

Hearing Documents

File 4 of 5

Gary Spackman
Hearing Officer
Idaho Department of Water Resources

September 13, 2006

Honorable Spackman,

RECEIVED

SEP 15 2006

WATER RESOURCES

Thank you for the opportunity to submit additional material on the Diamond A Livestock water transfer.

Order number two requested the meaning and significance of the meaning of the numbers "26" and "40" handwritten Heidi Olson contacted Marv Patten, Chief of the Bureau of Dairying with Idaho Department of Agriculture. He said that "The phosphorous threshold of surface water is 40ppm, and for ground water it is 20 ppm. These soil phosphorus levels are not contamination levels. They are levels that were established in the NRCS 1999 Nutrient Management Standard 590 as agronomic thresholds. It is a standard that basically says there is no agronomic advantage to apply more than 40 ppm phosphorous to Idaho grown crops."

Phosphorous levels in Gooding County on many agricultural fields already exceed the state's phosphorous levels, according to the soil samples. The number of dairy cows in Gooding County range from 200,000 to somewhere around 400,000 cows. This does not include dairy heifers, dry cows or dairy calves. Nor does it include range cattle or feed lots in the county. There are only 115,000 irrigated acres in Gooding County to dispose of the manure.

According to Dale Westermann, soil scientist with the USDA's Agricultural Research Service, some studies indicate that a dairy cow needs at least one acre of land to properly dispose of the waste. There is not enough irrigated agricultural land currently in Gooding County to dispose of livestock waste. Gooding County does not need another commercial industry that deposits waste into an already manure saturated area.

Many Gooding residents are already against bringing in more dairies, the expansion of dairies and/or feedlots. We have provided copies of letters from the Gooding County P&Z for documentation. These letters outline their objections. One of our concerns with the proposal to bring a commercial truck washout into Gooding County and to irrigate with the untreated effluent is that of concentration.

The concentrated manure and other substances washed from the commercial livestock trucks will be held in ponds (lagoons). Besides odors, lagoons are known to emit toxic gasses including sulfide, ammonia, and methane. Other such substances as pathogens, bacteria and viruses are also collected in the lagoon. When the lagoon wastes are sprayed on fields, these concentrated pollutants are distributed over an even wider geographic area. Nutrient Management Plans, NMP, were developed in the state in order to try and prevent over-application of nitrogen, phosphorous and such, but it is apparent that at least in Gooding County the Idaho State Department of Agriculture does not have the staff to monitor these NMP plans.

To make matters even worse, the waste removed from the commercial livestock trucks, has the potential to come from all over the United States, Mexico, and Canada. Thus, concentrated manure and microbes from all over the continent will not only be

collected in lagoons but also applied to agricultural fields that border State Highway 46 and onto fields located south of the City of Gooding. When the manure is sprayed on windy or rainy days, it can spread more pollutants (concentrated urine, feces, and pathogens) to neighboring properties. These microbes have the potential to cause gastroenteritis, fevers, kidney failure, and even death in both livestock and humans. Manure gases alone can cause sore throats, headaches, shortness of breath, and diarrhea.

We believe that the potential for smell alone should cause the lagoon waste from the proposed commercial truck washout to be treated: not concentrated and applied onto agricultural fields. We also agree with the Honorable Monte B. Carlson, Fifth Judicial District Judge from the Idaho Supreme Court, that commercial business need to develop in commercial designated areas and not on agricultural areas.

Gooding County is saturated with pollutants from other sources, which Carolyn Elxpuru's letter summarizes well. Brian Ravenscroft and neighbors recently filed suit in federal court to bring litigation under the Clean Water Act against USDA's NRCS, state agencies that regulate water and agriculture in Idaho and a large dairy operation due to severely contaminated ground water. This is in the Tuttle area (seven miles southwest of Diamond A. Livestock). Other past incidents in Tuttle include Michael and Dianna Miketa who faced neurological problems due to dairy pollutants. These problems completely went away after they moved. The dairy in question bought their property and a gag order was agreed to by the Miketa's in order to settle. The contamination from Big Sky Heifer's formerly France Feed Lot / Truck Washout (see attachment titled "Well Contamination North of Gooding") gives an example of contamination from a feed lot / commercial truck washout with non-treated waste.

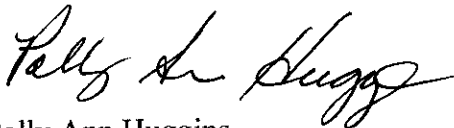
The State Conservationist for USDA's NRCS Idaho sent out an alert regarding avian bird flu and transmissions of other contagious diseases. NRCS soil scientists are to look at soil types to discover the best location to build pits to bury diseased animals. I ask you why would the government require such an action, if they did not believe there was potential for such an occurrence? I also ask you why take the chance to bring in diseases from all over the United States, Canada, and Mexico into Gooding County? Is it worth the risk to apply non-treated lagoon waste on agricultural fields?

For all of these reasons, we ask you **not** to approve of the two water transfers No. 72177 and No. 72178 as applied to the Idaho Department of Water Resources by Diamond A. Livestock to convert water from agriculture into water for a proposed commercial truck washout facility in Gooding County.

Thank you,



Heidi Olson



Polly Ann Huggins

Various Reports &
Letters of
“Relevant
Contaminant Levels
in
Gooding Co.”

Dear Idaho Dept. of Water Resources,

September 12, 2006

I appreciate the opportunity to respond to both the degradation of ground water quality in Gooding County and to the proposed truck wash out facility by Diamond A. Livestock. I was a commissioner when this truck wash was in the hearing process. I voted no on it because of not enough water, not a completed plan which would describe such issues as to how many trucks they would wash, and no permit from DEQ, as required by Idaho Statute. Since the hearing, I've paid more attention to the Faulkner family's operations and have seen the Faulkner's washing out their trucks and other trucks next to the canal by the sheep corrals. I have taken pictures and called the canal company on this. No action has been taken by any state agency or by the canal company for these actions. I would like to know where this dirty water is going? I ask that you not allow the transfer of water due to a total disregard Diamond A Livestock has for the permitting process and due to the potential that this proposed facility may add more pollutants to Gooding County.

Gooding County was at one time known for its clean air and water. I realized we were heading downhill and ran for a commissioner's seat. As a citizen of Gooding County for forty-five years, I experienced and witnessed deterioration of all of our natural resources over the last ten years. I was very vocal about how I felt and won three elections. Therefore, I feel many citizens in our county agree with me. However, after five and a half years of being a commissioner, we had the opportunity to sell our home, which we had tried for years to do, but no one wanted to live by a dairy. We decided to move out of and not invest in Gooding County anymore. We still own four farms in Gooding, so I am still very concerned about what happens to our county. Several of my friends and family have also moved. Sadly to say, Gooding County is no longer a desirable place to live.

During my time as a commissioner Jerome Cheese made an application to pipe their waste from Jerome to Gooding County. We fought Jerome Cheese all the way to the Supreme Court and received a ruling in our favor. Thus, they could not pipe their waste to Gooding County. Instead, Jerome Cheese went to Idaho Department of Agriculture, ISDA, and had the waste listed as fertilizer. Despite the Supreme Court's ruling, Jerome Cheese is now trucking in and spreading its waste (now renamed fertilizer by ISDA) in Gooding County. As commissioners, we met with ISDA, and Idaho Department of Environmental Quality, DEQ, about this and neither one of those state agencies cared. All of our work and expense as county commissioners to protect Gooding County's natural resources and especially the quality of our ground water was in vain.

I also appealed a land application permit by Glanbia. It is documented in Idaho Department of Environmental Qualities' files that cancer-causing carcinogens are being airborne and sprayed on our soils by Glanbia. At one meeting with DEQ, I asked for some current soil samples. Their representative stated, "I need not worry, the waste simply leached into the aquifer, flowed out of the springs into the Snake River and on out to the ocean. It wasn't a problem."

This statement was not comforting to me, as our aquifer supplies drinking water to many citizens. There are documented cases of landowner's either having to sell their ranches to Glanbia or not being able to drink their water due to Glanbi's pollutants. In addition, there were several settlements that included "gag orders" required by Glanbia when they bought landowners polluted property. Glanbia has since built a new treatment facility, but DEQ allowed them to build it within fifty feet of the river and wouldn't you know it, they have already had a major

spill which spilled into the Little Wood River. Also as designed the completed treatment facility only has the capacity to store one-day of waste. What happens on days in the winter when they cannot spray or when they have a frozen pipe or even more importantly when they have a breakdown? This is not a small amount of waste that I am concerned about. We are talking about at least 1.5 million gallons of waste that has to be treated each and every day of operation. They had so much excess waste this past spring that they required dairymen to dump their milk, since they (Glanbia) could not take anymore.

There is no common sense used in any of these decisions, it's just simply about big business and the dollar. I have stated at many public meetings that based on volumes of milk and such produced in Gooding County (from information gathered from DEQ and ISDA) we have over 400,000 dairy cows in our county. No one has rebutted that figure or offered to prove me wrong. With 115,000 irrigated acres in our county and 40,000 of that in alfalfa, which takes no additional nitrogen; we have approximately 75,000 acres left for disposal of manure. Not all of the 75,000 acres can take the excess manure from dairies. Where is all of the waste from the 400,000 dairy cows going? Dale Westermann, soil scientist with the USDA's Agricultural Research Service, in the August 26, 2006 publication of the Ag Weekly, said "Some studies suggest that a dairy operator would need at least one acre of land per animal to dispose properly of the waste."

With the new study of phosphorus levels just released in Ag Weekly as noted above, there will be even fewer acres available in which to take the waste. ISDA at one of our meetings in the last year stated that they had spent three years writing Nutrient Management Plans, NMP, but they didn't have the time or the staff to enforce them. This is supported in above mentioned Ag Weekly article which first sentence reads, "Roughly 97 of 100 field operated by dairies in Gooding County exceed the state's phosphorous levels, according to soil samples." From what I have seen, the ISDA's NMP plans are a big joke and only a ploy for additional time to pollute. There is also the issue of third party applications. These third party applications take place because dairymen are so desperate for a place to spread their waste that in many cases they won't buy the neighbor's corn, hay, grain or whatever else unless the farmer takes some of the dairies' excess waste. At a meeting recently held with DEQ and ISDA, there was a consensus and acknowledgement that this was a problem. To my knowledge nothing has been done about this.

We do have serious water quality issues in our county: there are many residents in Gooding County who cannot drink their water due to poor water quality. What will it take for the state agencies to do their job and start protecting the environment for the people? We are all taxpayers and deserve some protection. Why do these state agencies exist at all, if they will not or cannot do their job? We need good, clean air and water. The degradation of ground water quality in Gooding County is a disgrace. For all of the above-mentioned reasons and more, I ask you not to allow the transfer of this water which has the potential to add more pollutants and pathogens in an already pollutant saturated Gooding County.

Thank you for your consideration on this very serious situation.

Sincerely,

Carolyn Ellipse
1393 Stony Brook Circle
Twin Falls Id. 83501

Pictures Enclosed: 734-9773



September 09, 2006

Mr. Gary Spackman
Hydrological Engineer
Idaho Dept. of Water Resources
322 East Front Street P.O. Box 83720
Boise, ID 83720-0098

Dear Mr. Spackman:

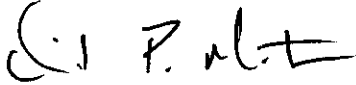
The following information depicts some of the issues facing Gooding County at the present time. Most of the data has been gleaned from the National Agricultural Statistics Service, (NASS). Confirmation of the material contained herein can be obtained from Idaho State Department of Agriculture through a records request application.

The agricultural counts in the NASS report of Idaho County Estimates of May 19, 2006, states that Gooding County has approximately 246,500 head of cattle. There are 340,071 acres of native range, of which 254,620 acres are Bureau of Land Management land and 81,519 acres are state and private lands. Of the total 467,712 acres in Gooding County 115,398 acres are irrigated. (Gdg. Co. Comprehensive Plan). These figures indicate the 340 million pounds of alfalfa, 10 million pounds of barley, and the 1,656 million pounds of corn silage, the consumption of 167,000, one thousand pound cows is not enough feed for the total number of animals. This issue is resolved by the transporting of feed into the county. This is the origin of the problem. One hundred forty thousand mature dairy cows (NASS) will produce 1.3 million tons of manure per year. Manure is typically applied to corn ground at the rate of approximately 45 tons per acre. In 2005, Gooding County raised 30,000 acres of corn silage (NASS), a typical ground available figure. Some quick math indicates 1.3 million tons of manure will fertilize 28,888 acres, if indeed all available corn ground receives bovine waste products. The waste from the balance of the animals is beginning to be quite obvious, as piles of manure and ground saturation become more and more evident.

Currently the Idaho State Department of Agriculture has determined the phosphorous levels in the county have exceeded their respective Maximum Contamination Level, (MCL). These findings have been found on fields monitored by the ISDA for Confined Animal Feeding Operations (CAFO's) in Gooding County. All permitted CAFO's have Nutrient Management Plans stating the CAFO's requirements for compliance to Federal, State and County mandates. It does not appear at this time Nutrient Management Plans have been adhered to. These findings jeopardize the number of acres available for manure application.

The "Clean Water Act" established in 1996 by the Federal Government (EPA) required waste management systems to contain all liquid waste to prevent contamination of the surface waters of the country. To comply, CAFO's have developed lagoons to hold waste water for evaporation and sprinkler application to cropland. The excess numbers of animals and the waste disposal methods are having a significant impact on the viability of the agricultural industry in Gooding County.

Sincerely,

A handwritten signature in black ink, appearing to read "D. P. Maestas", with a stylized flourish at the end.

David P. Maestas
Gooding County P&Z Commission

Dairy dilemmas

Gooding fields exceed phosphorus limits

Dairy and ag officials question state standards

By Michelle Dunlop
Times-News writer

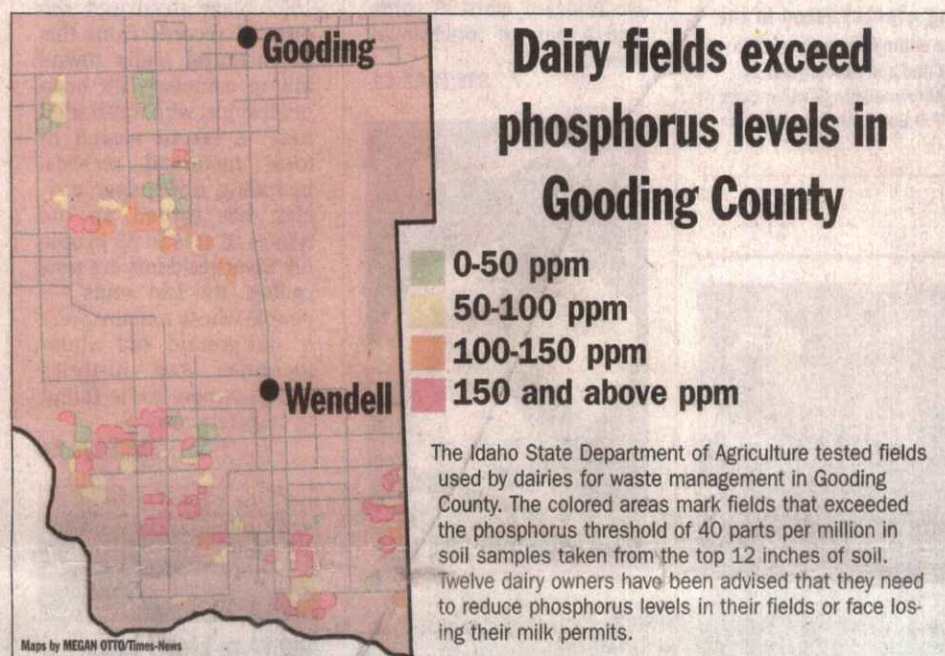
GOODING — Roughly 97 of 110 fields operated by dairies in Gooding County exceed the state's phosphorus levels, according to soil samples.

The results have both industry and state agriculture officials questioning Idaho's standards as well as the science that dairy operators rely on for devising their waste management plans. Although phosphorus does not harm soil, it can speed up the growth of algae in rivers and streams if it reaches surface water. To avoid having their permits revoked, dairy operators may need to find addi-

tional land to handle waste from their facilities.

In June, the Ag Department sent letters to 12 Gooding County dairy operators who manage 110 fields, notifying them that at least one of their fields went over the phosphorus limit of 40 parts per million for the top foot of soil. The uppermost layer of soil is the most vulnerable to surface water runoff.

The North Side Canal Co. operates many of the surface water canals in Gooding County. The company has not seen elevated levels of phosphorus in the water it returns to the Snake River, said Larry Pennington, water quality specialist for North



Side. Although some may worry that high levels of phosphorus would indicate elevated levels of other elements such as

nitrates, that's not the case in Gooding based on annual groundwater testing there, says Marv Patten, head of the

state's dairy bureau.

Idaho dairies need to abide by state standards. Please see **GOODING**, Page A3

Couple found guilty in child case

By Cassidy Friedman
Times-News writer

TWIN FALLS — After deliberating for a little more than six hours Friday a jury found a Twin Falls County couple guilty of willfully failing to save their 1-year-old nephew from serious injury.

