.

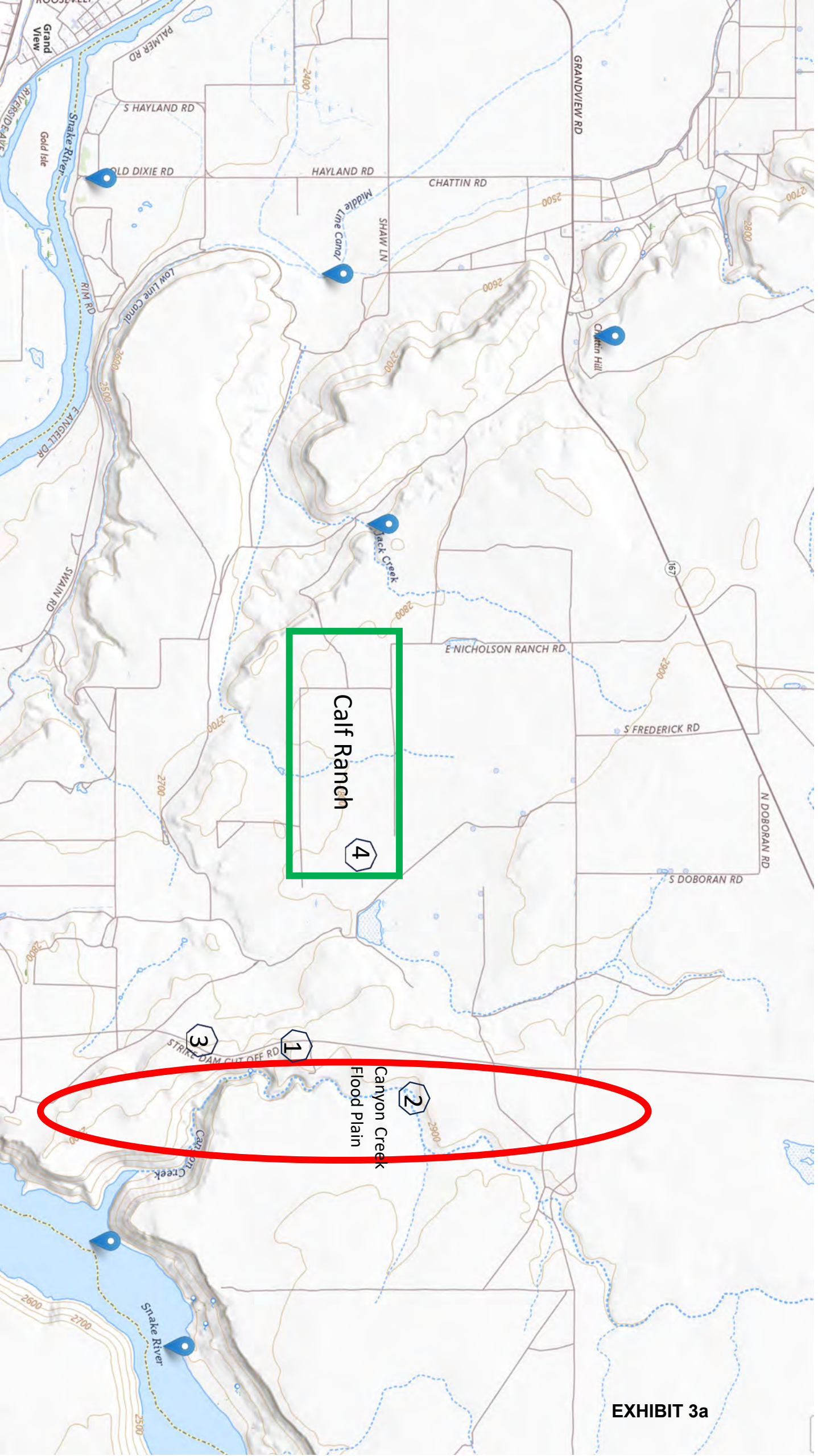
The agricultural and operational activities planned for the property, including the CAFO, are subject to stringent oversight by state agencies responsible for public health and safety. This includes regulations on water quality, animal welfare, environmental impacts, and overall farm safety. Compliance with these state-enforced standards ensures that there will be no adverse effects on the health or safety of the public because of the variance.

Agencies such as the Department of Environmental Quality (DEQ) and state health departments monitor environmental and health-related impacts of agricultural operations, ensuring that no hazards arise from water runoff, soil contamination, or other factors that could affect public welfare.

The property's zoning is strictly agricultural, and the CUP approval allows for the continued use of the land for agricultural purposes. The operations on the property, including those permitted under the CAFO, are entirely consistent with the agricultural activities for which is consistent with the base zone. Therefore, granting the variance will not lead to a deviation from the intended use of the land or zoning regulations.



Canyon Creek Floodplain Zone A



Calf Ranch
4

1
2
3
Canyon Creek
Flood Plain

EXHIBIT 3a



Photo #1 denoted on Map: Canyon Creek
Dry Creek Floodplain facing Northeast, the
canyon that feeds to the Snake River.



**Photo #2 denoted on Map: Canyon Creek
Dry Creek Floodplain from floodplain facing
Southeast from the lowest point from flood
plain looking up at the bluff.**

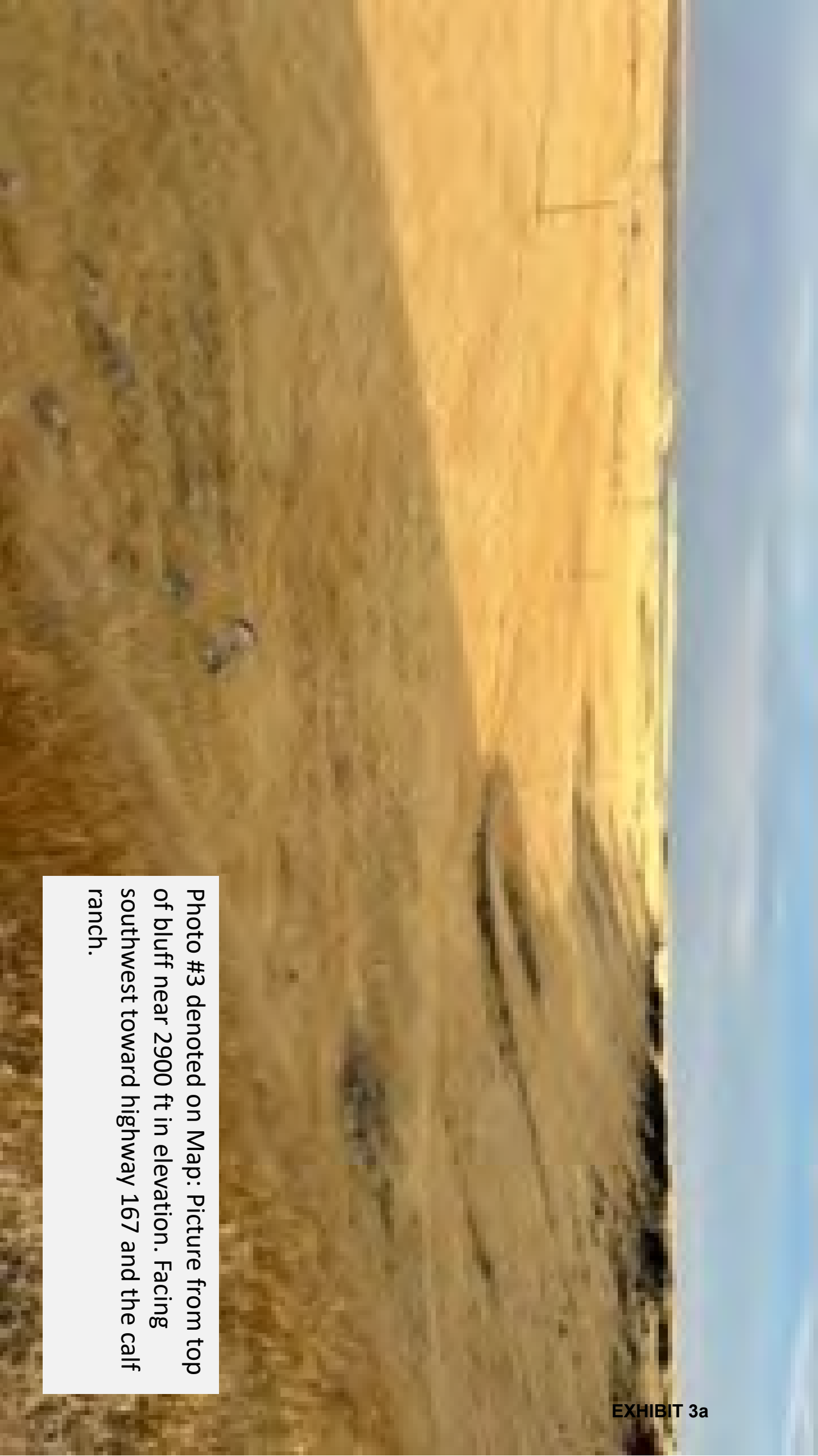
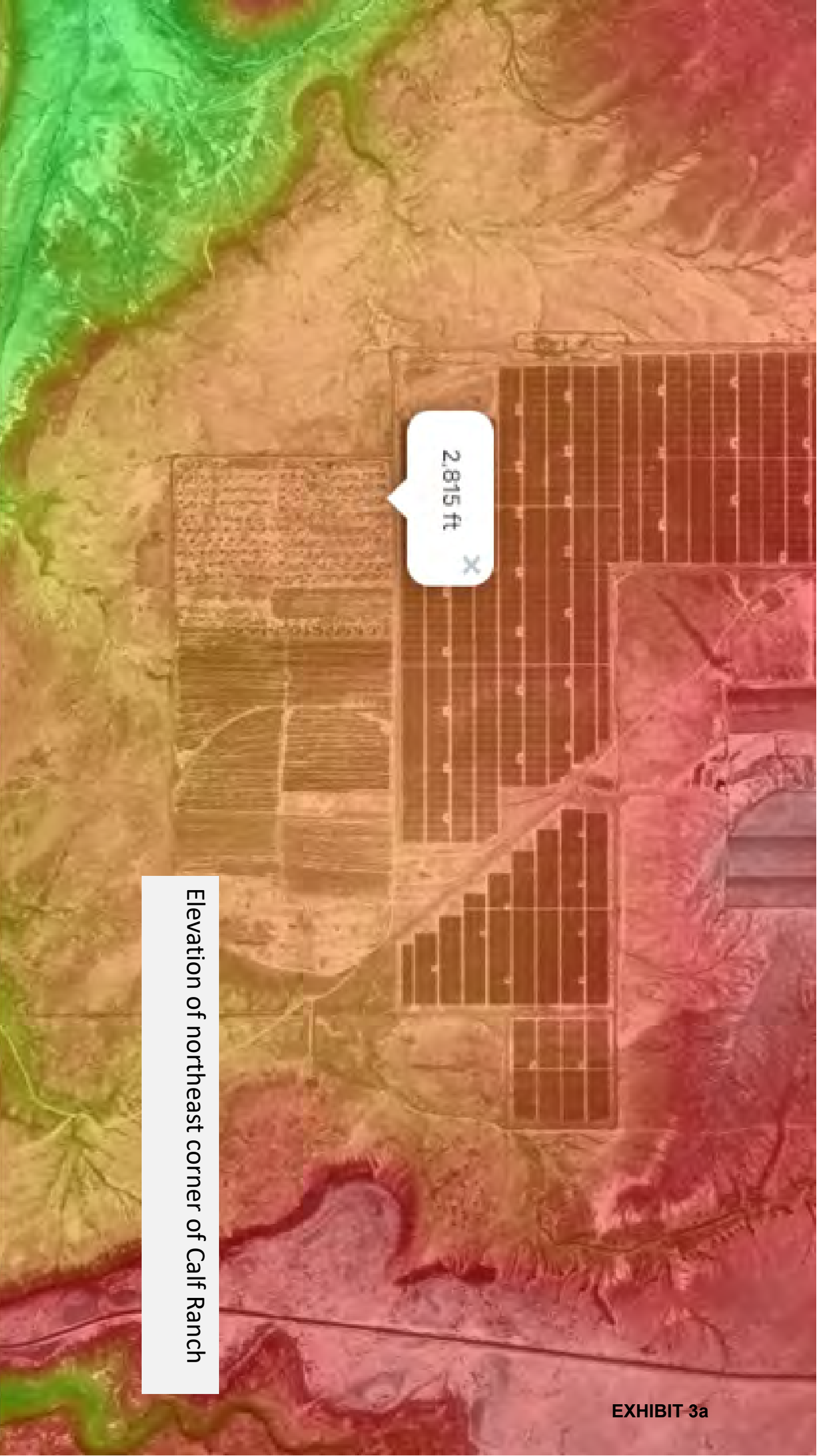


Photo #3 denoted on Map: Picture from top of bluff near 2900 ft in elevation. Facing southwest toward highway 167 and the calf ranch.



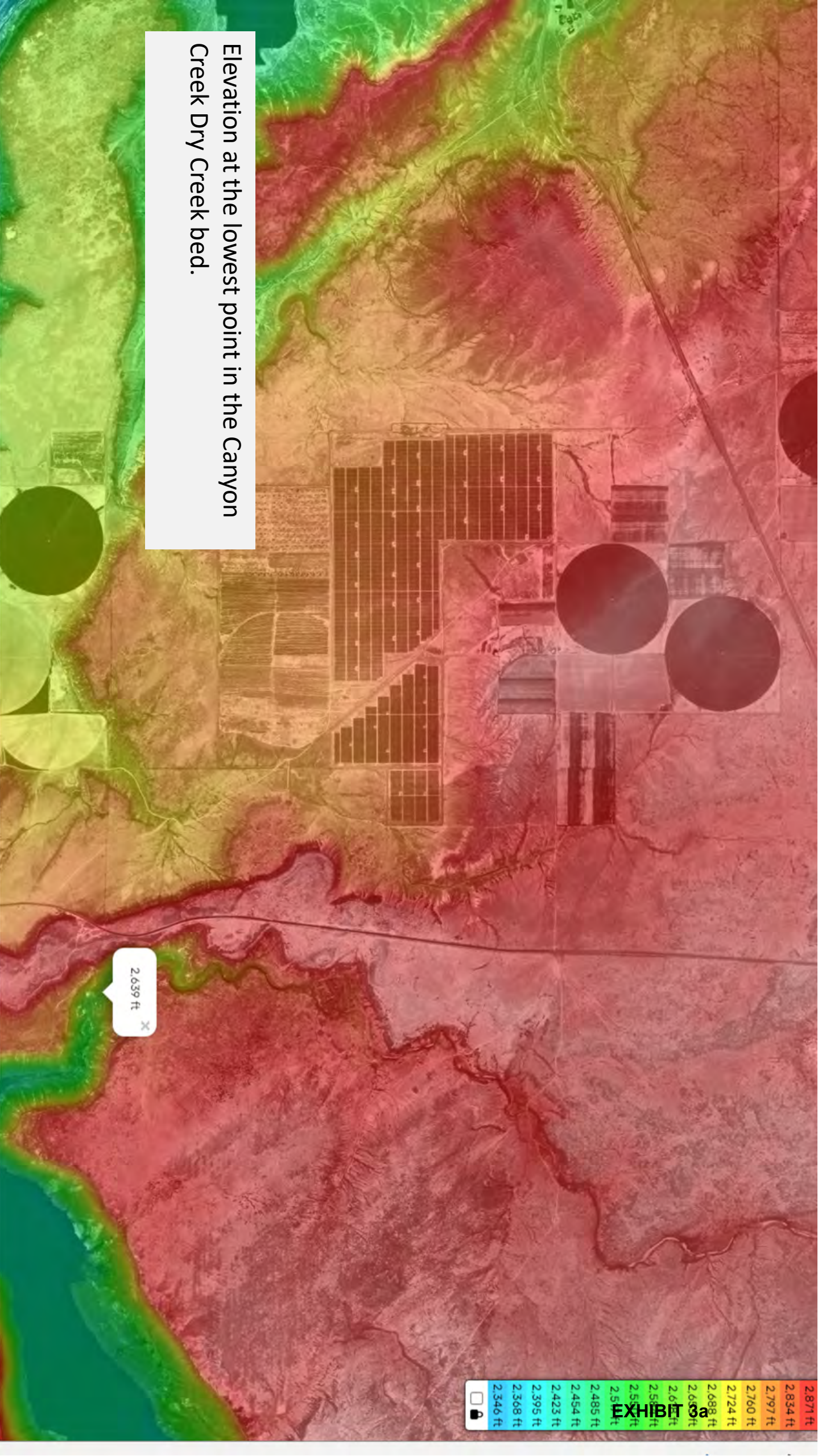
Photo #4 denoted on Map: Picture from calf ranch facing northeast. Picture shows the bluff between Canyon Creek and the calf ranch. Strike dam road runs along his bluff and the power lines follow that road.