Erendira Cruz Martinez and Miguel Ortiz Morales were charged with felony injury to the boy, Eric Huerta, who was found bruised with a fractured rib and skull and numerous other injuries doctors said did not appear accidental.

The couple testified Friday that they both did what they could to protect Huerta.



Martinez



Morales

Please see **GUILTY**, Page A3

Magic Valley officials consider new dairies

Pending dairy applications in the Magic Valley

Requests do not include increasing the number of animals at the existing facilities.

Cassia County board places a 90-day moratorium on new applications

By Michelle Dunlop
Times-News writer

BURLEY — As dairy waste issues popped up at one end of Magic Valley, officials in Cassia County put a temporary stop to permitting large animal operations at the other side of the region.

"The commissioners wanted to be sure we had a good, solid plan in place," said Kerry McMurray, administrator for Cassia County.

On Monday, Cassia County's board adopted a 90-day moratorium on allowing new or expanded confined animal feeding operations. The county has six applications for dairies in front of its planning and zoning commission — the most of any county in Magic Valley. Valley-wide, there are nine CAFO applications pending as well as two requests to expand operations' acreage only.

Cassia County is updating its comprehensive plan, which includes a section on CAFOs.

Commissioners decided to wait to consider new applications until the plan is in place.

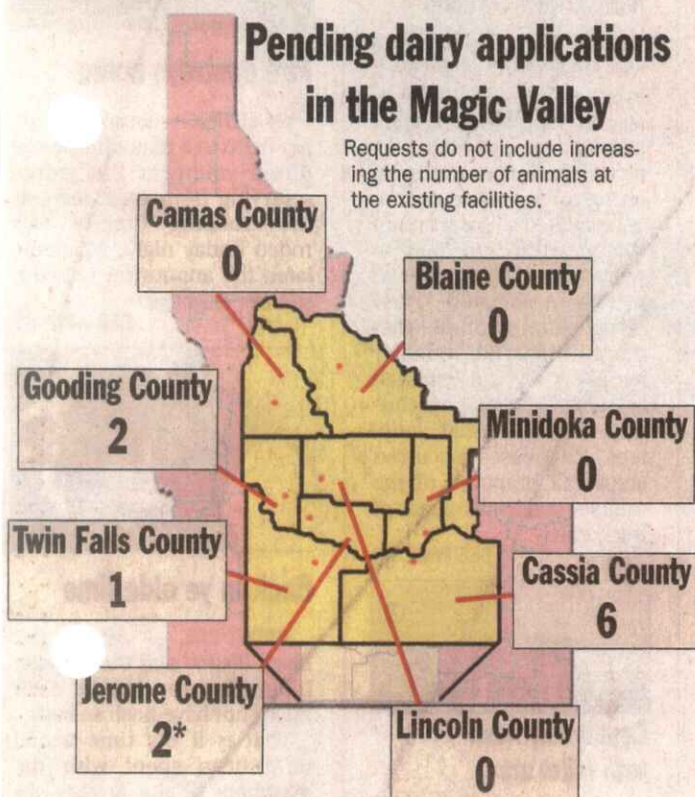
Of the six applications now on hold, only one is for more than 10,000-animal units: a 25,000-animal unit dairy to be built near Raft River.

Gooding County's planning and zoning commission will hear two CAFO permit requests Monday evening. The county has been revising its CAFO ordinance since March 2005. Recent soil testing in the county shows that several fields used by dairies for spreading manure exceed phosphorus limits.

Minidoka and Jerome counties led the way this past year in approving CAFO applications — both gave the OK for at least 10 permits.

Although Twin Falls County officials have not seen many requests in recent times, they will consider a 15,120-animal unit dairy on the Cassia County line in the near future.

Reporter Michelle Dunlop covers natural resources for the Times-News. She can be reached at 735-3237 or by e-mail at mdunlop@magicvalley.com.

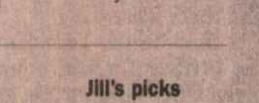


7 reasons to read this week

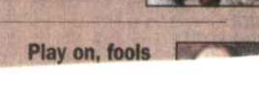
4-H's and fashion
The lessons they learn.



Custom saddles
What does yours say about you?



Jill's picks
Health counselor chooses our Eat Cheap meals.



Play on, fools

Gooding

Continued from page A1

by a nutrient management plan, which specifies how much manure a dairy operator can spread on his fields to comply with environmental standards. Ideally, if a dairy operator follows his plan, his fields shouldn't exceed phosphorus limits. Patten and others now wonder if the plans are based on accurate science after 88 percent of the fields surpassed phosphorus limits.

"If the producer follows the plans as written, it appears that the information going into the plan wasn't accurate enough to provide a good plan to follow," Patten said.

Dale Westermann is a soil scientist with the USDA's Agricultural Research Service. He estimates that a 1,400-pound cow will excrete about 36 pounds of phosphorus annually. After the cow's waste is applied to land, the soil absorbs a certain amount of the phosphorus. Crops raised

on that land absorb roughly 26 pounds of phosphorus per acre annually. Some studies suggest that a dairy operator would need at least one acre of land per animal to dispose properly of the waste, Westermann said.

However, accurately measuring phosphorus in soil has been difficult. Therefore, many of the fields that tested somewhat over the 40 ppm may not have excess waste.

More than half of the fields tested showed readings of 100 ppm and almost 40 percent came back with levels of 150 ppm or higher.

Fields that posted results of 200 ppm clearly demonstrate over-application, Westermann said. More than 18 percent of the fields testing in Gooding County tested at or above 200.

"There's no question they haven't paid any attention to

their plan," he said.

Westermann believes that dairymen operators today are using feed laden with higher levels of phosphorus than what was accounted for in the nutrient management plans. To be accurate, the plans would need to be rewritten.

"That's really part of the problem — they don't know what they're applying," he said.

Bob Naerebout, executive director of the Idaho Dairymen's Association, thinks the testing in Gooding will lead to new technology to solve the problem. Otherwise, dairymen will need either to find more land for waste applications or to compost the material and sell it.

Neighboring states don't have the same stringency for phosphorus as Idaho does. Adjusting the state's regula-

tions is another option.

"It didn't get this way overnight, and we're not going to reduce the levels overnight," Patten said.

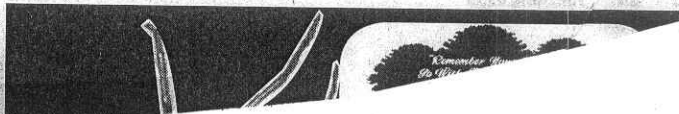
Reporter Michelle Dunlop covers natural resources for the Times-News. She can be reached at 735-3237 or by e-mail at mdunlop@magicvalley.com.

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2006 Test results on Bryan Ravenscroft's well compared to 2002 tests and maximum allowed concentrations and minimum lethal concentrations if known. All numbers are in parts per million (PPM).

	<i>ISDA</i>	<i>STUCKENHOLTE</i>		
Dairy Chemical	2002	2006	Max for	Minimum lethal
	Concentrations	Concentration	potable water	concentration
Total Nitrogen		1,510		
Nitrate	0.86	1.2	10	
Phosphorous	Less than 0.09	1,440		
Potassium	3.5	100		
Calcium	36	2,300		
Magnesium	16	600		
Sulfate	24	11,400	250	
Zinc	0.02	41.48	5	
Copper	Less than 0.02	35.13	1.3	1.088
Iron	Less than 0.02	150,285	0.3	900
Manganese	Below detection level	199.8	0.5	45
pH	7.9	6.8	6.5 to 9	
Bacteria colony forming units/gram				
Coliform	Less than 0.02	10	0	
E. Coli	Less than 0.02	20	0	
Aerobic		6,500,00		

Chemicals found in Bryan Ravenscroft's well, that attack the heart and blood.

1. H_2S lethal in short term at 300 PPM-paralyzes nerves for heart and lungs. Long term exposure show effects down to 5 PPM.
2. $FeSO_4$ causes Tachycardia (rapid heartbeat), and peripheral arteries to collapse.
3. $FeCl_3$ lowers pH down as low as 1, which causes lesions in the skin. It then causes blood clots inside the body (purple-blue patches).
4. Organic nitrates and amines cause lesions, purple blue patches, reduce bloods ability to convey oxygen, causes sudden coronary death.
5. Manganese precipitates iron out of solution making it unavailable for the body. Causes severe anemia, nerve disorders and brain damage resulting in the disease "Manganism".
6. Potassium nitrate causes anemia, kidney problems, weakness, circulatory disturbance and intestinal ulcers.

All of these symptoms have been exhibited by one or more of the seven humans and 3 dogs impacted by the lagoon effluent containing these chemicals.

Bryan Ravenscroft
9-11-06

1328 Shooting Rd
Bliss, Id 83314



MAGIC VALLEY LABS

210 ADDISON AVE

TWIN FALLS, ID 83301

208-733-4250

Laboratory Supervisor: Brenda Ellis

*mailed to
P & Z Com*

PWS #: 5550001
PRIVATE WATER
STAN & COLETTE BORN
1772 E 1400 S
GOODING ID 83330

LAB ID # ID000911

COLIFORM BACTERIA ANALYSIS REPORT

Date Collected 8/8/2006
Time Collected 4:00:00 PM

Date Received 8/9/2006
Time Received 8:24:00 AM

Sample # 308623501
Type S
Location BORN - WELL KITCHEN SINK
Collector COLETTE BORN

Chlorine Residual: ppm

Date of Original Positive:

Copy:

Test Performed	Method	Result
----------------	--------	--------

Total Coliform	SM9223BCT	PRESENT
----------------	-----------	---------

Escherichia coli	SM9223BCT	PRESENT
------------------	-----------	---------

Completed Date: 8/10/2006

Analyzed: Date 8/9/2006

Analyst: JD

Time 10:00:00 AM

Total Coliforms - if these are present, your sample is CONTAMINATED and may contain disease causing organisms.

E. coli - if these are present, your sample contains RECENT HUMAN / ANIMAL FECAL CONTAMINATION and is very likely to contain disease causing organisms.

SM9223B CT Standard Method 9223B Colilert Reagent
SM9223B CS Standard Method 9223B Colisure Reagent
SM9222B Standard Method 9222B
SM9221E Standard Method 9221E

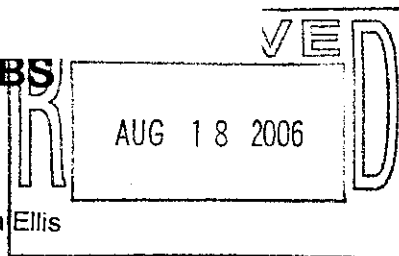


MAGIC VALLEY LABS

210 ADDISON AVE
TWIN FALLS, ID 83301

208-733-4250

Laboratory Supervisor: Brenda Ellis



PWS #: 5550001
PRIVATE WATER
JOSE MEZA
1523 S 2050 E
GOODING ID 83330

LAB ID # ID000911

COLIFORM BACTERIA ANALYSIS REPORT
Private Water Sample

Date Collected 6/21/2005
Time Collected 12:30:00 PM

Date Received 6/21/2005
Time Received 2:34:00 PM

Sample # 306528781

Type
Location KITCHEN SINK
Collector JOSE MEZA

Chlorine Residual: ppm

Date of Original Positive:

Copy:

Test Performed	Method	Result
Total Coliform	WMMO	PRESENT
Escherichia Coli	WMUG	PRESENT

Completed Date: 6/22/2005

Analyst: EB

Analyzed: Date 6/21/2005
Time 4:00:00 PM

Total Coliforms - if these are present, your sample is CONTAMINATED and may contain disease causing organisms.

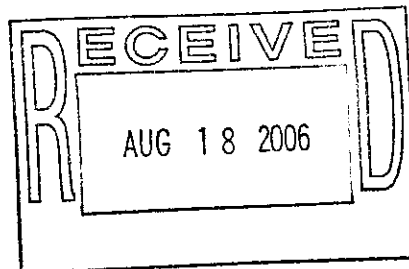
E. coli - if these are present, your sample contains RECENT HUMAN / ANIMAL FECAL CONTAMINATION and is very likely to contain disease causing organisms.



MAGIC VALLEY LABS

210 ADDISON AVE
TWIN FALLS, ID 83301
208-733-4250

Laboratory Supervisor: Brenda Ellis



PWS #: 5550001
PRIVATE WATER
JEREMEY ANTA
1521 S 2050 E
GOODING ID 83330

LAB ID # ID000911

COLIFORM BACTERIA ANALYSIS REPORT Private Water Sample

Date Collected 6/23/2005
Time Collected 1:45:00 PM

Date Received 6/23/2005
Time Received 3:51:00 PM

Sample # 306529701

Type

Location OUTSIDE FAUCET

Collector

Chlorine Residual: ppm

Date of Original Positive:

Copy:

Test Performed	Method	Result
Total Coliform	WMMO	PRESENT
Escherichia Coli	WMUG	PRESENT

Completed Date: 6/24/2005

Analyzed: Date 6/23/2005

Analyst: EB

Time 4:00:00 PM

Total Coliforms - if these are present, your sample is CONTAMINATED and may contain disease causing organisms.

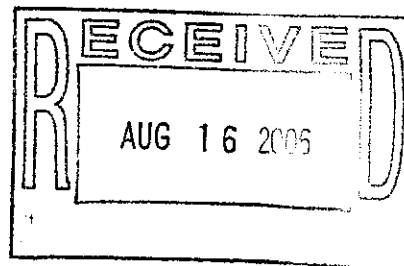
E. coli - if these are present, your sample contains RECENT HUMAN / ANIMAL FECAL CONTAMINATION and is very likely to contain disease causing organisms.



MAGIC VALLEY LABS

210 ADDISON AVE
TWIN FALLS, ID 83301
208-733-4250

Laboratory Supervisor: Brenda Ellis



PWS #: 5550001
PRIVATE WATER
ARDEN SCHMITT
1421 S 1800 E
GOODING ID 83330

LAB ID # ID000911

COLIFORM BACTERIA ANALYSIS REPORT

Date Collected 6/30/2006
Time Collected 10:50:00 AM

Date Received 6/30/2006
Time Received 11:49:00 AM

Sample # 306612721
Type P
Location RURAL WELL HYDRANT
Collector ARDEN

Chlorine Residual: ppm

Date of Original Positive:

Copy:

Test Performed	Method	Result
Total Coliform	SM9223BCT	PRESENT
Escherichia coli	SM9223BCT	ABSENT
Completed Date: 7/1/2006	Analyzed: Date 6/30/2006	
Analyst: RB	Time 3:00:00 PM	

Total Coliforms - if these are present, your sample is CONTAMINATED and may contain disease causing organisms.

SM9223B CT Standard Method 9223B Colilert Reagent
SM9223B CS Standard Method 9223B Colisure Reagent
SM9222B Standard Method 9222B
SM9221E Standard Method 9221E

WELL CONTAMINATION NORTH OF GOODING

A. GARCIA DAIRY 1772 EAST 1300 SOUTH (4 operators over several years)

Wells affected:

1. Youren 1646 East 1300 South well replaced and cased several years ago
2. Hurd 1323 South 1700 East well deepened & cased
3. Jensen 1723 East 1250 South contaminated several years ago when lagoon ran over, currently okay.