2,815 ft



Elevation of northeast corner of Calf Ranch

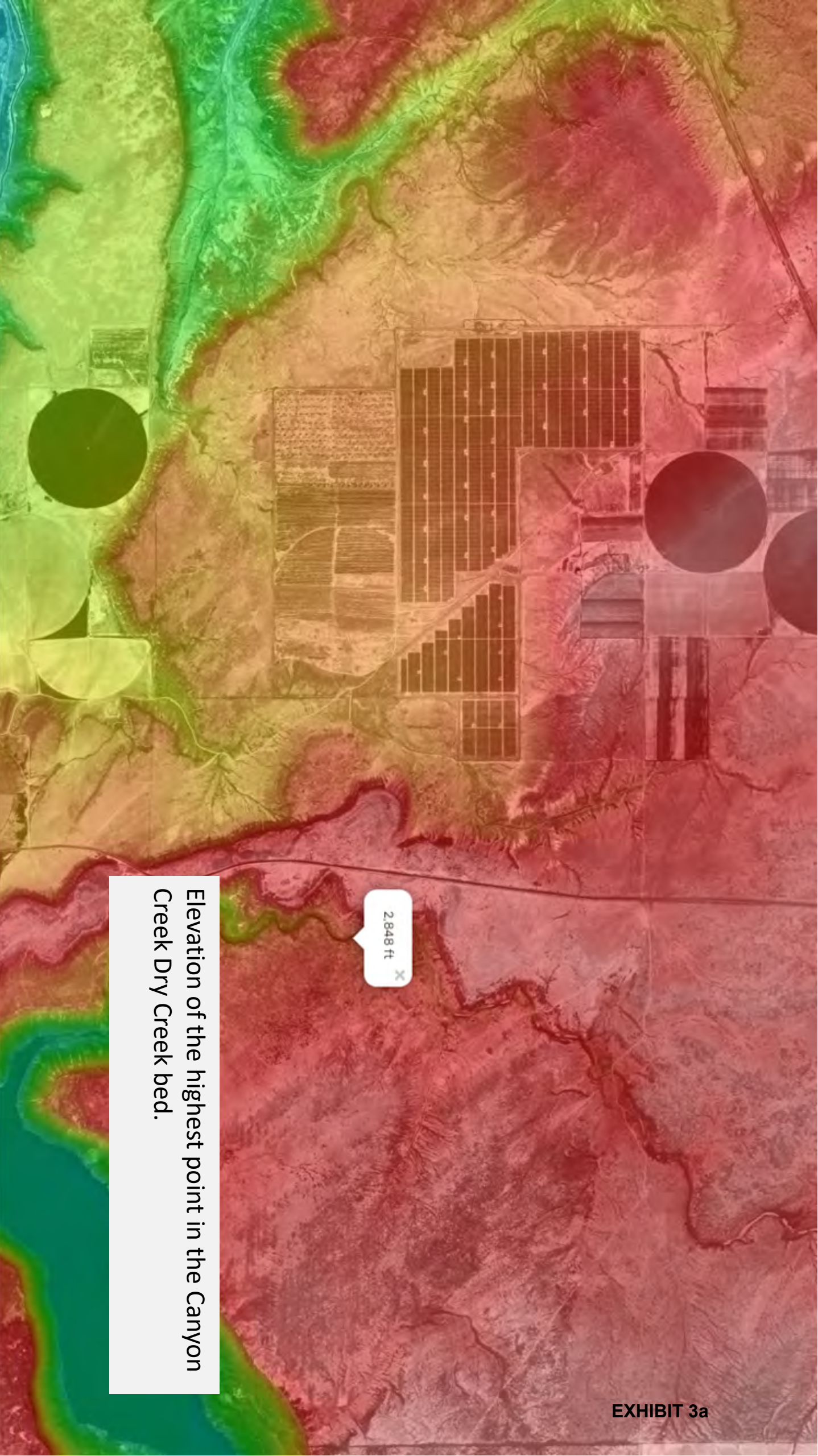


Elevation at the lowest point in the Canyon
Creek Dry Creek bed.

2,639 ft

- 2,871 ft
- 2,834 ft
- 2,797 ft
- 2,760 ft
- 2,724 ft
- 2,688 ft
- 2,652 ft
- 2,616 ft
- 2,580 ft
- 2,544 ft
- 2,508 ft
- 2,472 ft
- 2,436 ft
- 2,399 ft
- 2,362 ft
- 2,325 ft
- 2,288 ft
- 2,251 ft
- 2,214 ft
- 2,177 ft
- 2,140 ft
- 2,103 ft
- 2,066 ft
- 2,029 ft
- 1,992 ft
- 1,955 ft
- 1,918 ft
- 1,881 ft
- 1,844 ft
- 1,807 ft
- 1,770 ft
- 1,733 ft
- 1,696 ft
- 1,659 ft
- 1,622 ft
- 1,585 ft
- 1,548 ft
- 1,511 ft
- 1,474 ft
- 1,437 ft
- 1,400 ft
- 1,363 ft
- 1,326 ft
- 1,289 ft
- 1,252 ft
- 1,215 ft
- 1,178 ft
- 1,141 ft
- 1,104 ft
- 1,067 ft
- 1,030 ft
- 993 ft
- 956 ft
- 919 ft
- 882 ft
- 845 ft
- 808 ft
- 771 ft
- 734 ft
- 697 ft
- 660 ft
- 623 ft
- 586 ft
- 549 ft
- 512 ft
- 475 ft
- 438 ft
- 401 ft
- 364 ft
- 327 ft
- 290 ft
- 253 ft
- 216 ft
- 179 ft
- 142 ft
- 105 ft
- 68 ft
- 31 ft
- 6 ft
- 43 ft
- 80 ft
- 117 ft
- 154 ft
- 191 ft
- 228 ft
- 265 ft
- 302 ft
- 339 ft
- 376 ft
- 413 ft
- 450 ft
- 487 ft
- 524 ft
- 561 ft
- 598 ft
- 635 ft
- 672 ft
- 709 ft
- 746 ft
- 783 ft
- 820 ft
- 857 ft
- 894 ft
- 931 ft
- 968 ft
- 1,005 ft
- 1,042 ft
- 1,079 ft
- 1,116 ft
- 1,153 ft
- 1,190 ft
- 1,227 ft
- 1,264 ft
- 1,301 ft
- 1,338 ft
- 1,375 ft
- 1,412 ft
- 1,449 ft
- 1,486 ft
- 1,523 ft
- 1,560 ft
- 1,597 ft
- 1,634 ft
- 1,671 ft
- 1,708 ft
- 1,745 ft
- 1,782 ft
- 1,819 ft
- 1,856 ft
- 1,893 ft
- 1,930 ft
- 1,967 ft
- 2,004 ft
- 2,041 ft
- 2,078 ft
- 2,115 ft
- 2,152 ft
- 2,189 ft
- 2,226 ft
- 2,263 ft
- 2,300 ft
- 2,337 ft
- 2,374 ft
- 2,411 ft
- 2,448 ft
- 2,485 ft
- 2,522 ft
- 2,559 ft
- 2,596 ft
- 2,633 ft
- 2,670 ft
- 2,707 ft
- 2,744 ft
- 2,781 ft
- 2,818 ft
- 2,855 ft
- 2,892 ft
- 2,929 ft
- 2,966 ft
- 3,003 ft
- 3,040 ft
- 3,077 ft
- 3,114 ft
- 3,151 ft
- 3,188 ft
- 3,225 ft
- 3,262 ft
- 3,299 ft
- 3,336 ft
- 3,373 ft
- 3,410 ft
- 3,447 ft
- 3,484 ft
- 3,521 ft
- 3,558 ft
- 3,595 ft
- 3,632 ft
- 3,669 ft
- 3,706 ft
- 3,743 ft
- 3,780 ft
- 3,817 ft
- 3,854 ft
- 3,891 ft
- 3,928 ft
- 3,965 ft
- 4,002 ft
- 4,039 ft
- 4,076 ft
- 4,113 ft
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- 4,298 ft
- 4,335 ft
- 4,372 ft
- 4,409 ft
- 4,446 ft
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- 5,223 ft
- 5,260 ft
- 5,297 ft
- 5,334 ft
- 5,371 ft
- 5,408 ft
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- 5,519 ft
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- 6,111 ft
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- 8,962 ft
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- 9,037 ft
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- 9,148 ft
- 9,185 ft
- 9,222 ft
- 9,259 ft
- 9,296 ft
- 9,333 ft
- 9,370 ft
- 9,407 ft
- 9,444 ft
- 9,481 ft
- 9,518 ft
- 9,555 ft
- 9,592 ft
- 9,629 ft
- 9,666 ft
- 9,703 ft
- 9,740 ft
- 9,777 ft
- 9,814 ft
- 9,851 ft
- 9,888 ft
- 9,925 ft
- 9,962 ft
- 10,000 ft