B. ROSA DAIRY #2 1357 South 1800 East

Wells affected:

1. at the dairy well lowered and cased winter/spring 20006
 2. Walker 1798 East 1400 South contaminated 2006 still is
 3. Born 1772 East 1400 South contaminated 2006 still is
 4. Rothrock 1403 South 1800 East contaminated 2006 still is
 5. Schmitt 1421 South 1800 East contaminated 2006 still is
- Problem wells Rosa not suspected
1. Shaw 1477 South 1800 East contaminated 2006 still is
 2. Fields 1816 East 1500 South contaminated 2006 still is

C. GABRIEL DAIRY 1613 South 1800 East (closed last 3 months)

Wells affected:

1. Sabala 1740 East 11650 South well lowered and cased several years ago

D. BIG SKY HEIFERS 1496 SOUTH 2550 EAST

(formerly France Feedlot)

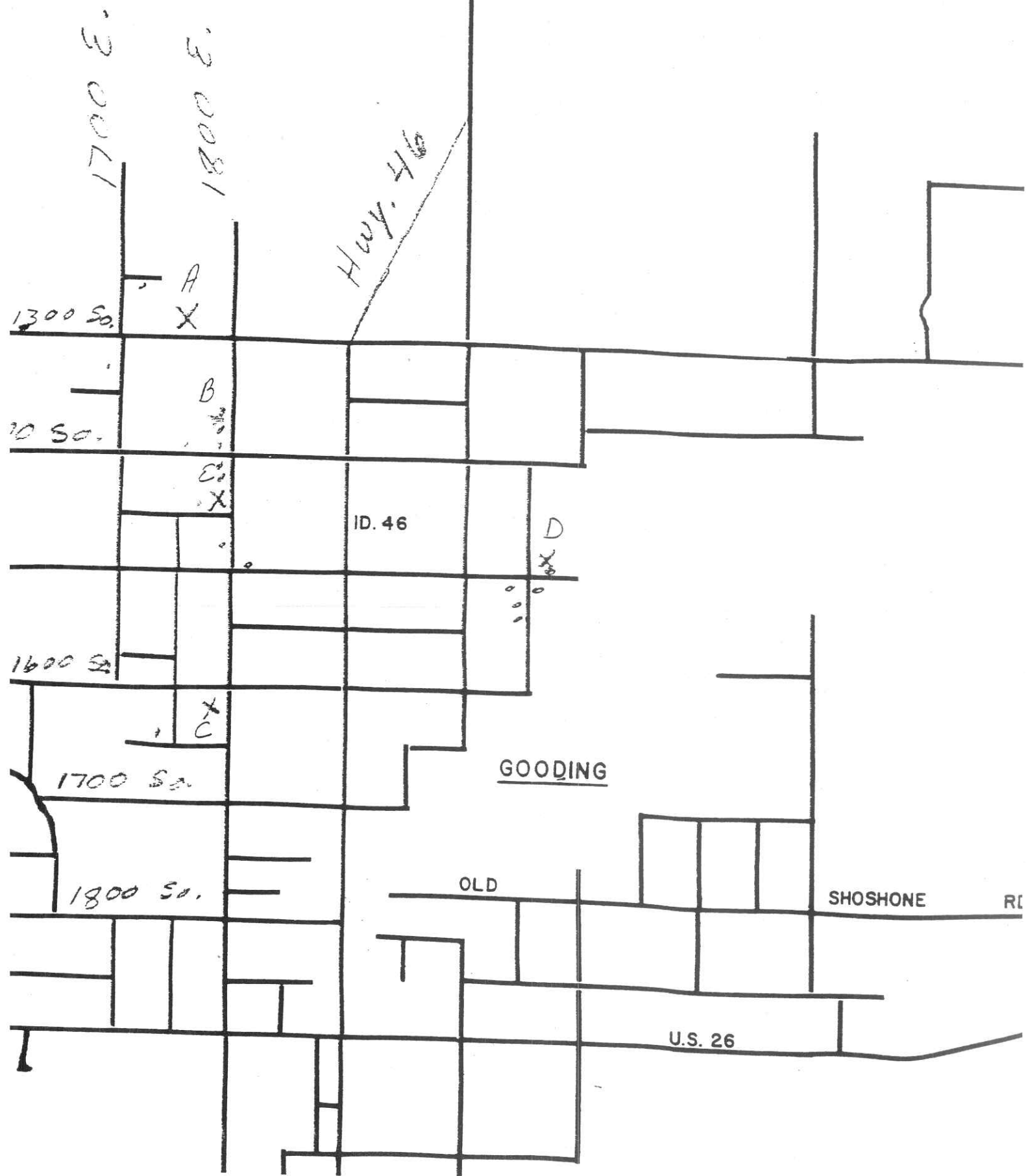
Wells affected:

1. Home place 1496 South 2550 East well deepened and cased several years ago
2. Anta 2037 East 1500 replaced well several years ago, new well currently contaminated
3. Meza 1525 South 2550 East currently contaminated
4. Antal 521 South 2550 East currently contaminated
5. 1563 South 2550 East intermittent problems
6. 1526 South 2550 East intermittent problems

E. Seamons (current owner, last dairy closed 3 years ago)

Wells affected by previous dairies

1. Allen 1425 South 1800 East, no current problem
2. Walker 1798 East 1400 South
3. well at dairy contaminated during spring run off when operating



Green = natural drainage washway

Black = designates "sink hole" occurrence



- # 1 → Sink hole occurrence on 4-21-99 took all canal water at 10'/second. Not able to fill sink hole - piped over top. This is surrounded by corrals
- # 2 → Sink hole occurrence able to stop flow into occurrence
- # 3 → Sink hole occurrence able to stop flow
- # 4 → Large sink hole occurrences — Not filled — Piped over entire ^{Black} area of canal

Introduction:

Mr. Craig Meadows, Attorney at the law firm of Hawley, Troxell, Ennis & Hawley of Boise, Idaho, procured the environmental quality evaluation services of Industrial Hygiene Resources (IHR). This work involved the study of the public health significance of the practice of land-application of industrial wastewater by the Glanbia Foods Company, located in a rural setting, near Gooding, Idaho. Harry J. Beaulieu, PhD, CIH, CSP, President and Senior Scientist of IHR designed and directed this work. Ms. Brandi Williams and Mr. Jeff Brown, both industrial hygiene technicians of IHR performed this evaluation during May and June of 2003.

The scope of this effort was to perform an initial air quality investigation downwind from the Glanbia Foods plant, and at the residential home of Travis and Heather Williams, rural Gooding, Idaho. The purpose of this effort is to produce documentation about the concentrations of microbiological and chemical air contaminants in air released from the air pollution "source", the Glanbia Foods wastewater land application pivots, and to evaluate the effect upon the "receiver", the Williams family. This study also establish some "background, ambient" concentration data of these same air contaminants about ½ mile from the family's home.

Background:

The Glanbia Foods plant produces cheese, and is located in a rural setting, near Gooding, Idaho. Industrial wastewater produced from the plant is collected in an uncovered pond, and this water is transferred via piping to land owned by the company for surface disposal purposes. The plant sends this water roughly three (3) miles away to land irrigation "pivots" that apply this wastewater (sometimes mixed with groundwater) onto soil.

The Travis and Heather Williams ranch sits at the eastern edge of the land where this industrial wastewater is applied to Glanbia land via irrigation pivots. The prevailing wind in this area is from west to east, and commonly, a "mist" from the pivots is visible, and migrates onto the William's property. Standing in the yard of the Williams ranch, a distinct, disagreeable odor is present when the pivots are applying wastewater that is not consistent in character with surrounding cattle production, but rather the odors of some industrial wastewaters.

Numerous health issues have been present for the Travis and Heather Williams family while residing in their newly constructed home. There are two children living at the home, and both have suffered gastro-intestinal illnesses characterized by chronic diarrhea (as well as the parents, and visitors of the home, including a babysitter, and a temporary ranch hand).

Methods:

Environmental Monitoring:

A review was made of some historic correspondence regarding the land application permit request by Glanbia Foods with the Idaho Department of Environmental Quality (Idaho DEQ). A study was designed by Dr. Harry Beaulieu to evaluate the public health significance of this practice of land application of industrial wastewater to this rural land.

Some initial samples of irrigation wastewater were collected from the Glanbia pivot #3 (April 24, 2003), and pivot #7 (May 12, 2003). An analysis was performed for the presence of regulated organic chemical contaminants from the pivot #7 water (5/12/03), and analyses was also performed for microbiological contaminants for the water samples of both the #3 and the #7 pivots.

The scope of this initial study set out to collect air samples at six (6) locations, and to correlate the concentrations of air contaminants to wind direction and speed (on-site weather [data-logging] station). One background air sampling location was included in this study (wind direction on the sampling day determined this location). Five additional air sampling locations were placed roughly "in line" and downwind from a working pivot (#7), in measured distances downwind, e.g., the pivot end and the Glanbia property line starting at 0', then sampling locations also at 100', 300', 500' and 825'. Air sampling was performed during a time period when the pivot end was closest to the property line (see figures 2-3 and the photo-log).

Air sampling for microbes:

Air sampling for bioaerosols included *airborne fungal spores, culturable fungi and culturable bacteria* (25°C, and 35°C)¹, and endotoxins. Cursory water and soil samples were also collected to characterize the wastewater that was released from the pivot.

All bioaerosol evaluation work was performed with the standardized protocols developed by the American Conference of Governmental Industrial Hygienists (ACGIH) Bioaerosol Committee as a guide. P & K Microbiology Services of Cherry Hill, New Jersey analyzed all bioaerosol air samples. The P&K laboratory is accredited by the American Industrial Hygiene Association (AIHA; Microbiological Proficiency Analytical Testing Program). All other sampling was conducted with standardized methods, and good industrial hygiene practices.

Air (and soil) sampling for volatile organic chemicals:

Air samples were collected for chemicals thought to be present in wastewater related to the production of cheese (and thus released into the air with land application). The categories of air contaminants included *volatile alcohols, aldehydes, and organic acids*.

¹Incubation at 25°C would encourage growth of "environmental fungi and bacteria", while incubation at 35°C would encourage growth of "human pathogenic fungi and bacteria".

The chemical evaluation techniques utilized consisted of a standardized air sampling and analytical method of the US Environmental Protection Agency (EPA); specifically, Method TO-14 ("total organics"; modified). In this method, the laboratory analyzed the air samples for the presence of volatile organic chemicals (VOCs), e.g., methylene chloride, and especially alcohols like butanol. With other methods, additional air samples were also collected for a "scan of volatile aldehydes (TO-11; ~13 volatile aldehydes, e.g., butyl aldehyde), and finally, a scan of organic acids, e.g., butyric acid) was also performed. The Wisconsin Occupational Health Laboratory (WOHL) of Madison, Wisconsin performed these chemical analyses of air samples collected. The WOHL is accredited by the AIHA.

A soil sample was also collected in the mud of the run-off pond on the William's property (with analysis performed to document the presence of methylene chloride and other chlorinated hydrocarbon solvents).

Testing in the home of Travis and Heather Williams:

In addition to the environmental monitoring, chemical and biological air testing was performed at the same time in the Travis Williams residential home (see figure 1). The purpose of this effort was to determine the total concentrations of viable fungi and bacteria, and fungal spores in air in the residence, as well as the concentrations of chemical air contaminants.

Air quality monitoring was performed in four (4) locations throughout the home and one (1) sample in the crawlspace, as well as an outside control location. Morning and afternoon sampling was performed in the home and these concentrations were compared to the outside (ambient) location. A total of ten (10) culturable (viable) fungi and fungal spores were taken throughout the day. Concentrations of bioaerosols (viable mold, fungi, bacteria and spores) in air within the home were documented in this study. Bioaerosols were identified by type (genus and species), and quantified as colony forming units of organisms per cubic meter of air (CFU/M³). Fungal spore samples were quantified as structures per cubic meter of air (structures/M³). Two (2) swab samples were also collected from surfaces, i.e., beneath the sub floor in the crawlspace.

Results/Discussion:

A list of Figures and Tables is presented that delineates the three (3) figures, and all eighteen (18) data tables. Tables 1A, 1B, & 2 document the microbiological and chemical contaminants of the industrial wastewater being pumped out of pivots, as well as the quality of the residential drinking water (private well) of the Williams family. Tables 3-8 document the typical microbiological air quality within the Williams residence proper. Tables 9-14 document the *biological* air contaminants downwind from pivot #7 on the sampling day of May 12th, 2003. Tables 15-17 document the *chemical* air contaminants downwind from pivot #7 on this same sampling day.

Table 1A: No organic chemical contaminants were found to be present in the well (drinking) of the Williams family via a sample collected on 4/30/03. Thus, with this parameter, the drinking water quality should be considered good (not unhealthy). At this same time, a soil sample was collected from a dry pond where Glanbia wastewater had previously collected (standing contaminated water at one time). Measurable concentrations of acetone (30 ppb) were found to be present in this soil, indicating that historic contamination was present. This is a fairly small concentration, and it was surprising to find it present at all since it is so volatile. This might indicate some substantial historic contamination, or possibly some laboratory contamination of the sample.

Table 1A also documents the presence of several regulated industrial chemicals as being present in the wastewater coming out of pivot #7 on May 12, 2003. At least one chemical was present in concentrations in excess of the regulatory limit, and two (2) are also recognized as carcinogens (cancer causing agents). The two carcinogens include chloroform (82 ppb²) and methylene chloride (0.9 ppb; also termed "dichloromethane"). Three other regulated chemicals were also found to be present in this irrigation wastewater, including acetone (280 ppb), toluene (13 ppb), and 2-butanone (60 ppb; also termed "methyl ethyl ketone, or MEK"). At least the chloroform exceeds the regulatory limit of 60 ppb for surface waters (the actual concentration measured was 82 ppb). This information is certainly disturbing, since it indicates that this wastewater is contaminated with toxic, industrial chemicals, and yet this wastewater is being sprayed into the air and onto the soil.

Table 1B: Table 1B documents massive contamination of this industrial wastewater with bacteria on two separate occasions, including April 24 (WW-01), and May 12, 2003 (WW-02). An example of this massive microbiological contamination included total coliforms (>2,000,000 CFU/100ml), fecal coliforms (110,000 CFU/100ml), as well as total plate count (33,000,000 CFU/ml). Again, this information is disturbing in that it indicates that this wastewater is heavy contaminated with microbiological organisms. Both Tables 1A and 1B document data that is consistent with the foul, distinctive odors present to the observer standing downwind from the release of this industrial wastewater into air and onto the fields.

Table 2: The drinking water quality of the residential well utilized by the Williams family should be considered good when two other factors are considered including biological contaminants and nitrates. Table 2 documents the absence of total coliforms, fecal coliforms, fecal streptococci, pseudomonas, staphylococcus, and E.Coli. Also, the table confirms that nitrate levels are acceptable (~1.5 mg/l, compared to a standard of 10 mg/l, and an absence of nitrites).

Tables 3-8: The microbiological air quality of the Williams residence was evaluated with standardized and accepted air sampling methods. The air testing was conducted on April 10, 2003 in accordance with good industrial hygiene air sampling practices, and generally

ppb, parts of the chemical contaminant per billion parts of liquid (water). This is equivalent to micrograms of chemical per liter of liquid (water); ug/L. Thus, 1 ppb = 1 ug/L.

in concert with the ACGIH guidance document. Figure 1 and the photo log depict air-sampling locations. The attached Data Tables I and II summarize the sample numbers, locations, and results of air testing for *fungi spores* on Air-O-Cell filter cassettes (quick results), and *culturable fungi* on agar plates with a required time of growth (definitive results).

Air sampling for the collection of *fungi spores* (Air-O-Cell cassettes), with microscopic examination of filter surfaces by the laboratory provides *fast, preliminary data* which could be used to initiate remedial actions quickly (as opposed to waiting for organisms to grow on agar plates for about two weeks). Fungal spore concentrations are measured in (fungal) structures per cubic meter of air (Structures/M3).

The *definitive* air test for molds is to impact fungal spores, viable organisms, and sporangia (stalks) onto agar plates, and allow the viable organisms to grow out (~2 weeks), and for the laboratory staff to "speciate" all colonies that grew over time. The concentrations of *culturable fungi* in air are expressed in terms of "colony forming units" per cubic meter of air (CFU/m3) of both the genus and species of the colonies present; e.g. *Aspergillus versicolor*, or *Ulocladium botrytis*.

Table 3 documents the concentrations of fungal spores in air throughout the home, including the crawlspace beneath the home, with all samples compared to an outside, ambient control sample. Tables 4-5 document the culturable fungi that were present in air with duplicate samples cultured at 25°C ("environmental fungi"), and also 35°C ("pathogenic fungi"). Tables 6-7 document the culturable bacteria that were present in air again with duplicate samples cultured at 25°C ("environmental bacteria"), and also 35°C ("pathogenic bacteria").

Collectively, there does appear to be some fungal (mold) contamination present in the crawlspace beneath this structure as indicated by the presence of visible mold colonies on the underside of some sections of the sub floor (see Table 8; crawlspace), and by the amplification of concentrations of mold spores in air as compared to outside, ambient air. However, there is neither evidence of visible mold growth, nor any evidence of amplification of concentrations of mold or bacteria in air in the *living portions* of the home. Although remediation (cleaning) of the mold contamination of the crawlspace is recommended, this contamination is inconsistent with symptoms of the family, and thus is probably not the cause of the health problems of members of this family. No water intrusion source(s) could be identified during this evaluation.

Tables 9-13: These four (4), key data tables characterize the microbiological contamination that spread downwind from the irrigation pivot #7 on May 12th, 2003. All data during this study were from the west ("westerly") at roughly 5 miles per hour (5 mph), and the air samples were collected when the active pivot (spraying wastewater) was closest to the Williams property and home (see figures 2-3, and the photo log).

that deserves discussion on these tables is **bolded**, and all data should be compared to inside, ambient background data. In this case, the background air sampling location was located nearly 0.5 mile downwind, with the belief that this location would serve as an adequate control point. Any reasonable "upwind" (west) sampling point would be located on Glanbia land, and other sampling locations would be so far away from this site that they should not be considered representative.

Table 9 is typical of the other tables in this set (of four) in that in documents that total concentrations of fungal spores in air seem to be greatest at the 300', but *especially at 600' (inclusive of the Williams home; ~600'), and finally at 825' sampling points* east of the Glanbia fence line (and generally downwind from the spray of wastewater). Why the concentrations of microbes in air are not greatest at the fence line is curious with the pre-conceived notion that they should be. However, there certainly might be some "atmospheric lifting effect" in play here, where wind lifts the aerosol (water droplets) as they are released from the pivots, and carries them to some distance downwind, and in this case, with maximum fallout at the receiver (the Williams residence).

The data presented in Table 9 is fairly typical of the data present in the other tables (10-13), where the Williams home seems to be sitting in a point of maximum concentration of microbes in air ("receiver", and thus, probably maximum fallout of microbes from the "source" which is the pivot spraying system. **Predominant microorganisms present in the fallout of this irrigation spray system seem to be Cladosporium (fungi), and Micrococcus luteus and Staphylococcus (bacteria).** It should be noted that Cladosporium was also the predominant species of fungi present in the visible mold colonies identified in the crawlspace beneath the home (on the underside of the sub floor).

Table 14: Table 14 is related to the previous two tables (# 12-13) in that "endotoxins" are chemicals that are released from active growth of gram-negative bacteria. Insignificant concentrations of endotoxins were found to be present in all of the air samples collected, including the sample within the residence. None of these endotoxins concentrations should be considered excessive, and this parameter should be discounted as a possible cause of the health issues for this family.

Tables 15-17: These three (3) data tables document an attempt to measure the concentrations of volatile organic chemicals that were present in air downwind from the spray of the pivot #7 on May 12, 2003.¹ Consistent with the production of cheese, a complex mixture of the **very odiferous**⁴ volatile alcohols, aldehydes and ketones, and

As water droplets are released from the pivot spray nozzles, the heat and wind will cause evaporation of the water into the air, leaving the droplet smaller and smaller and allowing it to travel further downwind ("droplet nuclei").

In general, these compounds have extremely low "odor thresholds". That is to say, a person can perceive the presence of them at extremely low concentrations, e.g., sub-ppb. It is certainly probable, then, that a person could smell the presence of these chemical air contaminants, but the concentrations would be low enough to be below the lower limits of analytical sensitivity (too low to measure with conventional air sampling methods).

Organic acids are probably present downwind from this irrigation system, and are probably responsive for the foul smelling odors that are so readily apparent from the Williams' home.

Table 15 documents the concentrations of aldehyde and ketone vapors (15 distinct chemical compounds) downwind from the pivot #7 on May 12, 2003. Neither trends, nor tendencies can be seen from this data, and no conclusions are offered here. The same can be said for the data found in Table 16, the concentrations of organic acid vapors in air (5 distinct chemical compounds).

Table 17 documents the concentrations of volatile organic compounds (VOCs) in air in this same study, and eighteen (18) distinct chemical compounds were documented to be present in air in the various sampling locations. As in the case of Tables 15-16 above, neither trends, nor tendencies can be seen from this data, and no conclusions are offered here. However, **benzene vapor, a regulated carcinogen**, was found to be present in air at a concentration of 4 ppb at the fence line sampling location. **This concentration does exceed a maximum level for ambient air quality.**⁵

Conclusions/Recommendations:

- A very large cloud (mist) is commonly visible in air, carried by westerly winds from the Glanbia irrigation pivots to the property and home of Heather and Travis Williams.
- Distinctive, foul odors are readily apparent at the home of Heather and Travis Williams directly downwind from the release of Glanbia Foods industrial wastewater from their land-application irrigation pivots.
- Industrial wastewater samples collected from pivot #3 and #7 indicate the presence of *both chemical and microbiological contamination*. At least two **cancer-causing chemicals** are present in this wastewater, including **chloroform and methylene chloride** (chloroform in concentrations that exceed federal and state allowable levels for surface water). Acetone, toluene, and 2-butanone ("methyl ethyl ketone, or MEK") were also found to be present in this wastewater. **Massive microbiological loading** was also documented to be present, including total coliforms, fecal coliforms, and total plate count.
- There is mold contamination within the crawlspace of the Williams home, but not in the living portion of the home. No water intrusion source(s) could be identified during this evaluation. *Cladosporium* (mold) was the predominant organism found to be present in the crawlspace of the Williams home. *Cladosporium* was

⁵ Benzene was not detected in the one (1) wastewater sample that was collected at pivot #7 (Table 1A; sample MCH-02) on May 12, 2003. This one wastewater sample data point is certainly not adequate to point with certainty the release of benzene from the irrigation system.

the predominant in outside, ambient air samples downwind from the release of industrial wastewater to air from pivot #7 on May 12, 2003.

The concentrations of fungal spores in air seem to be greatest at the 300', but especially at 500', (inclusive of the Williams home; ~600'), and finally at 825' sampling points northeast of the Glanbia fence line (and generally downwind from the spray of wastewater). There might be some "atmospheric lifting effect" in play here, where wind lifts the aerosol (water droplets) as they are released from the pivot nozzles, and carries them to some distance downwind, and in this case, with maximum fallout at the receiver (the Williams residence).

Volatile aldehydes and ketones, organic acids and volatile organic compounds (VOCs) were generally below limits of the measurement techniques in this study, although this was inconsistent with the ever-present odor of industrial (cheese waste) wastewater. It is probable that the chemical compounds that are responsible for the foul odors are extremely odiferous, and perceivable below those levels that are measurable by conventional means.

The health problems of the Williams family probably stem from exposure to the environment that is contaminated with microbes (fungi and bacteria), and additionally some volatile chemicals that are released to the air from the Glanbia Foods wastewater spray irrigation pivots.

The current practices of land-application of this industrial wastewater by Glanbia Foods is irresponsible, and is a public health menace and threat and should be discontinued. An acceptable alternative for this practice would be the design and construction of a modern, industrial wastewater treatment plant.


Harry J. Beaulieu, PhD, CIH, CSP
President and Senior Scientist
Industrial Hygiene Resources (IHR)
June 21, 2003



IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 30744

DAVISCO FOODS INTERNATIONAL, INC.,	)	
	)	Boise, March 2005 Term
Plaintiff-Appellant,	)	
	)	2005 Opinion No. 93
v.	)	
	)	Filed: July 22, 2005
GOODING COUNTY, a political subdivision of the State of Idaho,	)	
	)	Stephen W. Kenyon, Clerk
<u>Defendant-Respondent.</u>	)	

Appeal from the District Court of the Fifth Judicial District of the State of Idaho for Gooding County. Hon. Monte B. Carlson, District Judge.

The decision of the district court affirming the Gooding County Board of Commissioners is affirmed.

Givens Pursley, LLP, Boise, for appellant. Christopher H. Meyer argued.

Brown & James, Gooding, for respondent. Philip A. Brown argued.

SCHROEDER, Chief Justice

Davisco Foods International, Inc. (Jerome Cheese) applied for a special use permit in order to build a Reclaimed Water Project in Gooding County. The Gooding County Planning and Zoning Commission (P&Z) unanimously voted to grant Jerome Cheese the special use permit. William and Gloria Archibald (Archibalds) appealed the decision to the Gooding County Board of Commissioners (Board) which reversed the P&Z's decision. The district court affirmed the Board's decision. This appeal followed.

I.

FACTUAL AND PROCEDURAL BACKGROUND

Jerome Cheese operates a cheese and whey making facility in Jerome County, Idaho. Massive quantities of water are used in the facility to clean the food-handling equipment.

Jerome Cheese lawfully discharges the wastewater into different streams. Some of the water is treated by the City of Jerome's publicly owned treatment works (POTW). Some is released into an irrigation canal that empties into the Snake River. Some is used as crop supplements or animal feed.

The wastewater contains significant amounts of nitrates and phosphorous. Jerome Cheese wants to create a Reclaimed Water Project (Project) that would reduce the amount of these constituents in the water and allow storage of them for use as crop fertilizer. The Project would be located in Gooding County, seven miles from Jerome Cheese's plant. The wastewater would be transferred via a pipe to the Project site for treatment. The Project site is a 900-acre farm in Gooding County owned by Jerome Cheese. The Project constitutes an industrial use. The farm owned by Jerome Cheese in Gooding County is in an agricultural zone. A special use permit is required for the Project.

Around September 1, 2000, Jerome Cheese applied for a special use permit with the Gooding County P&Z. The P&Z unanimously voted against issuing the special use permit. Jerome Cheese appealed to the Board which remanded the matter to the P&Z. Jerome Cheese submitted a revised application for a special use permit to the P&Z which included additional evidence supporting the Project. During this process, the Idaho Department of Environmental Quality (IDEQ) issued a final permit for the Project. On April 30, the P&Z voted 2-2 on Jerome Cheese's revised application, resulting in a denial of the special use permit. Jerome Cheese appealed to the Board.

While on appeal, Jerome Cheese requested a mediation session pursuant to I.C. § 67-6510(1) of the Local Land Use Planning Act (LLUPA). The Board granted the request. Jerome Cheese, Gooding County officials and interested members of the public participated in the mediation which resulted in a declaratory ruling by the district court regarding the conduct of the mediation and the participation of County officials in the mediation. Following the mediation, Jerome Cheese withdrew its appeal to the Board and filed a third application for a special use permit with the P&Z. The P&Z unanimously approved the issuance of the permit.

On or about May 15, 2002, the Archibalds appealed the P&Z's decision to grant the special use permit. The Archibalds own real property in Gooding County and live approximately 3.4 miles from the Project site. The Board voted 2-1 to reverse the decision of the P&Z and to deny the issuance of the special use permit. The Board failed to create a transcribable record of

the meeting at which they deliberated and voted on the appeal. Jerome Cheese claimed that at the June 24 meeting Commissioner Elexpuru stated that she had “heard” things about the Project which were not in the record. In its Findings of Fact and Conclusions of Law dated July 22, the Board determined that it was not in the “best interest of the citizens of Gooding County” to locate the Project in an agricultural zone.

Jerome Cheese petitioned the district court for judicial review of the Board’s decision. Jerome Cheese alleged Commissioner Sauer was biased and had made statements to a local newspaper that he was against Jerome Cheese’s Project and that he would “fight against such a proposal.” The district court remanded the matter to the Board to create a transcribable record of the proceedings and to enable the Board to address the allegations of bias. On September 8, 2002, the Board unanimously voted to reverse the decision of the P&Z to approve the Project. The Board found that locating an industrial use in an agricultural zone was not in the best interest of Gooding County.

Jerome Cheese petitioned the district court for judicial review. On March 3, 2004, the district court issued its opinion upholding the decision of the Board to reverse the P&Z. The district court held that the Board properly followed its own ordinance and procedures, the Archibalds had standing to appeal, Commissioner Elexpuru was not required to recuse herself, and the issue of Commissioner Sauer’s alleged bias was moot. Jerome Cheese appealed to this Court.

II.

THE ARCHIBALDS HAVE STANDING TO APPEAL THE P&Z’s DECISION

Jerome Cheese contends that the Archibalds lack standing to appeal the P&Z’s decision, maintaining that the Archibalds are too distant from the Project to be impacted in any manner unique to them.

A.

The Gooding County Zoning Ordinance Article X, Section K indicates who may appeal a decision of the P&Z. The section states that, “[t]he applicant or any affected person (one who has an interest in real property which may be adversely affected) who appeared in person or in writing before the Commission may appeal the decision of the Commission to the Board. . . .”

The Archibalds participated in the proceedings before the P&Z. The question is whether they have a property interest that “may be adversely affected” by Jerome Cheese’s Project. In

their appeal from the P&Z decision the Archibalds stated that, "the odor from this sewage empoundment can cause irreparable economic damage to residential values. Beautiful properties can suddenly be unsellable just with a change in the wind direction." The Archibalds also appeared before the Board in the August 11, 2003, hearing on the Special Use Permit application. Mr. Archibald stated that:

I know that if you make where I live an unpleasant place to live you're going to devalue my property. . . . You could devalue my property in lots of ways. And if you ruin the living conditions immediately adjacent to my property you've affected my property too. So where do you draw the line and where do you say an offensive odor is an offensive odor?

Jerome Cheese offered evidence that odors could not reach the Archibalds' property. However, an engineering expert who testified on behalf of Jerome Cheese before the Board in its August 11, 2003, hearing testified that under certain circumstances the Archibalds may be able to smell odors from Jerome Cheese's Project. The engineer stated that "our study indicates that if you made a big enough odor, yes, you could smell it at the Archibalds' house. It would have to be a very big odor inconsistent with the design of the wastewater treatment plant. But, yes, that's possible." There is some evidence that if Jerome Cheese's Project failed to adhere to the conditions imposed by the P&Z in issuing the special use permit, the Archibalds may be able to smell odors from the Project on their property. This is sufficient for the Board to determine that the Archibalds' property interest "may be adversely affected" if the special use permit is granted.

III.

THE BOARD EMPLOYED THE PROPER STANDARD OF REVIEW WHEN IT CONSIDERED THE ARCHIBALDS' APPEAL OF THE P&Z'S DECISION

Jerome Cheese argues that Gooding County's zoning ordinance requires the Board to exercise an appellate-type review of the P&Z's decisions and, consequently, the Board should not have reviewed the Archibalds' appeal de novo. According to Jerome Cheese, the Board should have given more deference to the P&Z's decision, pointing to the language of the Ordinance which states that, "[t]he Board shall consider such finding[s], reports, minutes of the Commission's meeting and hearing, comments and recommendations as are forwarded to them by the Commission."

A. Standard of Review

This Court reviews agency determinations independently of a district court's intermediate appellate decision. *Evans v. Teton County*, 139 Idaho 71, 74, 73 P.3d 84, 87 (2003). An "affected person" may appeal a local land use decision pursuant to the judicial review provisions of Idaho's Administrative Procedure Act (IAPA). Idaho Code § 67-6521(1)(d) (2001). This Court must affirm a decision of the Board of Commissioners unless it determines that the Board's findings, inferences, conclusions or decisions: 1) violated constitutional or statutory provisions; 2) exceeded its statutory authority; 3) were made upon unlawful procedure; 4) were not supported by substantial evidence on the record as a whole; or 5) were arbitrary, capricious or an abuse of discretion. Idaho Code § 67-5279(3) (2001). "There is a strong presumption that the actions of the Board of Commissioners, where it has interpreted and applied its own zoning ordinances, are valid." *Evans*, 139 Idaho at 74, 73 P.3d at 87. The Board interpreted its Ordinance to give it the authority to conduct a de novo review of the P&Z's decision. That interpretation is entitled to a presumption of validity.

B. The Board's de novo review of the Archibalds' appeal from the P&Z's decision was proper.

Gooding County Zoning Ordinance, Article X, Section A discusses special uses, stating that: The allowance of a special use permit is discretionary with the Commission and may be granted only in the best interest of the general public. . . . The Commission may approve, conditionally approve or deny a special use permit under the conditions as herein specified and considering such additional safeguards as will uphold the intent of this Ordinance.

Section K of the Ordinance discusses the process of appealing a P&Z decision to the Board. That Section states that:

Fifteen (15) days after the appeal has been filed, the Board shall set a hearing date to consider the appeal. During the hearing, County staff may be available to present an application and answer questions. The Board shall consider such finding, reports, minutes of the Commission's meeting and hearing, comments and recommendations as are forwarded to them by the Commission. The Board may uphold, uphold with conditions, or overrule the Commission. The Board shall only overrule the Commission by a favorable vote of a majority of the full Board.

The Board's review of a P&Z decision is confined to a review of the record created before the P&Z. However, record-review is not dispositive as to the level of deference the Board is required to give to the P&Z's decision. In *South Fork Coalition v. Bd. of Comm'rs of*

Bonneville County, 117 Idaho 857, 860, 792 P.2d 882, 885 (1990), the Court stated that “there is a strong presumption favoring the validity of the actions of zoning boards, and we have upheld the validity of their actions whenever they are free from capriciousness, arbitrariness or discrimination.” *Id.* (citing *Ready-to-Pour, Inc. v. McCoy*, 95 Idaho 510, 511 P.2d 792 (1973)).

Gooding County’s zoning ordinance does not explicitly state the standard of review to be employed by the Board when it reviews P&Z decisions. The Board has interpreted its Ordinance as allowing it to engage in de novo review of an appeal from a P&Z decision. The Board’s interpretation of the Ordinance is reasonable considering the manner in which the review process works. For example, the Ordinance permits the Board to “uphold, uphold with conditions, or overrule the Commission.” If the Board upholds a P&Z decision with additional conditions imposed on the permit, the Board is in fact granting a different special use permit than was approved by the P&Z. The Board’s decision is not remanded to the P&Z for approval. The Board is the final issuer of the permit. Additionally, when the P&Z denies a permit, and the Board overrules the P&Z’s denial, the permit is granted by the Board. The matter is not remanded to the P&Z for approval. The Board is the final issuer of the permit. The Board’s de novo review of the Archibalds’ appeal from the P&Z’s decision was proper.

IV.

THE BOARD’S ACTIONS IN THIS MATTER WERE NOT 1) IN VIOLATION OF A CONSTITUTIONAL OR STATUTORY PROVISION; 2) IN EXCESS OF STATUTORY AUTHORITY OF THE AGENCY; 3) MADE UPON UNLAWFUL PROCEDURE; 4) UNSUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD; OR 5) ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.

A. Standard of Review

An “affected person” may appeal a local land use decision pursuant to the judicial review provisions of Idaho’s Administrative Procedure Act (IAPA). I.C. § 67-6521(1)(d). This Court must affirm a decision of the Board of Commissioners unless it determines that the Board’s findings, inferences, conclusions or decisions: 1) violated constitutional or statutory provisions; 2) exceeded its statutory authority; 3) were made upon unlawful procedure; 4) were not supported by substantial evidence on the record as a whole; or 5) were arbitrary, capricious or an abuse of discretion. I.C. § 67-5279(3). “There is a strong presumption that the actions of the Board of Commissioners, where it has interpreted and applied its own zoning ordinances, are valid.” *Evans*, 139 Idaho at 74, 73 P.3d at 87.