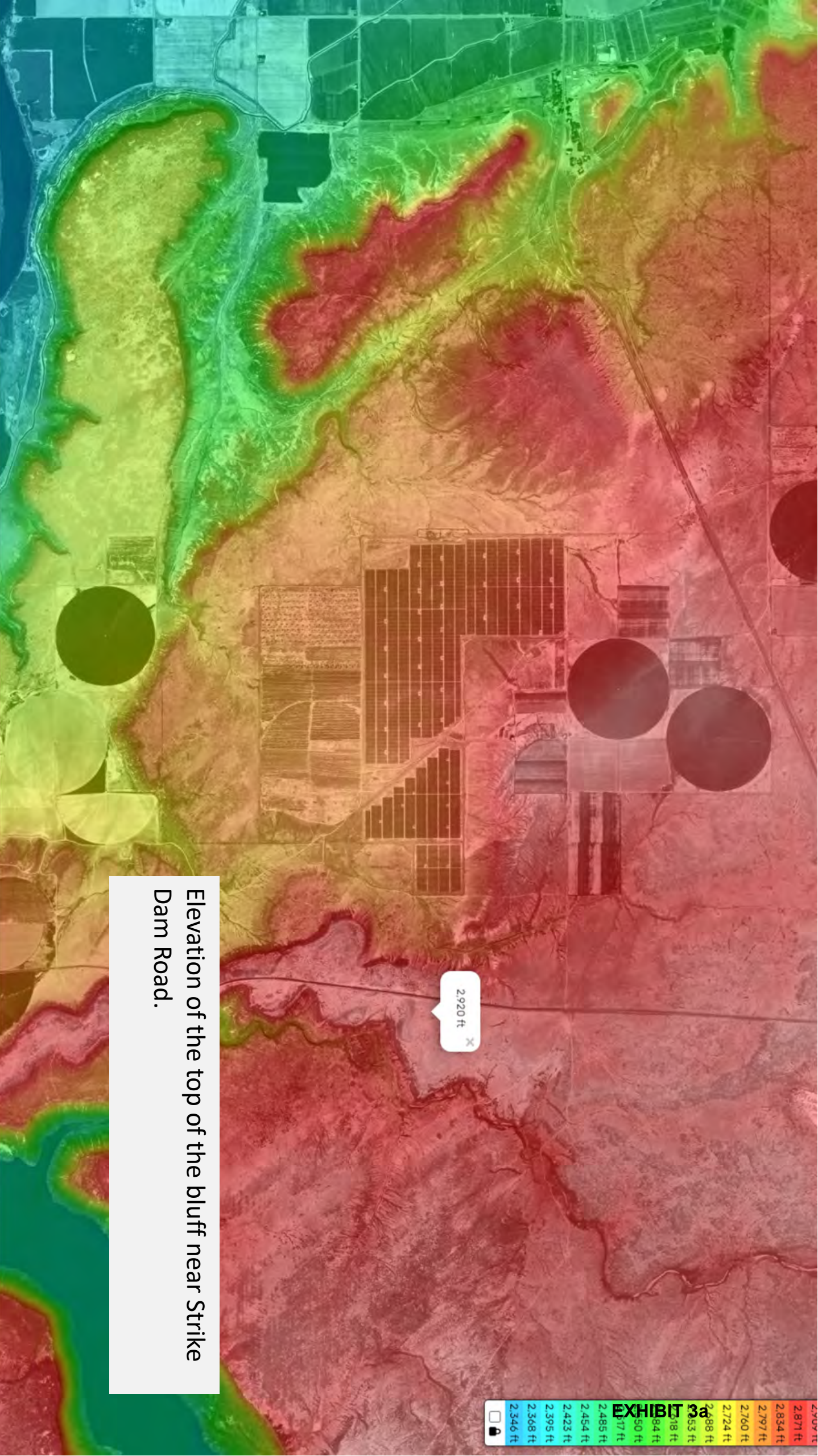
EXHIBIT 3a



2848 ft



Elevation of the highest point in the Canyon Creek Dry Creek bed.



- 2,907 ft
- 2,871 ft
- 2,834 ft
- 2,797 ft
- 2,760 ft
- 2,724 ft
- 2,688 ft
- 2,653 ft
- 2,618 ft
- 2,584 ft
- 2,550 ft
- 2,517 ft
- 2,485 ft
- 2,454 ft
- 2,423 ft
- 2,395 ft
- 2,368 ft
- 2,346 ft

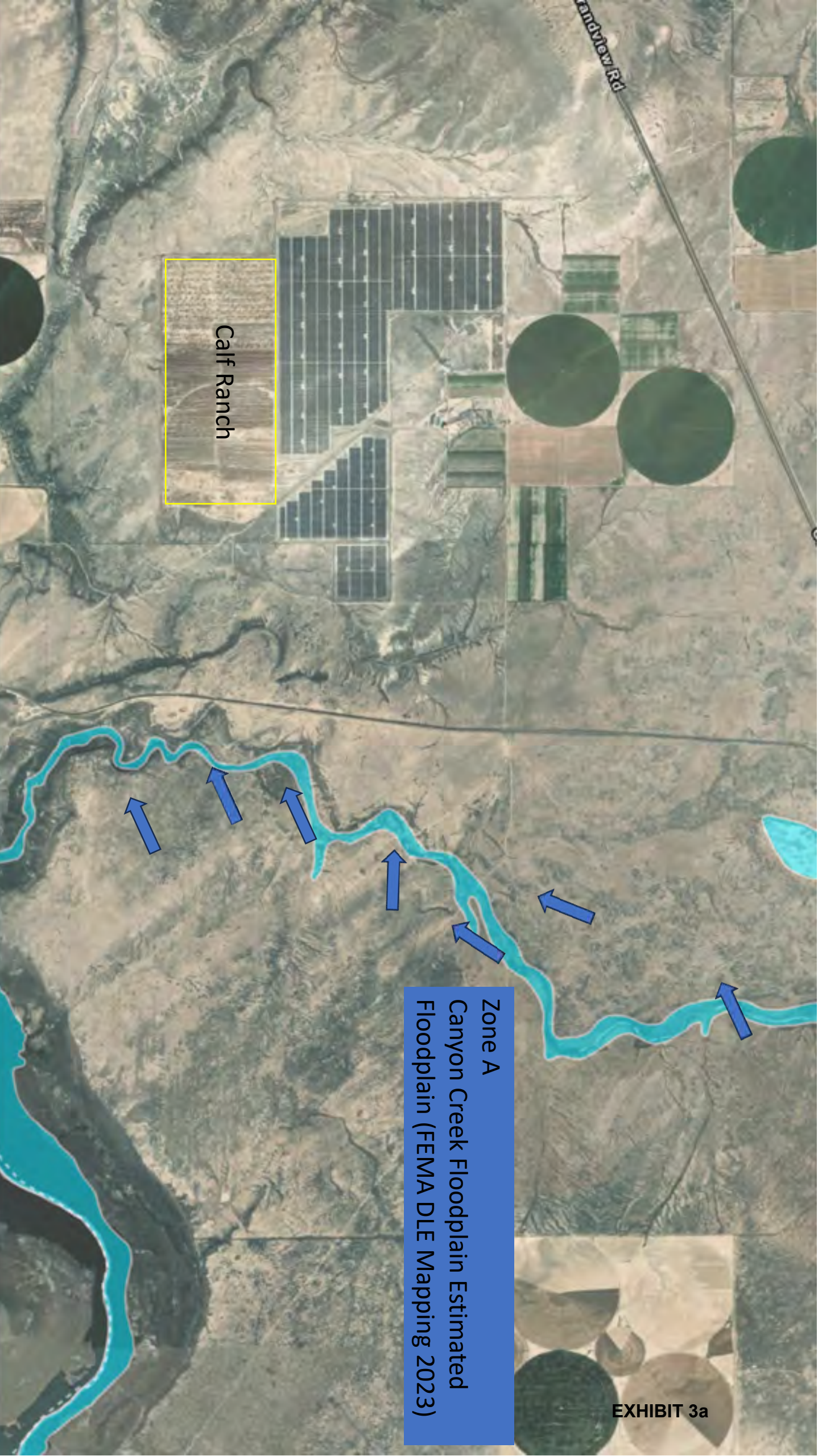
2,920 ft X

Elevation of the top of the bluff near Strike Dam Road.



Calf Ranch

Zone A Canyon Creek Floodplain A
Effective Floodplain map (FEMA DLE
mapping 2024)



Calf Ranch

Zone A
Canyon Creek Floodplain Estimated
Floodplain (FEMA DLE Mapping 2023)

EXHIBIT 3a

Base Level Engineering (BLE) is an automated map-modeling process that allows FEMA to produce a "first-level" approximation of the hydrology, hydraulics, and flood risk potential over broad areas using the most recent and best available data.