The party appealing a Board of Commissioners' decision must show that the decision violated one of the provisions of I.C. § 67-5279(3) and that a substantial right of the party has been prejudiced, as indicated in I.C. § 67-5279(4). *Id.* at 74-75, 73 P.3d at 87-88 (citing *Price v. Payette County Bd. of Comm'rs*, 131 Idaho 426, 429, 958 P.2d 583, 586 (1998)). This Court will defer to the Board's findings of fact that are supported by substantial, competent, although conflicting evidence. *Id.* at 75, 73 P.3d at 88 (citing *Friends of Farm to Market v. Valley County*, 137 Idaho 192, 196, 46 P.3d 9, 13 (2002)).

B. The Board's decision conformed to the applicable standards of judicial review.

The Gooding County Zoning Ordinance in Article I, Section D lists a number of purposes Gooding County intended to further in adopting the Ordinance. Section D states that the Ordinance is designed "to promote and protect the health, safety and the general welfare of the public." Another purpose of the Ordinance is "to provide for and protect agricultural lands and sensitive natural resource areas." Further, the Ordinance is designed "to protect and improve the County's quality of life so that the County will be increasingly valued by residents and non-residents as a desirable place for living, working, and recreation."

Article X, Section A of the Gooding County Zoning Ordinance states that "the allowance of a special use permit is discretionary with the Commission and may be granted only in the best interest of the general public." Article X, Section C of the Gooding County Zoning Ordinance is entitled "General Standards Applicable to All Special Uses." Nine criteria are listed in Section C, and the Commission is directed to "review the particular facts and circumstances of each proposed special use" in terms of the criteria "and shall find adequate evidence showing that such use at the proposed location" qualifies under the criteria. These nine criteria help define what is meant by "the best interest of the general public" in Section A. The first standard in Section C requires an analysis of whether the use would be better suited in an urban area. The second requires a proposed use to be harmonious with general and/or specific objectives of the Gooding County Comprehensive Plan or the Zoning Ordinance. The third states that a proposed use cannot "be hazardous or disturbing to existing uses." The sixth cautions against proposed uses that potentially create odors or problems with the water supply, damaging "persons, property or the general welfare."

The P&Z approved Jerome Cheese's application for a special use permit after imposing 59 conditions on the issuance of the permit. Upon appeal the Board had the authority to "uphold,

uphold with conditions, or overrule” the P&Z’s decision. The Board evaluated Jerome Cheese’s special use permit application in light of the nine criteria listed in Article X, Section C of the Ordinance and determined that:

Ordinance 60 and the Comprehensive Plan require that special uses that would be best located in an urban area to remain in an urban area. It would not be in the best interest of the neighbors or other citizens of Gooding County to allow industrial waste that is generated in another county to be brought into Gooding County for treatment. It would best serve the citizens of Gooding County by requiring that the industrial wastewater continue to be treated at the Jerome City municipal treatment plant. The industrial wastewater has a potential to cause harm to the quality of water located in Gooding County and (sic) . . . allowing [Jerome Cheese] to bring industrial waste into Gooding County would not be harmonious with either the Comprehensive Plan or Ordinance No. 60. slupia

The locating of the industrial treatment system may have an adverse effect on the surrounding property owners if the treatment system ever malfunctioned or did not operate properly. Any such malfunction would be detrimental to the neighbors themselves or to their property. Additional odors and the possibility of contamination of water within Gooding County are serious risks to both the neighbors and to the citizens of Gooding County.

The bringing into Gooding County of industrial waste and the locating of a treatment system in an agriculturally zoned area is not in the best interest of the citizens of Gooding County and the Planning and Zoning decision is, therefore, reversed and the application is denied.

It is not the role of the reviewing court to weigh the evidence. This Court must defer to the agency’s decisions that are supported by substantial evidence in the record. *Id.* at 75, 73 P.3d at 88. Jerome Cheese’s argument focuses on the evidence it presented as to the potential benefits of the Reclaimed Water Project. Even with these benefits, the P&Z issued Jerome Cheese a special use permit only after attaching 59 conditions to it. It appears that the Board focused more on the potential harm that could result to Gooding County if there were problems with the Project, rather than the benefits that may flow to the community because of the Project. slupia

There is substantial evidence in the record supporting the Board’s concerns about the Project’s potential odor. In the hearing before the P&Z on April 30, 2002, counsel for Jerome Cheese, discussed the penalties that may be assessed against Jerome Cheese in the event the Project produced odors, suggesting “the establishment of a county level odor penalty policy which would provide for penalties of up to \$2,500 a day for the most extreme violations, and that would be on top of violations that might be imposed by the Idaho Department of Environmental

Quality or the EPA.” A maintenance manager for Jerome Cheese testified at the P&Z Hearing about Gooding County’s concerns about odors from the Project:

Odor will be minimized through the treatment and proper operation. Minor odors may be detectable at the physical site, and I want to be very clear about this. They may be detectable at the site; however, because of the topographical area and the distance from public access, there should be no odors or objectionable odors off site. Now, that is the best we can do there, and with the odor management or the odor enforcement plan that we’ve asked for in the special use conditions we should be pretty well covered and so should the general public here.

Don Davis, a participant in the mediation proceedings with Jerome Cheese, submitted comments to the P&Z that were read into the record during the April 2003 hearing. The comments stated that, “Jerome Cheese says that they will manage the odor, if any. We know from past experience that self control is only served in the best interest of the controllers. The question still arises on effective controls of odors and who with authority can and will enforce these controls.” Davis also articulated his concern that allowing an industrial use in an agricultural zone in this instance would set a precedent for businesses that industrial uses can be in agricultural zones in Gooding County in the future.

The Board reviewed the record established before the P&Z. In addition the Board presented questions to Jerome Cheese’s engineering expert regarding odors from the Project.

The engineer responded to a question from Commissioner Elexpuru about odors stating that:

[Y]ou could go out [to the proposed Project site] right now and do something that made a tremendous odor occur, and our study indicates that if you made a big enough odor, yes, you could smell it at the Archibalds’ house. It would have to be a very big odor inconsistent with the design of the wastewater treatment plant. But, yes, that’s possible.

The Board is entrusted with the authority to act in the “best interests” of the citizens of Gooding County. The Board’s decision evaluated the Project in terms of the criteria listed in Article X, Section C of the Ordinance. The Board’s action reflects its concern about the harm that could potentially be caused by the Project, especially with respect to the Project’s odors. There is substantial evidence in the record indicating that odor problems were a major concern for the mediation panel, the P&Z and the Board. Therefore, though conflicting evidence was before the Board about the likelihood and severity of odors, substantial evidence in the record supports the Board’s decision to avoid the risk of odors and other problems that could be caused by the Project. The Board did not abuse its discretion by overruling the P&Z’s decision.

V.

THE RECORD DOES NOT ESTABLISH THAT COMMISSIONER SAUER WAS IMPERMISSIBLY BIASED.

Jerome Cheese maintains that Commissioner Sauer made statements that impermissibly deprived the proceedings of the appearance of fairness and that where a Commissioner may potentially be biased, he or she should be barred from participating in proceedings.

A. The Constitutional Standard

“The Due Process Clause entitles a person to an impartial and disinterested tribunal. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 100 S.Ct. 1610, 64 L.Ed.2d 182 (1980). This requirement applies not only to courts, but also to state administrative agencies . . .” *Eacret v. Bonner County*, 139 Idaho 780, 784, 86 P.3d 494, 498 (2004) (citing *Stivers v. Pierce*, 71 F.3d 732 (9th Cir. 1995)).

B. Commissioner Sauer’s statements do not give rise to a finding that he was impermissibly biased and required to be disqualified from participation in the proceedings.

Jerome Cheese’s contention that Commissioner Sauer was impermissibly biased against its Project is based on a statement attributed to Sauer published in the Gooding County Leader. The October 26, 2000, article discussed Sauer and another candidate for the office of County Commissioner. The article stated that, “[b]oth candidates say they are absolutely against Jerome Cheese’s proposal to pipe waste from its Jerome plant to the Kober farm in Gooding County and will fight against such a proposal.” During the litigation in this matter, Sauer admitted that he had stated to the Gooding County Leader that he was opposed to Jerome Cheese’s proposal but denied that he would “fight against” the proposal. At the hearing on remand, Sauer indicated that he maintained an open mind about the Project at all relevant times.

In *Eacret* this Court stated that:

A decision maker is not disqualified simply because he has taken a position, even in public, on a policy issue related to the dispute, in the absence of a showing that the decision maker is “not capable of judging a particular controversy fairly on the basis of its own circumstances.” *Id.* at 785, 86 P.3d at 499 (quoting *Hortonville Joint School Dist. No. 1 v. Hortonville Education Ass’n*, 426 U.S. 482, 493 (1941)).

The district court remanded this matter to the Board to create a transcribable record and to give the Commissioners an opportunity to address the claims of bias. At the Board’s hearing

after the remand Sauer addressed the allegations that he was biased against Jerome Cheese's Project:

I did state at the time that I was opposed to the idea. I did not say that I would fight against such a proposal, but I did state that I was against it at the time. I can honestly say that when Jerome Cheese made their application and it was appealed to us I was open minded on that and I did not come to a conclusion until that—the day of our findings.... I still have an open mind. Absolutely. Because it's been remanded back by Judge Carlson.

The Gooding County Leader's article was published nearly three years before the Board voted for the second time on the appeal from the P&Z's decision. The article's statement is not a direct quote from Sauer, and he denied stating that he would "fight against" Jerome Cheese's Project. Sauer's statements were made before he was elected Commissioner. The statement occurred prior to the mediation and the numerous conditions proposed by P&Z in its approval of the special use permit. Sauer denied that he had predetermined the outcome of the appeal and testified that he remained open minded throughout the proceeding. The proposal before him as a Commissioner was considerably different from the proposal when he was a candidate. The newspaper article, alone, under the facts of this case, is insufficient to support a finding that Sauer was impermissibly biased in considering the appeal from the P&Z's decision.

VI.

RECUSAL OF COMMISSIONER ELEXPURU WAS NOT REQUIRED

Jerome Cheese maintains that Commissioner Elexpuru made statements which indicate that she must have had improper ex parte contacts, because there was no evidence in the record supporting those statements. During the hearings Elexpuru said that she had "heard various things" about Jerome Cheese's project. Jerome Cheese argues that her comments and questions were not based on the record, and she was, therefore, relying on information gained from improper ex parte contacts.

Jerome Cheese maintains that the information relied upon by Elexpuru was written on yellow notepad paper. When confronted about the substance of the notes, Elexpuru initially denied making the notes, then admitted that she destroyed them. Jerome Cheese asserts that these events give rise to the spoliation doctrine which permits an inference that the destroyed evidence was unfavorable to the party to whom it applied.

The claim that Commissioner Elexpuru was required to recuse herself by reason of improper ex parte contacts was reviewed and rejected by the district court. There is no error in that determination. The record is lacking facts or sufficient inferences to establish a bias that would compel recusal.

VII.

NEITHER PARTY IS ENTITLED TO ITS ATTORNEY FEES ON APPEAL

Gooding County did not request attorney fees. Jerome Cheese requested costs and fees but is not the prevailing party. Neither party is entitled to its attorney fees.

VIII.

CONCLUSION

The Archibalds had standing to appeal the P&Z's decision to the Board. The Board was entitled to conduct a de novo review of the appeal. The Board's decision to reverse the P&Z and deny Jerome Cheese's application for a special use permit was supported by substantial evidence in the record, was not arbitrary, capricious or an abuse of discretion, and otherwise conformed to the applicable judicial review standards. Commissioners Sauer and Elexpuru were not impermissibly biased. The decision of the district court affirming the decision of the Gooding County Board of Commissioners is affirmed. Gooding County is awarded costs. Neither party is entitled to its attorney fees on appeal.

Justice EISMANN and Justice Pro Tem KIDWELL CONCUR.

Justice TROUT **DISSENTS** without opinion as to Part V and **CONCURS** in the remainder.

Justice JONES **DISSENTING**.

The majority holds that the Archibalds had "standing" to appeal the P & Z's decision to the Board and, having so held, determines also that the Board's decision was supported by substantial evidence and comported with the "reasoned decision-making" requirements of I.C. § 67-6535. My analysis of the facts and the law leads me to a contrary result. Accordingly, I respectfully dissent.

I.

“Standing” refers to the status one must hold to invoke court jurisdiction. *Noh v. Cenarrusa*, 137 Idaho 798, 800, 53 P.2d 1217, 1219 (2002). By appealing the P & Z’s decision to the Board, the Archibalds were seeking an administrative remedy, not a judicial one. The constitutional test for standing, then, does not apply to the question of whether the Archibalds held the status necessary to appeal the P & Z’s decision to the Board. Rather, Gooding County’s zoning ordinance applies. It reads, in relevant part: “The applicant or any affected person (one who has an interest in real property which may be adversely affected) who appeared in person or in writing before the Commission may appeal the decision of the Commission to the Board” Gooding County, Idaho Zoning Ordinance No. 60, Art. X, Sec. K (1995). Therefore, the question in this case really is, what does it mean to have an interest in property that “may be adversely affected”? I believe it means more than the what-ifs on which the Board’s decision relied. Read as the Board and majority have read it, practically any allegation a landowner might advance would bestow the right to appeal a decision, whether or not the landowner has shown any reasonable factual basis for the allegation.

This Court’s task in interpreting a statute or ordinance is to give effect to the intent of the body that wrote it. *Lockhart v. Dept. of Fish and Game*, 121 Idaho 894, 897, 828 P.2d 1299, 1302 (1992). Reviewing courts generally presume that a local governing body’s interpretation of its own ordinance is valid. *Friends of Farm to Market v. Valley County*, 137 Idaho 192, 197, 46 P.3d 9, 14 (2002). The plain language of an unambiguous ordinance, of course, controls the meaning. *Evans v. Teton County*, 139 Idaho 71, 77, 73 P.3d 84, 90 (2003). But the word “may,” as used in the County’s ordinance, is very expansive – so much so that it is, I believe, ambiguous and in need of a narrower definition than the Board and the majority have implicitly given it.

Gooding County’s ordinance reads almost exactly like LLUPA’s “affected person” statute, found at I.C. § 67-6521(1)(a). There, an “affected person” is “one having an interest in real property which may be adversely affected by the issuance or denial of a permit” In the judicial standing context, the Court has indicated that the degree of likelihood of harm is a relevant factor in deciding whether a person “may be adversely affected.”¹ In *Evans*, the Court

¹ When conducting a test for judicial standing, LLUPA’s “may be adversely affected” requirement is read to require no less than the constitutional minimums: as the Court has repeatedly said, the legislature cannot relieve a party from meeting those requirements. See *Evans v. Teton County*, 139 Idaho at 75, 73 P.3d at 88; *Noh v. Cenarrusa*, 137 Idaho at 801, 53 P.3d at 1220.

entertained two landowners' challenge to a decision of the Teton County Board of Commissioners approving a 780-acre hotel/golf course/equestrian facility/500-home subdivision/helicopter pad project south of Victor in sparsely populated Teton County. The landowners, whose rural homes were on property adjacent to the project, "clearly" had standing to appeal.² *Evans v. Teton County*, 139 Idaho at 75, 73 P.3d at 88. Landowners in Tetonia (17 miles from Victor) or Driggs (about 8.6 miles) or even Victor itself, the Court wrote, may not be able to "show" their property would be adversely affected. *Id.*

The Court's observation about landowners other than those adjacent to the property, reflects a common-sense approach to the question of whether one is a person whose property "may be adversely affected." This is consistent with the Court's longstanding principle that legislative intent may be gleaned not only from the language used, but also "on grounds of policy or reasonableness." *Summers v. Dooley*, 94 Idaho 87, 89, 481 P.2d 318, 320 (1971); *see also Thomson v. City of Lewiston*, 137 Idaho 473, 478, 50 P.3d 488, 493 (2002). It also comports with the idea that interpretations of even plain language that lead to absurd results are not favored. *Kootenai Med. Ctr. v. Bonner County Comm'rs*, 141 Idaho 7, 9, 105 P.3d 667, 669 (2004).

In *Evans*, the thing causing the harm was the project itself. The harm would be caused as a direct result of the permit being granted. Here, however, the alleged harm is purely speculative (if not highly improbable), possible to occur only if everything goes wrong from a regulatory, mechanical, and meteorological standpoint -- that is, the Archibalds might be able to get a whiff of the plant if the plant malfunctioned and substantially exceeded allowable odor standards, and if the County failed to enforce the permit requirements, and if the prevailing wind blew in a nonprevailing direction toward the Archibalds. The distance of the Archibalds' property from the project, combined with other telling facts in the record, demonstrate that they do not fit the description of persons whose property "may be adversely affected." Consider the following: the Archibalds live about three and a half miles away from the project site. The prevailing winds do not blow their direction. The plant is designed to produce far less hydrogen sulfide than the amount necessary to offend the olfactory senses. The evidence shows that the plant would have to produce over twice the allowable amount of hydrogen sulfide for the Archibalds to smell it.

² Apparently, the claimed adverse effects of this project were self-evident; no analysis of the project's effects on property values or quiet enjoyment was conducted.