When FEMA is beginning a flood study for a community, the BLE can also provide a valuable reference as an early indicator of potential flood analysis results, modeling, or flood boundary changes. The Estimated Floodplains and associated data (e.g. 1 percent annual chance Water Surface Elevations) can provide an early opportunity to reveal areas where a detailed analysis or model refinements may be required.

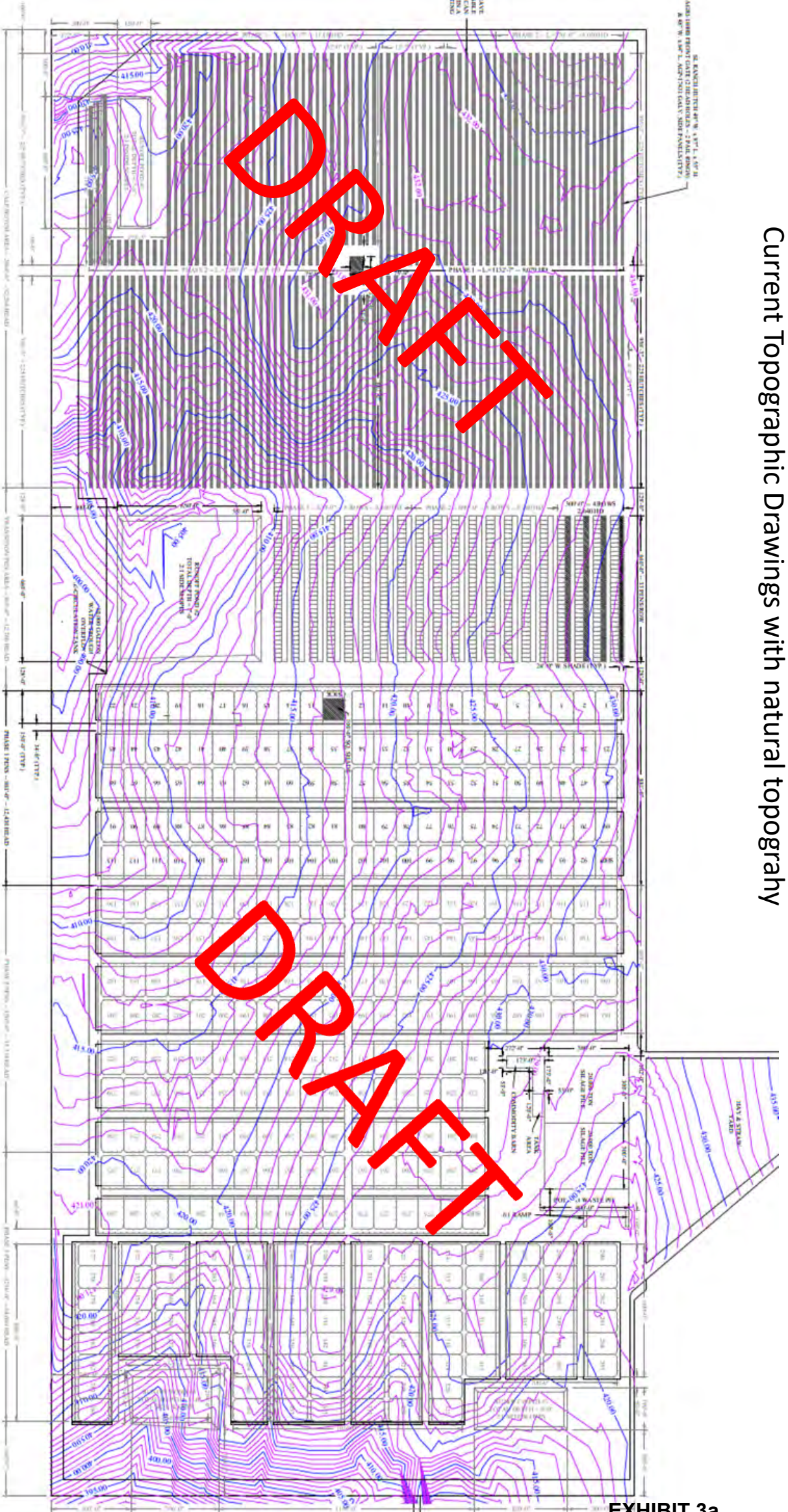
This study was conducted in 2023 and 2024 and the previous two maps were generated on this site:

Esri. (n.d.). *Estimated floodplains*. ArcGIS Experience. Retrieved October 8, 2024, from <https://experience.arcgis.com/experience/1a6bd4203b364642b60537b6c3485ac5/page/Estimated-Floodplains/>

Current Topographic Drawings with natural topography

NO. 43801 (SHEET 1 OF 2) - 11/11/2011
BY: J. L. GARDNER, P.E.
DATE: 11/11/2011

REVISIONS TO THIS DRAWING
DATE: 11/11/2011
BY: J. L. GARDNER, P.E.
REASON: 11/11/2011



Simplot Land and Livestock
1307 Highway 67
Grand View, ID 83624

September 4, 2024

To: Property Owner

You are invited to attend a neighborhood meeting on September 14, 2024, at 10:00 a.m. The meeting is to inform property owners of variance applications to the approved confined animal feeding operation CUP 2024-08. The variances to be discussed will include variance of the one and one-half mile setback from the Zone A floodplain and variance from locating an animal waste management system within 300 feet of a property line. Your comments are greatly appreciated as we move forward with our variance application.

The meeting will be held at Simplot Land and Livestock Office, 1307 Highway 67 starting at 10:00 a.m.

Warm Regards



David Modde

Environmental Manager
(208)590 9141



11/20/2024

Mitra Mehta-Cooper
Director, Elmore County Planning and Zoning Department
520 East 2nd South
Mountain Home, Idaho 83647
mmehtacopper@elmorecounty.org

Sent via email

Elizabeth Allen
Owner/Principal Planner
Bristlecone Land Use Consulting
elizabeth@bristleconelanduseconsulting.com

Sent via email

Re: VAR-2024-05 Staff Report

Ms Mehta-Cooper and Ms Allen,

This letter is in response to VAR-2024-05 Staff Report for the November 21, 2024 public hearing. Simplot would like to provide additional information regarding the undue hardship created by the flood plain setbacks on the Nicholson property I am pleased the Staff Report found that the proposed CAFO would not negatively affect public health, safety or welfare because of the unique topographic features of the property.

In terms of undue hardship caused by the setback requirements, Simplot considered several alternative sites within Elmore County. However, all alternative sites had characteristics that made them not feasible for a CAFO compared to the Nicholson farm site. Some of those characteristics were smaller acreage, proximity to floodplain zones, and distance from Simplot's other supporting operations. Therefore, the Nicholson property was the only viable alternative site for a CAFO and it would cause undue hardship to Simplot if that property cannot be a site for the CAFO.

In terms of the Nicholson property itself, the Staff Report asserted that no evidence has been provided to explain why the site could not be adjusted to meet the floodplain setback. It is important to note that approximately 50% of the Nicholson property lies outside of the 1.5 mile floodplain setback. Because of the configuration of the property, facility designs that do not encroach on the setback, would similarly reduce the capacity of the proposed CAFO by approximately 50%. This reduction in capacity substantially reduces or eliminates the economic viability of the CAFO and therefore creates an undue hardship. Even if another site could be found which could make up the additional 50% lost capacity (which is doubtful), having two separate CAFOs substantially adds to siting and operational costs placing undue hardship on Simplot.



Alternatively, we note that Elmore County Amended Zoning and Development Ordinance 7-12-7(D) states “Exemption to Site Setbacks: Certain land parcels may not be conducive to the setback requirements due to unique locations and demographics. Where appropriate, the Commission and/or Board may grant a variance to the setback requirements pursuant to the requirements of the Ordinance.” As acknowledged by the Staff Report, the Nicholson property has unique topographic characteristics and is therefore not conducive to the floodway set back.

The proposed Nicholson CAFO site has a unique location and demographic that makes it a prime candidate for a variance. There is a ridge that runs between the proposed Nicholson CAFO site and the Canyon Creek floodplain. This ridge creates a natural barrier making it improbable if not virtually impossible for waters to comeingle between the proposed CAFO and the Canyon Creek Floodplain.

Given that the proposed CAFO site meets the 3 criteria for a variance: 1) the variance does not grant a right or special privilege that is not otherwise allowed in the base zone, 2) the variance relieves an undue hardship due to characteristics of the site, and 3)the variance is not detrimental to public health, safety and welfare, Simplot requests that the Commission approve this variance.