Among the 59 conditions in the P & Z's proposed permit is one providing that penalties will be imposed when odor, detectible off the plant site, is sustained for a certain period of time. Another condition provides that if the plant continues to produce an offensive amount of odor, the County can revoke Jerome Cheese's permit. In short, the occurrence of the alleged harm depends on the happening of too many speculative contingencies to say with a reasonable amount of comfort that the Archibald's property may be adversely affected. The Archibalds certainly did not "show" there to be a possibility that any of these contingencies might occur. See *Evans v. Teton County*, 139 Idaho at 75, 73 P.3d at 88. One might conclude that the Archibalds have even failed to pass the smell test approved by the majority.

II.

Even if the Archibalds satisfied the ordinance's requirements to appeal the decision to the Board, I would still hold that the Board's decision fails to meet the requirements set forth in the Idaho Administrative Procedure Act (APA) and in LLUPA.

The Court adheres to the rule that under the APA, when an agency's findings disagree with the hearing officer's recommended order, the reviewing court still examines the agency's findings and whether they are supported by substantial evidence. *Pearl v. Bd. of Prof'l Discipline*, 137 Idaho 107, 112, 44 P.3d 1162, 1167 (2002). But, in such cases the Court "will scrutinize the agency's findings more critically," since the Court imposes on agencies "an obligation of reasoned decision making that includes a duty to explain why the agency differed from the administrative law judge." *Id.*

Our Court of Appeals first adopted this rule in *Woodfield v. Bd. of Prof'l Discipline*, 127 Idaho 738, 746, 905 P.2d 1047, 1053 (Ct. App. 1995). In *Woodfield* the Board of Professional Discipline of the State Board of Medicine issued an order revoking the appellant physician's license to practice medicine. The hearing officer had expressed concerns with the physician's conduct but did not recommend the physician's license be revoked. The Board of Medicine conducted an independent review and "depart[ed] significantly" from the hearing examiner's findings. 127 Idaho at 743, 905 P.2d at 1046. On review, the district court required the Board of Medicine to articulate its reasons for departing from the hearing examiner's decision. The Court of Appeals agreed, explaining:

[I]t is consistent with the Board's statutory obligation to render a reasoned decision to require the Board to identify facts, as well as inferences drawn from the facts upon the application of its expertise and judgment, which underlie its

decision. Such an explanation is essential to meaningful judicial review, and it is a logical adjunct to the agency's statutory duty to supplement its decisions with findings of fact and conclusions of law.

127 Idaho at 747, 905 P.2d at 1054. The court grafted this rule from several federal cases involving the federal Administrative Procedure Act. *Id.* at 746 n.3, 905 P.2d at 1053 n.3. Because the court was not satisfied the Board of Medicine had met its obligation, the court

contrary conclusion to that of the hearing officer.” *Id.* at 747, 905 P.2d at 1054.

This Court has not considered whether to extend *Woodfield* to cases under LLUPA where the county board of commissioners reverses its planning and zoning commission. Why the principle would not apply in such cases, however, I cannot say. Just as agencies must issue a reasoned statement for their conclusions – I.C. § 67-5248 (which requirement formed part of the basis for the court’s rule in *Woodfield*, see 127 Idaho at 746, 905 P.2d at 1053) – so, too, must county boards of commissioners issue a reasoned statement explaining their decisions under LLUPA. I.C. § 67-6535. If the APA’s reasoned statement requirement produced the rule in *Woodfield*, one could reasonably conclude the rule would apply to decisions that must conform to I.C. § 67-6535.

In this case, the record clearly demonstrates that the Board failed to explain its departure from the P & Z’s extensive decision. The Board articulated these two reasons for denying the permit: (1) the activity is an industrial use sought in an agricultural zone; and (2) the plant may adversely affect surrounding landowners if the plant ever malfunctioned or did not operate properly. The Board thus concluded that allowing out-of-county waste to be transported to and treated in Gooding County would not be in the best interests of county citizens. Despite the P & Z’s extensive fact finding and comprehensive proposed permit, the Board offered no explanation for its reversal and summarily decided there was nothing Jerome Cheese could do to obtain a permit. Such conclusory decisions do not inspire confidence in the decision-making process.

Even without applying the *Woodfield* rule to LLUPA cases, the Board’s decision fails I.C. § 67-6535. It neither mentions the P & Z’s facts, nor does it explain (with any appreciable depth) “the relevant contested facts relied upon, and . . . the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.” I.C. § 67-6535(b). As mentioned above, the decision utterly fails to discuss the facts on which the P & Z

relied, and provides only conclusory, unsubstantiated reasons for its decision. In a case like *Evans*, where a board simply adopts its planning and zoning P & Z's findings and affirms the decision, there is no requirement that the board make findings, "only that they are made." *Evans v. Teton County*, 139 Idaho at 80, 73 P.3d at 893. However, in a case where the board reverses its planning and zoning commission, the board has no commission findings to adopt, since it reversed the commission's decision. In such a case, the statute requires the board to make and articulate findings that support the decision. Having failed to do so, the Board's decision is subject to reversal and remand in order to provide an explanation that satisfies I.C. § 67-6535.

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17

HEALTH EFFECTS OF LAGOONS AND SPRAYFIELDS

Lagoons are a common feature of the growing number of factory-sized animal operations located in more than 30 states across the United States. Hundreds of gases from these lagoons can pollute the air around the operation. Researchers indicate that feedlot odor may contain 170 separate chemical substances.¹ A report released by the Minnesota Pollution Control Agency (MPCA)² indicates that lagoon emissions contain toxic constituents and greenhouse gases, including hydrogen sulfide, ammonia, and methane.³ Large scale feedlots also emit particulate matter from confinement buildings. In late April 2000, EPA issued a Notice of Violation under the Clean Air Act against seven Premium Standard Farm factory farms in Missouri stating that the facilities “emit, in addition to odors, regulated pollutants such as particulate matter and hydrogen sulfide.”⁴ Pathogens, including bacteria, viruses, and parasites from ruptured, overflowing, and leaching lagoons, are a major concern when they flow into streams, rivers, and bays, and poison drinking water supplies.

Another threat associated with lagoons comes from sprayfields. Once manure is stored in open-air lagoons, it is periodically pumped out to be sprayed on fields surrounding the factory farm, ostensibly to be used as fertilizer. The spray emits the same gases as lagoons. Spraying the wastes increases evaporation and volatilization of pollutants into the air.

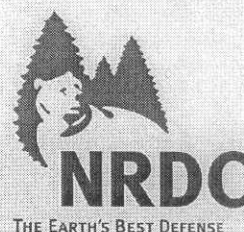
Manure applied to crops is helpful as a fertilizer; however, factory farms often produce too much manure for the amount of land available to use it. Manure is often over-applied and misapplied to land, which causes it to run off the fields, polluting our rivers and streams with pathogens and leaching into groundwater and poisoning our drinking water supplies. This poses a problem even if the manure is applied in dry form; however, the likelihood of runoff increases when the manure is in liquid form as it is with the sprayfield system.

AIR EMISSIONS

Studies consistently show that lagoons emit toxic airborne chemicals that can result in human health problems through inflammatory, immunologic, irritant, neurochemical, and psychophysiologic mechanisms.⁵ The emissions are the result of the decomposition of liquid manure by anaerobic bacteria during storage and treatment. This process releases 400 volatile organic compounds,⁶ including hydrogen sulfide, ammonia, dusts, endotoxins,⁷ and methane.

Ammonia. Up to 80 percent of a lagoon’s nitrogen may change from a liquid into a gas in the process known as ammonia volatilization.⁸ This process also causes a sprayfield’s nitrogen to be lost to the atmosphere.⁹ In contrast, dry manure systems lose 15 to 40 percent of their nitrogen to the atmosphere.¹⁰ Once the ammonia is volatilized, it may be redeposited onto land and water as far away as 300 miles.¹¹

Although ammonia can cause eye irritation or even death at high levels, ammonia emissions associated with the lagoon system may not be at levels as toxic as other gases emitted. Nonetheless, European studies have found that reducing ammonia levels reduces the levels of odors across-the-board.¹² Ammonia may adsorb dust particles that may be then carried into the lungs.¹³



CESSPOOLS OF SHAME

*How Factory
Farm Lagoons
and Sprayfields
Threaten Environment
and Public Health*

July 2001



Natural Resources Conservation Service
9173 W. Barnes Dr., Ste. C
Boise, Idaho 83709
(208) 378-5700

IDAHO BULLETIN NO. ID 130-6-03

August 30, 2006

SUBJECT: Biosecurity Preparedness and Response – Avian Influenza/Human Pandemic

TO: NRCS Employees, Idaho

Purpose: To provide additional information and guidance on use of biosecurity preparedness and response equipment and social distancing in the event of a Human Pandemic or Avian Influenza outbreak. A general overview of the current world situation for Avian Influenza and a summary of the NRCS Roles and Responsibilities are included at the end of this bulletin.

Expiration Date: December 31, 2006

Action Required and Due Dates: Each employee should become familiar with the Biosecurity equipment and supplies, read and understand the Policy on when and how to initiate use of the equipment and supplies, and become familiar with suggested Social Distancing activities to be practiced during a Human Pandemic as introduced in this bulletin and discussed in further detail on the websites provided. Each Field Office will prepare the equipment and supplies, and store as directed in this bulletin for use when/as directed.

Please review the Agency policy and procedures outlined in Idaho Bulletin 130-6-01 issued to all offices on May 9, 2006. As discussed in that bulletin, **there is no current pandemic outbreak or identified heightened concern for infectious animal disease at this time.**

If a pandemic outbreak occurs or a heightened concern for infectious animal disease is identified, the Animal & Plant Health Inspection Service (APHIS) and the State Veterinarian will notify NRCS. At that time, additional information and directions will be issued to all Idaho NRCS employees and partners.

Biosecurity Equipment and Supplies Storage and Use: The equipment and supplies listed in the earlier bulletins should be stored and used as follows:

Storage:

A complete set of all equipment and supplies will be maintained for each designated vehicle. If space is a limiting factor in the vehicles, the materials could be stored in the office until a notice of heightened concern is issued. It is not necessary to store all the materials in each vehicle at this time; however, the materials should be maintained as complete sets per each designated vehicle in a secure location. Each employee in the office should know where the equipment sets are and when to deploy.

The large bucket should be used to contain coveralls, gloves, face masks/respirators, goggles/safety glasses, disinfectant, long-handled brushes, trash bags, paper towels, spray bottle with water and liquid and/or gel antibacterial soap. The boots, large water container, medium bucket and 2 wash pails should be stacked together with the large bucket and supplies.

Replacement supplies (additional face masks, coveralls, disinfectant, etc.) should be stored adjacent to the individual equipment sets for easy re-supply.

The buckets and pails can be strapped into the truck bed if there is not enough room in the equipment boxes for these materials and regular work materials (survey equipment, etc.)

Use and Disposal:

If a pandemic outbreak occurs or a heightened concern for infectious animal disease is identified, APHIS and the State Veterinarian will notify NRCS. At that time, additional information and directions will be issued to all Idaho NRCS employees and partners.

In the event of heightened concern for infectious animal disease, the additional procedures outlined in Level 2 and 3 in the NRCS biosecurity policy found in GM 130 Part 403, Subpart H will be followed.

Employees will use the Biosecurity materials to reduce to possibility of spreading infectious agents. When visiting any agricultural operation that may include potential biosecurity hazards, employees will wear the coveralls, gloves, goggles, masks and boots. When leaving the operation, the disinfectant will be mixed, per bottle directions, in the wash pails. The goggles or glasses will be dunked and rinsed. Disinfectant will then be applied with the long-handled brushes to clean boots and vehicle tires, and vehicle undercarriage if necessary. The masks, coveralls and gloves will be taken off and disposed of on-site if the operation has facilities for disposal of Biosecurity supplies. If the operation does not have disposal facilities, the mask, coveralls and gloves will be soaked in the remaining disinfectant solution in the bucket, then placed in a trash bag inside a second trash bag (double bagged), and stored in the 5-gallon pail with lid until they can be delivered to an approved disposal site. Unless otherwise informed, materials treated in this manner will be disposed of with the regular trash – at the landfill. The goggles/glasses and boots will be returned to the set and the other supplies (coveralls, gloves, masks, disinfectant, trash bags) will be re-supplied as needed.

Social Distancing: Social Distancing is an infection control strategy that reduces the duration, frequency or intimacy of social contacts in order to limit the transmission of influenza. Social distancing techniques may include increased use of telework, placing employees on shifts, use of face masks, leaving all interior doors in an office location open at all times so that no one needs to touch the doorknobs/handles, closing offices or buildings, canceling large gatherings and conducting meetings via telephone rather than in face-to-face groups.

With social distancing, the intent is to keep people from coming in contact with each other. Personnel will either work at their regular workplace or from home. Personnel may be required to work in “shifts” to reduce the number of employees and therefore the exposure in an office location at any one time.

Status Update on Avian Influenza August 30, 2006:

(Information from web sites and State Natural Resources Committee Meeting held July 14, 2006)

The world is presently in phase 3: a new influenza virus subtype is causing disease in humans, but is not yet spreading efficiently and sustainably among humans.

Outbreaks in wild birds and some domesticated birds have been confirmed in most of the Asian, Middle Eastern and European countries, including Great Britain.

A few cases of mammal H5N1 disease have been confirmed – mainly in Europe – in a pine martin, domestic cats and a pig.

The confirmed human cases have all been in very close contact with diseased birds and/or carcasses.

There have been two events where human-to-human transmission is suspected, but not proven. Both have occurred in family groups.

Idaho is considered “Tier III” (low level) for potential in wild birds. Testing of the wild population has been initiated and will continue for the remainder of 2006 and 2007. Targeted species for monitoring and testing are Pintail and Mallard ducks, and Tundra and Trumpeter swans.

There is no mandatory program that requires participation or testing for domestic populations. Chicken, turkey or duck producers are not required to test, notify or participate in any monitoring of or for the disease. However, most commercial production facilities are already tightly controlled and contained because disease among confined bird populations is devastating to any bird production operation. The biggest threat for a local infection to domesticated birds is to “backyard birds” that may be kept in open outdoor cages or roam free, and have some interaction with wild birds – even if it is just having a wild bird fly over the area and defecating.

Transmission is from fecal material or blood. There is no confirmed danger from eating properly cooked birds or eggs.

Idaho NRCS Role and responsibility to Avian Bird Flu and Human Pandemic

NRCS’s role and responsibility is in “Pillar 3” of the National Strategy - *Response and Containment*. There are two primary responsibilities and one ancillary responsibility assigned to NRCS:

1) Mortality Disposal Site Identification

The National Soil Survey Center (NSSC) has developed and is testing a suite of Homeland Security soil survey interpretations. The suite includes soil interpretations for disposal of animal carcasses, rubble and debris; composting facilities; soil suitable for pit and trench liners; and soil suitability for composting media and cover. States are completing soil data population this year and the interpretations will be uploaded onto the Soil Data Mart by the end of 2006. All Field Offices in Idaho will have sets of GIS maps depicting identified site locations with suitable soils for the different applications. The Soil Data Mart is accessible through the NRCS Homepage: www.nrcs.usda.gov and is linked with WebSOIL, a site from which users may access and compile/print soils maps, legends and interpretations.

2) Mortality Disposal Site Design and Assistance

NRCS has developed conservation practice standards for Animal Mortality Facilities and Composting Facilities for the purpose of mortality disposal. Idaho NRCS has reviewed, revised and adopted both of these standards for use within Idaho.

3) Prevention of Transmission

Biosecurity procedures in place for employees to prevent possible spread from agricultural operation to agricultural operation.

For additional information about Avian Influenza, Pandemics and USDA responsibilities, the USDA has a site with links to numerous resources:

USDA AVIAN INFLUENZA HOME

http://www.usda.gov/wps/portal/usdahome?navtype=SU&navid=AVIAN_INFLUENZA

The following is a link to a general brochure on Avian Influenza

<http://www.usda.gov/documents/AvianFluBrochure.pdf>

There is also a pandemic flu government website that you can access from the USDA website. It shows the location of confirmed cases, and also includes personal and family preparedness planning resources for pandemic outbreaks.

<http://www.pandemicflu.gov/>

USDA updates and information are available at:

www.usda.gov/oo/beprepared/

I appreciate the attention and respect with which all of you view this issue. Following these common sense steps will help reduce the spread of pandemic virus, and help provide better service and respect to our customers and each other.

/s/

RICHARD SIMS
State Conservationist

Kyle Hawley, President, IASCD, Moscow
Jerry Nicolescu, Administrator, SCC, Boise
Kent Foster, Executive Director, IASCD, Boise
Ken Roberts, President, IRCDA, Council, ID



STATE OF IDAHO

DEPARTMENT OF AGRICULTURE

DIRK KEMPTHORNE
Governor
PATRICK A. TAKASUGI
Director

July 29, 2005

Rich Carlson
PO Box 21
Filer, Id 83328

Re. Public Records Request

Dear Mr. Carlson:

On July 15, 2005, the Idaho State Department of Agriculture, Dairy Bureau, received your facsimile request for, “(1) Any studies, reports, summaries, data compilations etc. ISDA has showing the number of acres in Jerome, Gooding, Twin Falls, Cassia, Lincoln, Canyon, Owyhee Counties (the “counties”) which have been identified as having reached a phosphorus level where application of dairy manure is not appropriate... (2) Any studies, reports, summaries, data compilations, etc. showing the percentage of manure produced at dairy facilities which dairy facilities in the above referenced counties are “exporting” from their facilities based on reports in their Nutrient management plans.. (3) Current statistics on the number of number of dairy facilities in the above referenced counties, the number of NMPs which have been “approved” by the department, the number of NMPs which have not been approved, the number of NMPs which have been “ground truthed”, the percentage of facilities where the department has done regulatory soil samples for NMP compliance purposes, and the percentage of facilities which have been checked or audited for compliance with the soil testing the operator is required to do under the NMP....”

Regarding #2 of your request, at this time our computer programs are unable to tabulate “the percentage of manure produced at dairy facilities. ”consequently, this information is not available.

Regarding #3 of your request, all dairy farms in the referenced counties have approved nutrient management plans. “Ground truthing” or NMP inspection review is an on going process. NMP’s are continually updated to reflect changes made on dairy facilities. i.e. additional fields, field combining, renaming, irrigation changes, herd size changes, cropping changes etc.

Enclosed please find the other documents you requested.

	DATE	INFORMATION	NUMBER OF PAGES
1.	4/22/03	Dairy Resource Exportation	1
2.	7-18/05	Summary ISDA Soil Testing	28
3.	7/28/05	Waste inspection - Mature Animal Summary	1
4.	Undated	Nutrient Management Summary 2003	1
		TOTAL	31

If you have any questions, please call.

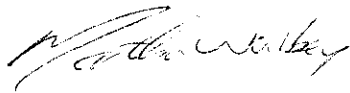
Sincerely,

A handwritten signature in cursive script that reads "Marv Patten".

Marv Patten, Chief
Bureau of Dairying

Certificate of Mailing

I hereby certify that the original of this letter was deposited in the United States mail, postage prepaid, this 29th day of July, 2005.

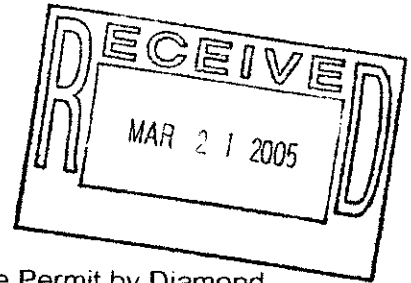
A handwritten signature in cursive script that reads "Martha Walbey".

Martha Walbey
Administrative Assistant

Diamond A Livestock Hearing

Letters of Concern
from Gooding Co.
Citizens

March 20, 2005



Gooding Planning and Zoning:

This letter is in response to the application for a Special Use Permit by Diamond A Livestock Inc. I am a neighborhood within one mile of this property and will be out of town when your meeting takes place. I do have concerns regarding this change of usage; I could easily approach Jay or Fred Faulkner concerning the issues but I feel besides our property the overall community might be impacted so I am stating my concerns to you so they may be of public record.

The first issue of concern are the water rights being used for this operation, are they approved by the Department of Water Resources for this commercial operation and as this business grows what will the usage of this water do to our domestic wells. It states in the proposal that only 2 to 3 trucks per day will go through the washes and only 2,000 gallons of water a day will be used; what happens when this commercial business grows, those figures will no longer be valid and water usage will be a lot higher than proposed; it appears that this proposal is based only on these figures not the future growth.

How will the waste and water be dispersed through the winter months when the ground is frozen and snow covered? Will there be diseases brought in with this waste to contaminate the land and water? I am concerned about odors, flies, and saturation of the land, and would appreciate these issues also be discussed in your meeting.

A better explanation of the letter by the Department of Environmental Quality should be presented.

What will this operation do to the traffic on Highway 46, can this highway accomodate large trucks waiting to made a turn against traffic withouth backing up traffic?

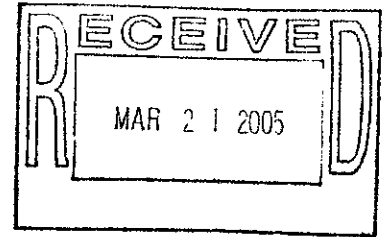
I will look forward to hearing answers on my concerns when I return, thank you for your cooperation in this matter.

Very truly yours,

Carole R. Bennett
2095 Highway 46
Gooding, Idaho 83330

GOODING COUNTY PLANNING & ZONNING
145 7th Avenue East
Gooding, Idaho 83330

RE: DIAMOND A LIVESTOCK SPECIAL USE PERMIT
Livestock Truck Washout



TO WHOM IT MAY CONCERN:

The following is a list of issues I feel need to be answered and/or checked into prior to issuing this request:

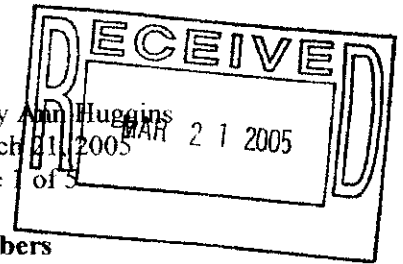
- 1- The request lists two trucks and 2,000 gallons of water. If this is for personal use, why change what they have been using for years? If this is for commercial use, they have listed only two trucks per day. How will this be monitored?
- 2- The listed area for the washout is close to residential homes and wells. How will the use of the increased water affect the wells and saturation of the land? Will the disease from the washout be monitored?
- 3- Will the well be used for agriculture or commercial? Will the well water, use of gallons per day, be metered? Currently this area is in a drought and the wells that are deep are currently affecting all of Gooding County.
- 4- How is the waste water going to be transported to the pond for sprinkling across Highway 46 south of North Valley Vet? Is this well associated with the land in question?
- 5- A better location would be on Shoestring Road where a safety turn-out off Highway 46 is already in place and may not affect close neighbors. This is only a suggestion.
- 6- Have all the neighbors and community been considered in this request?

New business is necessary to our agricultural community and with review, oversight and all working together this should not be a problem to our area. However, if it is found to create a problem, then the request should not be granted.

Thanking you for your review.


Beverly J. Johansen
Gooding County Resident

Polly Ann Huggins
March 21, 2005
Page 1 of 5



Letter to Gooding County Planning and Zoning Members

I am requesting that you turn down the change of land use within the County of Gooding unincorporated for a special use permit made by Diamond A. Livestock, Inc. for to allow a livestock truck, farm truck and equipment washout.

My reasons for such a request is as follows:

1. I do not believe that there is a water right for such a use. According to the Department of Water Resources the water right is for stockwater only. Thus, it seems to me that it would be illegal to use the stockwater right to clean trucks.
2. The water rights for stockwater are limited. This well is not monitored. At the minimum the well should be monitored with a "totalizer" to allow for the total amount of water used can be determined.
3. Besides problems with manure and the such, I am very concerned about how any oil or gasoline contaminants are going to be handled since we get out drinking water from the local aquifer.

In the application it states that "based on previous experience, we anticipate that no elements such as noise, odor, fumes etc., will have an adverse effect on adjoining property owners." I disagree with this statement. Four years ago, my domestic well went dry and my well pump stopped working as a result. I had Eaton Well Drillers, from Wendell, Idaho drill a new well on my property. They said that all the old wells within a three-mile radius of my property had also dried up within the same time frame. Replacing the well and pump cost me \$5250. I was told at that time, the year before that Diamond A. Livestock had moved their stockwater well right.

I called the Department of Water Resources and asked if this was true and they confirmed that a water right had been moved. They also said that Diamond A. Livestock did not have a water right to clean trucks. So, I called Judy Daubner, Gooding County Planning and Zoning, and asked if Diamond A. Livestock had a permit to wash out trucks. She called me back and assured me that they were only washing out their own trucks and thus did not need a permit. I took her word that they were only cleaning out their own livestock trucks and put the matter to rest four years ago.

My question is, if this is just for their own use, then why are they expanding to two wash pads and applying for a special use permit? This significant enlargement indicates to me the potential for a possible commercial cattle truck washout.

I also disagree with the amount of water that is that is projected for use. In my letter to the editor, I stated that one truck driver told me that it takes approximately 6,000 gallons of water to properly clean out a livestock trailer. After doing further investigation, I think the amount is

Polly Ann Huggins
March 21, 2005
Page 2 of 5

closer to 5,000 gallons of water (instead of the 6,000 gallons of water). If they are washing out 3 livestock trailers a day, then the amount of water would not be 2,000 gallons but 15,000 gallons. How will that effect the water table in this time of drought? **Is the county willing to hire a hydrologist to examine the groundwater flow patterns to assure the surrounding property owners that such a use will not lower the aquifer?** I need to have this question answered.

Other questions that must be answered to the complete satisfaction of the taxpayers of Gooding County before the special use permit can be issued are as follows:

1. **How will it effect my health and my quality of life?** I am worried about the possible consequences of ammonia fumes, possible pathogens, and other airborne contaminants being sprinkled into the atmosphere. Will Gooding County or Diamond A. Livestock pay for my potential increase in medical bills?
2. **How will it effect the quality of life of my livestock?** If trucks from outside of the Gooding area are allowed to be washout, then how will introducing new diseases to our area from across the United States (maybe some day Canada) effect my livestock? Will Gooding County or Diamond A. Livestock pay for my increased veterinary bills?
3. **How will it effect my property values?** If there is a decrease in property values, for whatever reason (do to this possible use), then will Gooding County or Diamond A. Livestock pay for me to relocate or pay for the difference at resale?
4. **How will it effect traffic patterns?** There is a potential for more traffic accidents on Highway 46 with commercial trucks entering and exiting the highway without turn lanes near an area already known to have traffic accidents. Will Gooding County or Diamond A. Livestock pay to install turn lanes or be liable for any damaged caused to property or human life due to increased traffic patterns?
5. **How will it effect the ground water?** Can Gooding County or Diamond A. Livestock guarantee that the proposed project will not effect the ground water? I am concerned about both the quantity and quality of the aquifer. Will Gooding County or Diamond A. Livestock pay for any damage incurred to the quantity or quality of the aquifer?

As I see it, only Diamond A. Livestock will benefit from this proposed project. I can see no positive impact to our economy. How will it benefit the county tax base? How many jobs will be created? Ask yourself, how can Gooding County afford to have this proposed project so close to town? **Can Gooding County afford to be liable for any negative impacts that might occur, if this proposed project is passed?**

If Gooding County Planning and Zoning decides to go ahead and allows the special use permit, then I must insist that it be permitted at its potential use. This potential use, as I see it is a commercial truck wash.

Polly Ann Huggins
March 21, 2005
Page 3 of 5

As a commercial truck wash, it needs to be treated as an industry and not just for the "local ranchers" use. The well use with the Department of Water Resources must be changed to reflect proper use. The pump must have a "totalizer" to allow for reporting of volume of water used. Proper sump requirements must be followed. A hydrologist must be hired to examine the groundwater flow patterns. There needs to be a maximum usage per day on the facility. The possibility of turn lanes on Highway 46 must be studied along and installed if required. Hoses on pivots need to be installed for minimum drift. The waste must be pretreated in an anaerobic digester prior to application to prevent spreading of possible pathogens. And other requirements to protect the quality of life in Gooding County.

Again, I am asking if this is just for their own use, then why are they expanding to two wash pads and applying for a special use permit?

As a Gooding County taxpayer, I am requesting that all my questions be answered in this letter to my satisfaction.

If you have any questions, then please feel free to contact me at my home mailing address.

Sincerely,



Polly Ann Huggins
P.O. Box 382
Gooding, Idaho 83330

Attachments: Letter to the Editor

Copy of Letter Submitted to the Editor of the Gooding County Leader on March 14, 2005

Only a little over two miles south of Gooding, on Highway 46, Diamond A. Livestock is applying for a change in land use permit of a potential substantial upgrade to their cattle truck washout. This upgrade includes plans to have two wash pads. The manure will go into a lagoon and then be sprayed through two pivots, with the solid waste trucked to joining farm ground.

This significant enlargement dictates to me the potential for a possible commercial cattle truck washout.

Polly Ann Huggins
March 21, 2005
Page 4 of 5

If this change goes into effect, then there is the possibility of manure from all over the United States (and in the future maybe Canada) being applied to adjacent farm ground with the effluent being applied airborne.

Prior use has been only for their livestock trucks and farm equipment.

Possible concerns that need to be addressed are: (1) the potential for more traffic accidents on Highway 46 with commercial trucks entering and exiting the highway without turn lanes near an area already known to have traffic accidents; (2) the ground application of more manure coming from who knows where; and (3) the possible consequences of ammonia fumes, possible pathogens, and other possible airborne contaminants being sprinkled into the atmosphere.

This does not consider the real question of how this commercial livestock washout might effect ground water quantity and quality in this time of limited water supplies and eight years of drought. The application states that this proposal will only use an extra 2,000 gallons of water a day. In the application it is estimated that 2 to 3 trucks per day a year will use the proposed facility. After talking to a commercial truck driver, he estimated that it takes around 6,000 gallons of water to properly clean one livestock truck. This is his estimate, not mine.

One important question to consider is how many livestock trucks will really be washed out and from where do they come from? Also, what is the true required amount of water for such use?

Ask yourself, can Gooding afford to have the possibility of a commercial livestock washout so close to town? In the long run who will benefit from such an establishment? How many jobs will be created? How will it help the county tax base? How will it effect the quality of life and who will end up paying the costs? Costs such as: possible wells drying up, possible health concerns with ammonia and other possible fumes being sprinkled into air, and possible pathogen exposure to both humans and livestock.

Polly Ann Huggins
March 21, 2005
Page 5 of 5

You can have a voice! Now is the time for action! If you have concerns or opinions on this, then speak out! The Gooding County Planning and Zoning Commission is having a public hearing on this change of land use on Monday, March 28, 2005 at 7:00 p.m. at 145 7th Ave. East (next door to the Department of Motor Vehicles) in Gooding.

The hearing is open to the public with a five-minute limit on oral testimony. Any written testimony more than one page in length, needs to be submitted to Judy Daubner-Davis, Gooding Planning and Zoning Administrator, by March 21, 2005.

#

TO: GOODING PLANNING & ZONING COMMISSION
145 7TH Ave. E.
Gooding, Idaho 83330 Phone 934-5958

AS A CONCERNED CITIZEN OF GOODING COUNTY, I DO NOT WISH FOR A SPECIAL USE PERMIT TO BE GRANTED TO DIAMOND A LIVESTOCK FOR A LIVESTOCK TRUCK WASH OUT.

CONCERNS & QUESTIONS:

- COMMERCIAL USE
- EFFECT MY QUALITY OF LIFE
- INTRODUCING NEW DISEASES TO OUR AREA FROM ACROSS THE US AND SOMEDAY CANADA WITH LAND APPLICATION
- OVER APPLICATION & SATURATION
- NUMBER OF MILES OF DRIFT FROM PIVOT / AMMONIA; USE HOSES FOR MINIMUM DRIFT
- WASTE BE PRETREATED BEFORE APPLICATION TO PREVENT SPREADING PATHAGENS
- SHOULD THIS IS BUILT IN AN INDUSTRIAL PARK
- EFFECT MY PROPERTY VALUE
- APPLICATION DURING THE WINTER MONTHS
- WHERE IS ADDITIONAL WATER COMING FROM i.e. WHEN CANAL WATER ISN'T AVAILABLE; METER ON CURRENT WELL THAT IS BEING USED
- 6000 GALLONS OF WATER PER TRUCK WASHOUT; NOT 2000 GALLONS A DAY
- CURRENTLY OPERATING COMMERCIALLY WITHOUT A PERMIT AND HAS BEEN FOR THE LAST 15 PLUS YEARS
- HIGHWAY TRAFFIC TURN LANE NEEDED
- INCREASE THE ALREADY EXISTING HORRIFIC FLY PROBLEM
- CONTAMINATION OF GROUND WATER
- MAXIMUM USAGE PER DAY
- WHO WILL REGULATE THIS FACILITY
- THERE IS NO POSITIVE IMPACT TO OUR ECONOMY

SIGN

Raymond E. Hendrix DATE 3-19-05

TO: GOODING PLANNING & ZONING COMMISSION

145 7TH Ave. E.

Gooding, Idaho 83330

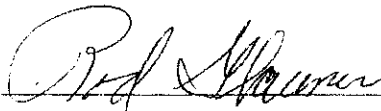
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DATE

03-19-05

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145 7TH Ave. E.

Gooding, Idaho 83330

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SIGN

Don Daniel

DATE

3-19-2005

TO: GOODING PLANNING & ZONING COMMISSION

145 7TH Ave. E.

Gooding, Idaho 83330

Phone 934-5958

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DATE 3-19-05

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SIGN

Kenneth Chluzee

DATE

3/19/05

TO: GOODING PLANNING & ZONING COMMISSION

145 7TH Ave. E.

Gooding, Idaho 83330

Phone 934-5958

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SIGN

McLendon E. ...

DATE

03/13/05

TO: GOODING PLANNING & ZONING COMMISSION
145 7TH Ave. E.
Gooding, Idaho 83330 Phone 934-5958

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SIGN

Tom Souman Jr.