Respectfully submitted,

David Modde
Environmental Manager
J.R. Simplot Company
208-590-9141
david.modde@simplot.com

257482

ELMORE COUNTY, IDAHO 50 #564
at of
GUARANTY TITLE, INC.
Time 2:53 P. M.
Date February 12, 1990
By RAMONA YRAZABAL
Merla L Becker
Deputy
Fee \$9.00

WARRANTY DEED

GRANTOR, CARL E. NICHOLSON and BLANCHE NICHOLSON, husband and wife, of Meridian, County of Ada, State of Idaho, for a good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto J.R. SIMPLOT COMPANY, whose current address is 999 Main Street, Suite 1300, County of Ada, State of Idaho as GRANTEE, and to grantee's heirs and assigns forever, all of the following described real estate located in County of Elmore, State of Idaho:

TRACT I

TOWNSHIP 4 SOUTH, RANGE 4 EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

SECTION 31: S $\frac{1}{2}$ SE $\frac{1}{4}$

TOWNSHIP 5 SOUTH, RANGE 4 EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

- SECTION 4: NW $\frac{1}{4}$ SW $\frac{1}{4}$
- SECTION 5: E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$
NW $\frac{1}{4}$ SW $\frac{1}{4}$ AND LOT 4
- SECTION 6: LOTS 1 AND 2

TRACT II

TOWNSHIP 5 SOUTH, RANGE 4 EAST, BOISE MERIDIAN, ELMORE COUNTY, IDAHO

- SECTION 6: S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$
- SECTION 7: E $\frac{1}{2}$ NE $\frac{1}{4}$
- SECTION 8: N $\frac{1}{2}$

TOGETHER with all improvements, water, water rights, ditches, ditch rights, easements, hereditaments and appurtenances, specifically including but not limited to all mineral rights, hydrocarbon rights, geothermal rights, grazing rights, water rights, and any and all additional rights SUBJECT TO reservations of mineral rights in the U.S. Government's patents on the property.

Grantors, for themselves, their heirs and assigns do hereby covenant, warranty and shall defend the quiet and peaceable possession of said premises by the grantee, its successors, heirs and assigns forever against the lawful claims of all persons.

Thomas T. Nicholson and Carl V. Nicholson are executing this document as well in order to confirm that all water rights appurtenant to the premises are transferred to the Grantee.

In construing this deed, and where the context so requires, the singular includes the plural and the masculine, the feminine and the neuter.

IN WITNESS WHEREOF, Grantors have hereunto subscribed their name to this instrument this 8 day of February, 1990.

Carl E. Nicholson
Carl E. Nicholson

Blanche Nicholson
Blanche Nicholson

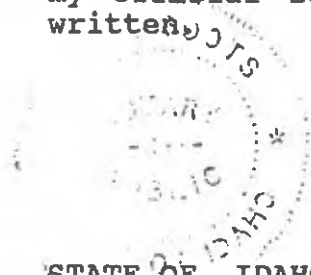
Thomas T. Nicholson
Thomas T. Nicholson

Carl V. Nicholson
Carl V. Nicholson

STATE OF IDAHO)
) ss:
COUNTY OF ADA)

On this 8 day of February, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared CARL E. NICHOLSON and BLANCHE NICHOLSON, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Scinda K. Boots
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 5/31/95

STATE OF IDAHO)
) ss:
COUNTY OF ADA)

On this 8 day of February, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared THOMAS T. NICHOLSON, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

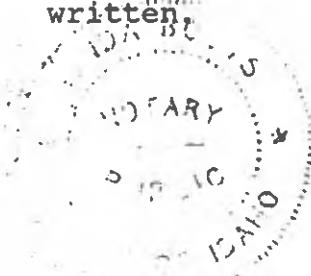


Scinda K. Boots
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 5/31/95

STATE OF IDAHO)
) ss:
COUNTY OF ADA)

On this 8 day of February, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared CARL V. NICHOLSON, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Scinda K. Boots
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 5/31/95

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN pursuant to the laws of the State of Idaho and Ordinances of Elmore County, that the Elmore County Board of County Commissioners will hold a PUBLIC HEARING for Case VAR-2024-05 at 1:00 p.m. on Friday, December 20, 2024, in the Commissioners Hearing Room located in the basement of the Elmore County Courthouse at 150 S 4th E St., Mountain Home, Idaho to accept testimony and to consider an application from J.R. Simplot Land & Livestock, a Variance of Elmore County Ordinance Confined Animal Feeding Operations floodplain setback to allow a Concentrated Animal Feeding Operation within one and one-half (1 1/2) mile floodplain setback standard. The site is located approximately four miles east of Grand View city limits and is accessed via Frederick Road from State Highway 167.

This application may be reviewed before the hearing in the Land Use and Building Department during regular business hours. Any interested person shall be heard at said public hearing and the public is welcome and invited to submit testimony. Anyone who wishes to testify but is unable to attend may submit written testimony before the hearing by sending it to Elmore County Land Use and Building Department, 520 East 2nd South Street, Mountain Home, Idaho 83647 or email anjeto@elmorecounty.org Written testimony must be received by 5:00 p.m. on Friday, December 13, 2024.

Social media posts are not considered written public testimony. The Elmore County Facebook page is used for outward communication only. It is not intended as a means for the public to submit testimony on any public hearing matters pending before any Elmore County board or commission. Elmore County's social media is moderated but is not regularly monitored and is not a public forum. Likes, Comments, or Shares posted here are not entered into the record of any public hearing. Public hearing testimony must be either submitted at the public hearing or received in advance of the public hearing

ing by email, mail, or physical delivery.

The Elmore County Board of Commissioners is responsible for ensuring compliance with the American Disabilities Act (ADA). Any person needing special accommodation to participate in the public hearing should contact the Elmore County ADA Coordinator, Kacey Ramsauer, 24 hours before the Public Hearing at 208-587-2142 ext. 1254, or 520 East 2nd South, Mountain Home, Idaho.

David Abrahamson,
Planner
Elmore County
Land Use and
Building Department

One Publication:
December 4, 2024

**12.25
97 Lines**

Kindly review, sign, and send back via email with any edits or inquiries before our deadline at noon on the Friday before the publication date.

Total cost will be 69.84.

If signed proof and prepayment (if required) is not received by deadline, your legal will be unable to run.

Thank you,
Legal Department
Mountain Home News
(208) 587.3331
legaldept@mountainhomenews.com

*Legals cancelled prior to publication will incur a \$10 processing/typesetting fee.

Proofed
Date _____
<input type="radio"/> Ok, With Changes
<input type="radio"/> Ok, No Changes
<input type="radio"/> Re-proof
Proofed by: _____
<small>Please Sign Here</small>

<input type="radio"/> Prepayment	<input type="radio"/> Charge
----------------------------------	------------------------------

Thank you,
Swana Stokes



Elmore County Land Use and Building Department

520 East 2nd South Street
Mountain Home, Id. 83647
Phone: (208) 587-2142 ext. 1256
Fax: (208) 587-2120
www.elmorecounty.org

Mitra Mehta-Cooper,
Director

Kacey Ramsauer,
Planner

David Abrahamson,
Planner

Johnny Hernandez,
Building Official

Colton Janousek,
Building Inspector

James Roddin,
*Administrative
Manager/Code
Enforcement*

Sandra Nuner,
Permit Technician

Alyssa Nieto,
*Administrative
Assistant*

Date: November 25, 2024

To: Property Owner/Resident

Subject: Notice of Public Hearing

Case #: VAR-2024-05

Applicant: J.R. Simplot Company Land & Livestock

Proposal: The applicant has applied for a Variance of the Elmore County Ordinance Confined Animal Feeding Operations floodplain setback to allow a Concentrated Animal Feeding Operation within the one and one-half (1 ½) mile floodplain setback. The subject parcels include RP05S04E0800100, RP05S04E070010, and RP05S04E053030. The site is accessed via Frederick Road from State Highway 167. The subject lands are not addressed and are located east of Grand View, as shown in the image on page 2.

At a public hearing on Thursday, November 21, 2024, after staff presentation, public testimony, and deliberations, the Planning and Zoning Commission recommended approval with conditions to the Board of County Commissioners.

A public hearing will be held before the Board of County Commissioners on the proposed changes. The hearing is scheduled for **Friday, December 20, 2024, at 1:30 p.m.** in the Commissioners Hearing Room located in the basement of the Elmore County Courthouse at 150 S 4th E St., Mountain Home, Idaho

Please provide written comment to the Elmore County Land Use and Building Department, 520 East 2nd South Street, Mountain Home, ID 83647, by 5 p.m. on Friday, December 13, 2024, so your comments are included in the record. If you prefer, please come to the hearing to testify before the Commission.

The Elmore County Board of Commissioners is responsible for ensuring compliance with the American Disabilities Act of 1990 (ADA). Any person needing special accommodations to participate in the public hearing should contact the Elmore County ADA Coordinator, Kacey Ramsauer, 24 hours prior to the Public Hearing at 208-587-2142 ext. 1254, via email at kramsauer@elmorecounty.org or in person at 520 East 2nd South Street, Mountain Home, Idaho.

Sincerely,

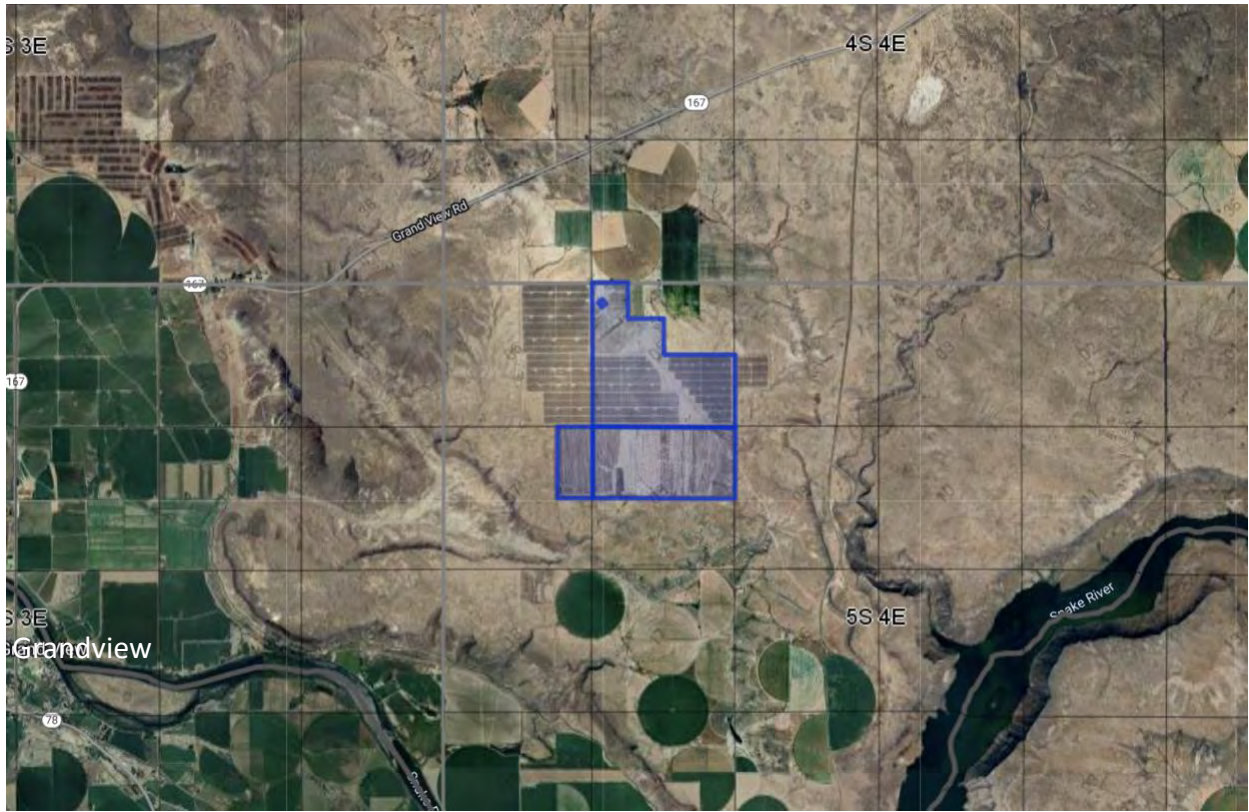
Elizabeth Allen

Consulting Planner for Elmore County Land Use and Building Department
Bristlecone Land Use Consulting

elizabeth@bristleconelanduseconsulting.com

907-978-3439

Image 1. Vicinity Map





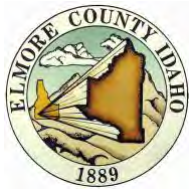
PUBLIC HEARING NOTICE
Elmore County, Idaho

On day of , 20 , the Board of Commissioners of Elmore County, Idaho, will hold a public hearing at to consider and act upon the following proposed action:

For more information, please contact:
Land Use and Planning Department at
(208) 337-2342 Ext. 307



Exhibit 4
Planning and Zoning Commission FCOs



Land Use and Building Department

Findings of Fact, and Conclusions of Law

Application: Variance 2024-05

Hearing Date: November 21, 2024

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a Variance application to)	VAR-2024-05
operate a Confined Animal Feeding Operation)	
within the one and one-half mile floodplain)	FINDINGS OF FACT,
setback for three (3) parcels with an operation)	CONCLUSIONS OF LAW,
area totaling approximately 410 acres (Parcels)	AND ORDER
RP05S04E053030, RP05S04E080010,)	
and RP05S04E070010)	
)	

In Re: Variance VAR-2024-05 (“**Application**”): This matter having come before the Planning and Zoning Commissioners of Elmore County, Idaho (the “**Commission**”), on November 21, 2024, for a public hearing held pursuant to public notice as required by law, on a request for a Variance VAR-2024-05 (the “**Variance**”) to operate a Confined Animal Feeding Operation (“**CAFO**”) within the one and one-half (1 ½) mile floodplain setback for Parcels RP05S04E053030, RP05S04E080010, and RP05S04E070010 (“**Site**”) owned by J.R. Simplot Land and Livestock (“**Applicant**”). The Site operations consist of 410 acres and are zoned General Agriculture (AG). The Commission heard from the Applicant’s representatives, J.R. Simplot staff, Scott McNeley, and David Modde in support of the Application and Elmore County Land Use and Building Department (“**Department**”) staff recommending the Commission recommend denial of the request. No one signed up to testify in support, in neutral, or opposition to the proposal. After public testimony, upon conclusion of the public hearing, the Commission closed the record to additional evidence and commenced deliberations. After making findings and conclusions in accordance with the applicable law, the Commission recommended approval of the variance to the Board of County Commissioners (the “**Board**”), as hereafter defined.

FINDINGS OF FACT

If any of the Findings of Fact are deemed to be Conclusions of Law, they are incorporated into the Conclusions of Law section. The following findings shall be based upon the analysis and recommendations of the Department , and the record.

1) The Commission finds that the Application is comprised of:

- a) Application form, neighborhood meeting documents, narrative, supplemental documents, and deed, prepared and submitted by David Modde, representative of the Applicant.
- b) Payment of Application Fees in the amount of \$400.00 as required by the Land Use and Building Department’s Fee Schedule.

2) The Commission finds that the applicant is:

David Modde
J.R. Simplot Land and Livestock
1301 Highway 67
Grand View, Idaho 83624

3) The Commission finds the following facts as to the procedural matters pertaining to the Application:

- a) In accordance with § 7-3-13 (A) of the Elmore County Zoning and Development Ordinance (“**Zoning Ordinance**”), on September 4, 2024, the Applicant completed a pre-application conference with the Department in the Land Use and Building Department office prior to the submission of the application
- b) In accordance with §7-3-3 of the Zoning Ordinance, the Applicant mailed out Neighborhood Meeting Letters on September 4, 2024, to neighboring property owners within one and one-half (1 ½) miles as deemed appropriate by the Director, giving notice of the time, date, and location of the meeting.
- c) In accordance with §7-3-3 of the Zoning Ordinance, the Applicant conducted the required neighborhood meeting on September 14, 2024 at 10:00 a.m.
- d) On September 16, 2024, the Department received the Variance application and the required fees per §7-3-3 of the Zoning Ordinance. Upon review, on October 1, 2024, the Department requested that additional information be provided by the Applicant to deem the Application complete.
- e) On October 10, 2024, the Applicant provided additional documents requested by the Department.
- f) On October 14, 2024, the Department deemed the Application complete and set a Public Hearing for November 21, 2024.
- g) In accordance with §7-3-4 of the Zoning Ordinance, the Department mailed Public Hearing Notices to agencies on November 6, 2024.
- h) In accordance with § 7-3-5 (A) of the Zoning Ordinance, the Public Hearing Notice was published in the Mountain Home News (“newspaper”) on November 6, 2024.
- i) In accordance with §7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on November 6, 2024.
- j) In accordance with §7-3-5 (C) of the Zoning Ordinance, the Department mailed Notice of the Public Hearing to landowners within one and one-half (1 ½) mile radius of the subject properties on November 6, 2024.
- k) The Commission opened the public hearing on November 21, 2024, and received verbal and written information regarding the application.
- l) At the conclusion of the testimony, the Chairperson closed the public hearing.
- m) The Commission commenced deliberations on the Application.

- n) Thereafter, the Commission moved to recommend approval of the Variance Application with recommended conditions to reduce the floodplain setback to 0.75 miles for the subject properties.

4) The Commission finds the proposed request as follows:

The submitted Variance Application is to allow a CAFO to operate within the one and one-half (1 ½) mile floodplain setback standard per §7-12-7(C)(9), in the General Agriculture (AG) base zone in Elmore County.

5) The Commission finds the following facts and circumstances pertaining to the Site:

- a) **Site Description:** 5S3E and 5S4E Sections 1, 6, 5, and 4.
- b) **Parcel Numbers:** RP05S04E053030, RP05S04E80010, and RP05S04E070010.
- c) **The “Owner” of the Site is:** J.R. Simplot Land and Livestock.
- d) **Site Characteristics:**

Property Size: 847 acres.

Operation Acreage: 410 acres.

Existing Structures: Solar panels and outbuilding on approximately 270 acres on parcel RP05S04E053030.

Existing Vegetation: Vegetation consists of desert species including but not limited to sagebrush and rabbitbrush.

Slope: The proposed site is not on slopes greater than 15%.

Flood Zone: The proposed site is within 1.5 miles of Flood Zone A.

Irrigation/Water: The project will be served through water rights issued by Idaho Department of Water Resources (IDWR).

6) The Commission finds the current zoning of the Site and surrounding area is as follows:

Based on the officially adopted Elmore County Zoning Map (as amended by subsequent Zoning Map Amendments adopted by the Board of County Commissioners), and the Comprehensive Plan and the Zoning Ordinance, the surrounding zoning and land uses for the Site are as follows:

- a) Site: AG zone with solar operation and agriculture uses.
- b) North: AG zone with agriculture and rangeland uses.
- c) South: AG zone with agriculture and rangeland uses.
- d) East: AG zone with rangeland uses.

e) West: AG zone with solar operation and rangeland uses.

7) The Commission finds the existing services and access to the site are as follows:

Based on the officially adopted Elmore County Zoning Map (as amended by subsequent Zoning Map Amendments adopted by the Board of County Commissioners), the following facts concerning services and infrastructure, are not in dispute and are adopted as findings of fact in the Commission's Findings of Fact, Conclusions of Law, and Order (FCO):

- a) Access Street and Designation: Frederick Road is the primary access street for the CAFO operations, as required by the approval of CUP-2024-08 Condition 13, subject to the approval of a private road application.
- b) Highway District: Mountain Home Highway District.
- c) Fire Protection: The subject properties are within the Grand View Rural Fire District.
- d) Sewage Disposal: N/A.
- e) Water Service: N/A.
- f) Irrigation District: N/A.
- g) Drainage District: N/A.

The Application and

8) The Commission finds the following are among the relevant and applicable statutes, ordinances, and land use regulations for consideration of the Application:

- a) Elmore County Zoning Ordinance, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- b) The Local Land Use Planning Act, Idaho Code § 67-6501; 67-516 et seq.
- c) Other applicable local, state, and federal laws and regulations.

9) The Commission finds the following regarding the Comprehensive Plan.

- a) That the Comprehensive Plan Future Land Use Map (Map 4) designates the subject properties as General Agriculture.
- b) The Application is in conformance with the Comprehensive Plan vision and policies for property owner rights.

10) The Commission finds the following regarding the Zoning Ordinance.

- a) The Elmore County Zoning Ordinance is the document governing the Site.
- b) In order to approve a Variance application, the Zoning Ordinance provides that the Planning and Zoning Commission make a recommendation to the Board of County Commissioners. The Variance standards are found in §7-3-13 of the Zoning Ordinance.

REQUIRED FINDINGS FOR IDAHO CODE 67-6516. VARIANCE – DEFINITION – APPLICATION – NOTICE – HEARING.

Each governing board shall provide, as part of the zoning ordinance, for the processing of applications for variance permits. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. Prior to granting a variance, notice and an opportunity to be heard shall be provided to property owners adjoining the parcel under consideration and the manager or person in charge of the local airport if the variance could create an aviation hazard as defined in section 21-501, Idaho Code. Denial of a variance permit or approval of a variance permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.

Commission Finds:

The State of Idaho Local Land Use Planning Act (LLUPA), Title 67, Chapter 65 provides for variance in setbacks only upon showing undue hardship. The Applicant would like to operate the CAFO within the one and-one-half mile floodplain setback since the topography of the area would likely prevent contamination of water within the floodplain or floodplain impacts on the CAFO. Approval of this Variance would allow the CAFO to operate within one and one-half miles of the Canyon Creek Flood Zone A. A ridge exists between the site and the floodplain. Thus, the topography between the CAFO and the floodplain is such that it would be virtually impossible for flow from the CAFO to reach the floodplain, or vice versa. In addition to the characteristics of the area, the Commission finds that the Applicant has demonstrated undue hardship due to the inability to relocate the CAFO to the west to maintain one and one half miles from the floodplain. The landownership adjacent to the property to the west prohibits expansion in this direction. In addition, reducing the CAFO in size to remain out of the one and one half mile setback from the floodplain would result in undue financial hardship making the facility essentially economically infeasible.

REQUIRED FINDINGS FOR VARIANCES PER ZONING ORDINANCE §7-3-13:

- 1. The variance shall not grant a right or special privilege that is not otherwise allowed in the base zone; and**

Commission Finds: The base zone of the subject properties is Ag (Agriculture), in which a CAFO may be permitted through a Conditional Use Permit (CUP). Any property owner within an Ag zone is allowed the right to submit a Conditional Use Permit (CUP) application to site a CAFO and request a variance of the CAFO setbacks outlined in Elmore County Zoning Ordinance. Based on the Elmore County Comprehensive Plan Future Land Use Map, the area is intended to remain as Agriculture. The approval of this variance request would not grant a right or special privilege that otherwise would not be available in the Ag zoning district.

2. The variance relieves an undue hardship due to the characteristics of the site; and

Commission Finds: The Applicant has shown an undue hardship. As explained in the staff report and application materials, the area where the subject properties are located has a unique topography that prevents water runoff from the site from entering the flood zone, as well as makes it improbable that, in the event of a 100-year flood, water within the flood zone could reach the site. The Commission finds that, as explained by the Applicant, 50% of the site falls within the floodplain setback, due to the Bureau of Land Management owning properties to the west, the Applicant is unable to shift the operations to the west to be out of the floodplain setback and therefore to meet the one and one-half (1 ½) mile floodplain setback the operation would have to be reduced by 50% which would substantially reduce or eliminate the economic viability of the CAFO on the subject properties and creates a financial undue hardship. The Commission finds that reducing the floodplain setback to 0.75 miles, added as Condition 1, relieves the undue hardship.

3. The variance shall not be detrimental to the public health, safety, and welfare.

Commission Finds: No evidence has shown that a variance from the floodplain setback would be detrimental to public health, safety, and welfare. As explained in Finding Two (2), the area around the site has unique features that cut the site off from the Canyon Creek floodplain and, as conditioned, will not be detrimental to public health, safety, and welfare

CONCLUSIONS OF LAW

Based on the aforementioned findings of fact, the Commission concludes that the proposed VAR-2024-03 has complied with the following legislative documents governing the proposal:

- A. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 14, 2014; and
- B. Zoning Ordinance adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- C. The Local Land Use Planning Act, Idaho Code § 67-6501 et seq.; and
- D. Other applicable local, state, and federal laws.

ORDER

Based on evidence presented at the November 21, 2024, public hearing, the Commission recommended that the Board of County Commissioners approve VAR-2024-05 with the following conditions of approval:

- 1. Variance (VAR-2024-05) shall be granted on parcel numbers RP05S04E053030, RP05S04E80010, and RP05S04E070010 for the Angel Farm CAFO operated by J.R. Simplot Company Land and Livestock to reduce the floodplain setback to 0.75 miles.
- 2. Prior to the commencement of construction, engineered drawings shall be provided showing that all storm and wastewater shall be contained on-site.

3. The Applicant shall comply with all CUP-2024-08 Conditions of Approval as approved by the Planning and Zoning Commission on August 22, 2024.
4. The Applicant shall keep the property up to date with all taxes related to the uses of the property.
5. Failure to comply with any of the above conditions of approval shall result in the revocation of the approval of the Variance (VAR-2024-05).

Dated this 19th day of December, 2024

COMMISSION VOTE:

CHAIRPERSON PATTI OSBORN	VOTED	_____
VICE CHAIRMAN JEFF BLANKSMA	VOTED	_____
SUSAN FISH	VOTED	_____
ED OPPEDYK	VOTED	_____
K.C. DUERIG	VOTED	_____
MITCH SMITH	VOTED	_____

Patti Osborn, Chairperson

ATTEST:

Mitra Mehta-Cooper, Director

NOTICE PURSUANT TO IDAHO CODE §67-6519(5)(c)

The Applicant shall have the right to request a regulatory taking analysis pursuant to Idaho Code § 67-8003. An applicant denied an application or aggrieved by a final decision concerning matters identified in Idaho Code § 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek judicial review under the procedures provided by Title 67, Chapter 52, Idaho Code.