DATE

3-13-05

TO: GOODING PLANNING & ZONING COMMISSION

145 7TH Ave. E.

Gooding, Idaho 83330

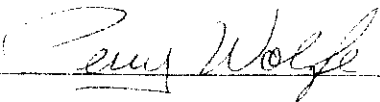
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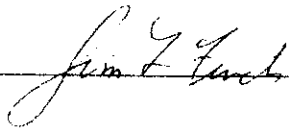
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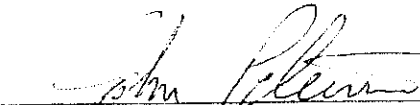
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DATE

3-12-05

John Peterson

TO: GOODING PLANNING & ZONING COMMISSION

145 7TH Ave. E.

Gooding, Idaho 83330

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Troy Hurd
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3-12-05

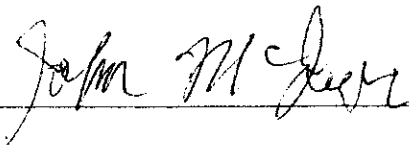
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SIGN *Kenna Korfe* DATE *March 19, 2005*

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Shanna Koyle
Trustee
for

SIGN

Verda Bald
for Verda Bald
Living Trust

DATE

March 19, 2005

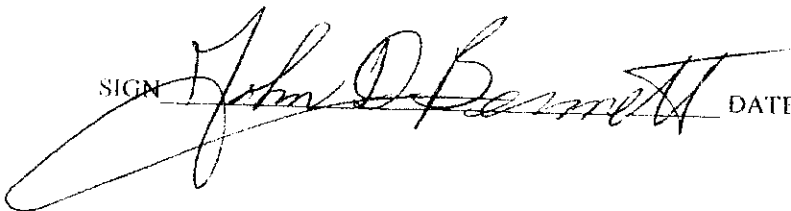
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Louie Ridley

DATE

3-20-05

Read

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Sharon L. Jones DATE *3/27/05*

Read

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SIGN *Jenna Rock* DATE *3/23/05*

Rosa Dairy East of Gooding

Application denied by
P&Z
and denied by
Commissioners

Approximate distance from Diamond A
Livestock; 6 miles

Attached; Letters of Concern from Gooding
Co. Citizens

GOODING COUNTY PLANNING & ZONING COMMISSION
HEARING – April 24, 2006
RECONVENED PUBLIC MEETING – May 1, 2006

REGARDING HEARING OF

Edward Rosa, DBA R&R Holsteins
New CAFO Permit

FINDINGS OF FACT,
CONCLUSIONS OF LAW

REQUESTED ACTION:

New CAFO Permit – Edward Rosa DBA R & R. Holsteins, 2149-B Hwy 26, Gooding, ID 83330, which is located in NW ¼ of Section 11 & NW ¼ of Section 14, Township 6 South, Range 15 EBM in an Agricultural Zoning District. The grid address is approximately 2230 E.2200 S., Gooding, ID. The CAFO application is to allow 3,199 Total Combined Animal Units on 320 total acres of the CAFO. The CAFO Siting Team site suitability determination letter is in the file. The Siting Team determined this to be **Low Risk**.

The Gooding County Planning and Zoning Commission held a Public Hearing on April 24, 2006 with the following Commission members present: Shirley Tschannen – Chairman; Suzanne Jensen - Hearing Officer, Tom Mattice, David Maestas and Jim Brockman. The recessed meeting was reconvened on May 1, 2006 with the following Commission members present: Shirley Tschannen – Chairman; Suzanne Jensen - Hearing Office; David Maestas and Jim Brockman. The Gooding County Planning and Zoning Commission's regular meeting followed. The Commission had no conflict of interest.

FINDINGS OF FACT

Having given due consideration to the testimony presented at the hearing, the Gooding County Planning and Zoning Commission hereby makes the following findings:

1. Public Hearing was held on April 24, 2006.
2. Reconvened Public Meeting was held May 1, 2006
3. Legal Notice was in the Gooding County Leader, the official county newspaper on April 6, 2006. Notice was posted on the applicant's property on April 10, 2006. Letters to property owners were mailed on April 7, 2006 to neighbors within one mile.
4. The existing zoning of the land is agricultural.
5. Per Gooding County CAFO Ordinance No. 77, Article V, Siting Permit Required and Article IX Criteria for Approval, Section A. General Requirements, Section B. Waste Management, Section C. Water Quality and Section D. Property Rights, to the knowledge of the Commission, the application does not meet all the general requirements applicable to a new CAFO Siting Permit. A copy of the approved criteria is in the file. The criteria not met are as follows:
 - a) General Requirements: #1 - The CAFO must comply with and not be in violation of any federal, state or county law or county ordinance. R&R Dairy (Wells Dairy) has had county violations that have not been corrected.
 - b) Waste Management: #8 - That considering the Site Limitations Rating Criteria for Land-Applied Wastewater as set forth in Exhibit A, there shall be no rating of very severe or severe in any of the 10 factors. If either severe or very severe ratings appear, the applicant shall

have a detailed environmental plan setting forth how this factor will be resolved, not merely a letter stating that it can be mitigated. The rating of Limiting Layer Depth was severe due to a Lime-silica cemented hardpan, which creates a rooting barrier, and two of the soil complexes are shallow to bedrock. This is very common within soils of this area. Additionally the soils are formed in a complex group of multiple soils; one component of the group may have a hardpan barrier while others do not. The organic matter categories rated severe due to the nature of sandy soils and is the nature of a high mountain desert. The granular nature of sandy soil does not retain moisture within the pore spaces for long duration and is naturally low in organic material. The loamy sand and loamy fine sand are typical of high desert soils, which are mapped relative to their natural condition. These desert soils are naturally low in OM because the low precipitation in the area limits the plant growth and reduces organic litter available to the soil. The application of solid waste will be beneficial to these soils and is a common prescribed management practice for soils low in organic material.

WRITTEN AGENCY TESTIMONY

1. Fred Faulkner, Gooding Highway District Chairman, stated a special board meeting had been held with Mr. Rosa on April 19. The highway districts findings of fact are as follows: a) Mr. Rosa told the board the time frame of construction of the new dairy would be for the year 2008. The years 2006-2007 the property would be operated as a farm. Therefore, there would be no significant requirement of the existing road system until construction in 2008. This being known, the highway district will have time to continue with the five year capital improvement plan, which includes two miles of existing asphalt road to the new dairy. b) The board discussed the options on the mile of gravel road between 2100 East and 2200 East on the 2000 South road. One option being, vacating the right of way to Mr. Rosa's new dairy, at which time road improvements would be Mr. Rosa's obligation. Neighboring property owners would retain a recorded easement to their property. The letter is in the file.
2. Pat Bishop, Gooding Fire Chief, stated he was asked for clarification on his February 10, 2006 letter concerning the new dairy facility for Mr. Rosa. His first paragraph stated that the access in the dairy facility itself appears to be adequate. The second paragraph addresses their concern for the main county road access into the dairy. The letter is in the file.
3. Craig Tesch, P.G., ISDA; Joe Baldwin, P.G., IDEQ and Helen Harrington, P.G., IDWR, stated the CAFO Siting Team had completed its review of the application for Mr. Rosa. The following technical factors contributed in determination of the rating:
 - a) The proposal is to construct a new dairy facility with a capacity of 3,199 total combined animal units on 320 acres.
 - b) The waste management system for this feedlot is an open lot, dry scrape system.
 - c) The new facility will control approximately 200 irrigated acres for waste utilization according to the approved Nutrient Management Plan ("NMP"). According to the NMP, the dairy needs 1,812 acres to utilize all of the manure and wastewater produced by the facility. Therefore, approximately 89% of the solid waste produced from this facility will be exported to neighboring cropland.
 - d) Wastewater generated from the facility will be collected and stored in wastewater storage ponds. Wastewater will be land applied in accordance to the NMP.
 - e) An Application for Transfer of a Water Right has been filed with the IDWR. The application is currently being processed. Issues related to the Transfer of a Water Right are matters heard and decided by IDWR in a separate water right process prescribed by law. Upon completion of the water right and transfer process, IDWR will make a final determination.
 - f) Average precipitation is 10-12 inches per year. Groundwater recharge is primarily from precipitation and irrigation.
 - g) Data collected from 11 wells located upgradient of the site indicates ground water nitrate concentrations ranging from 1 to 6 mg/L.

h) The facility is located in the Eastern Snake Plain Sole Source Aquifer, designated by the US Environmental Protection Agency.

i) The aquifer system consists of a fractured basalt aquifer. A well log in the area indicates first encountered water levels range from 175-230 feet below ground surface (bgs) in the fractured basalt aquifer. Typically, well logs in the local area shows dense to fractured basalt from approximately 1 foot down to over 365 feet bgs.

j) Groundwater may be susceptible to contamination due to the shallow soil depth and the underlying fractured basalt geology. This susceptibility can be mitigated by ensuring the facility is designed correctly and wastewater and irrigation water management is effective.

k) The general regional groundwater flow direction is approximately southwest towards the Snake River.

l) Odor Control. Maintaining corral areas in the spring and summer will be important to reduce odor. Also it is strongly recommended the wastewater is diluted with irrigation water in a ratio of 1:1 or greater. Additional methods of odor control may need to be implemented.

m) Pest Control. It is recommended the producer develop an integrated pest management plan and adjust accordingly through the year.

Gooding County must approve the engineering, operational and site plans prior to ISDA review. Then, the final facility engineering and site plans must be submitted to ISDA for final approval before construction can commence. ISDA will inspect the construction and operation of the facility for compliance with State and Federal requirements. Additionally, ISDA will ensure the waste containment and animal housing activities are a minimum of 100 feet from a well or residence. Any changes or modification in the application or at the site may alter the Suitability Determination. The Suitability Determination, as determined by the Team, is Low Risk. The letter is in the file.

4. Robert Ohlensehlen, Certified Nutrient Management Planner and Professional Animal Scientist, submitted a facility description, manure management, land application, odor management, pest abatement and dead animal disposal plan. The plan is in the file.
5. Lynn Harmon, Big Wood Canal Company General Manager, stated they have reviewed the proposed permitting of the new dairy facility, owned by Edward Rosa. The facility is located some distance from any canal company or district facilities. They can see no problems associated with it as far as the canal system is concerned. The letter is in the file.
6. Daren T. Nelson, Brockway Engineering, submitted Mr. Rosa's application for Transfer of Water Right. The application is in the file.
7. Pat Bishop, Gooding Fire Chief, stated after reviewing the site plans for the new dairy facility for Mr. Rosa, the access appears to be adequate. This shouldn't cause the fire district any problems. If during construction any other areas that would be identified as needing emergency access, the roads would need to be put in. The roadways need to be 20' wide and an all weather road. The main access road of 2000 S. from 2100 E is an immediate concern. The road at this time is not built to handle the traffic of a modern dairy. He is sure the road would be improved and widened for the added traffic. The letter is in the file.
8. Fred Faulkner, Gooding Highway District chairman, stated there are problems that need to be considered to accommodate the request for a new dairy. To approach the dairy from highway 46 east, this would entail substantial improvement to the two miles of existing paved road to handle the additional traffic and heavy trucks. This would require reconstruction of another one mile existing non-paved road and complete construction of approximately 3/10 of a mile to the site. The access from the south 2000 E. is limited by bridge key #24460-5144. The bridge restriction is limited to certain weights. The district doesn't have the money or the material to take on the project. The letter is in the file.
9. Robert Ohlensehlen, Certified Nutrient Management Planner, Nutrient Management Solutions, submitted a Nutrient Management Plan, which is in the file.

10. USDA Natural Resources Conservation Services submitted an agricultural disposal of manure, food-processing waste and sewer sludge report. The report is in the file.
11. Kenneth Neely, IDWR Technical Hydrogeologist, submitted hydrogeological factors for the Rosa dairy, which are in the file.
12. Stephen Thompson, NRCS District Conservationist, submitted the site limitations and rating criteria. The documents provide all of the information required for the rating site characteristics, Soil Moisture and Temperature regimes, surface and subsurface structure. The criteria and letter are in the file.

WRITTEN TESTIMONY GIVEN IN OPPOSITION

1. Mickey and Andrea Cockerham stated their concerns on the proposed dairy. The issues are: quality of life and economic development; contamination of surface and groundwater from CAFO generated manure; odors and hazardous gas emissions from the lagoons; excessive use of antibiotics, growth stimulants and hormones; devaluation of their property and neighbors property. They want to ask that a moratorium be placed on CAFOs in Gooding County until the number of animals in the county can be determined, a complete study of the county's ground and surface water be completed and a comprehensive plan can be put in place to existing CAFOS and enforce accountability. The letter is in the file.
2. Lori Bellamy stated their quality of life at home has been greatly affected since the development of Mr. Rosa's existing dairy. They can't go outside and enjoy their backyard due to the unbearable odor settling around their home most evenings. In the summertime, the windows remain shut due to bad odor. They have lost several pets due to the increase in traffic from the existing dairy. Odor does have an effect on the overall economy and wellness of the area. The letter is in the file.
3. Albert and Edythe Byce stated they feel their rights to clean air and water are being infringed upon. Conditions have steadily gotten worse and their ability to enjoy the simple pleasure of entertaining outside is out of the question. They had to sell their outdoor spa because of the odors and flies. They have had to install a water filtration system to insure their family's ability to drink clean water. The letter is in the file.
4. Harold and Heidi Olson stated they have been materially affected in health, safety and property rights because of the influx of CAFOs. There is a bovine saturation in the county. The cattle numbers are destroying the quality of life and property values. The prevailing odor, the contamination of the area in the site footprints, the astronomical amounts of waste and unacceptable management practices are not in accordance with the Comprehensive Plan. The purpose of the act is to promote the health, safety and general welfare of the people of Gooding County. The time has come for the Gooding county administrators to stop permitting CAFOs and enforce the current management practice requirements. The letter is in the file.
5. The same letter as the Olson's were signed by the following people: Robert and Edythe Byce; Hugh and Beverly Johannsen; Richard and Thelma Fink; Brad and Pam Bickford; Phyllis and Michael Kochert; Willie Henderson; Everett and Joyce Copenbarger; Ray and D. Jean Harris; Doran Cluer; Dorothy Borneman; Dale and Alta Harris. The signed letters are in the file.
6. Judith Stockham stated Ordinance No. 77 is very clear on enforcement and penalties involved with violations. She has forwarded complaints to the prosecuting attorney responsible for enforcement and hasn't received any resolution of the problem. What is the total number of dairy cows in Gooding? What is the maximum amount allowed in Gooding

county? South Central District Health has published the top five reportable diseases for 2005. Campylobacteriosis was in the top five and this is an initial causal relation to the dairies and infected dairy cattle. Other concerns are the road access, water right, bio-nutrient export, dead animal removal and the air quality permit. The letter is in the file.

7. Vern Eames stated his issues with the current facility. They are: flies, odor, general upkeep and being a good steward of the land. If Mr. Rosa can't keep this smaller dairy clean, how can he maintain one that is six times bigger? The current road won't be able to handle the traffic required by the proposed facility. The current access road is only able to handle light traffic in the summer months. The year around demands of a facility the size of the proposed facility would require a very well made and maintained paved road. The letter is in the file.
8. Scott Anderson stated the grid address is in error as it is too far south and is completely within Federal land managed by the BLM. The issues that concern him are repulsive and possibly toxic odors, hoards of potentially disease ridden flies, starlings, which coat everything with dung droppings, noise at all times of the day and night, constant irritating and nuisance dust. Consideration must be given to precious and essential life sustaining resources in assessing the impacts of this proposal. Many wells in the area have been deepened or redrilled due to drying up and drawing down the aquifer. The letter is in the file.
9. Karen Arkoosh stated there are many unanswered questions which need to be resolved before issuing this permit. There must be a time when state and local officials realize many dairies now in operation are not Old McDonald's Farm. They have crossed the line from agricultural to industrial. There needs to be a comprehensive study of groundwater in the county identifying pollutants and likely sources. Air pollution including ammonia, particulates and potential airborne pathogens need to be evaluated. Impacts on property values and quality of life of surrounding property owners including water contamination, odor, flies and airborne pathogens must be considered. Validity of existing regulation must be scrutinized to determine and reflect problems that multiply with over saturation of cows as it pertains to existing laws.
10. Darrel and Hazel Schnitker stated there are many residents living within one mile of the proposed dairy. The main concern is the water quality from the water wells. The present dairy sits in a depression with no outlets for liquid matter so it all has to go into the ground. The smell from this dairy is mostly tolerable but at times with an east wind, it is very obnoxious. P&Z must stop the expansion of dairies within our county with the exception of those that are isolated from residential areas. Another reason they are opposed is the decrease in value of their property. The letter is in the file.
11. Fineas and Nancy Hughbanks stated they are concerned about the water and nitrates and coliforms seeping into the ground water and damaging domestic wells. A deep well can further lower the water table and dry up more domestic wells. A paved road would be necessary to handle increased traffic and this isn't the best use of county road funds. The animal waste being hauled onto county roads and state highways will damage the roads. Property values for neighbors would be devastating. The air quality with ammonia and hydrogen sulfide causes a serious health risk to people with asthma, emphysema and pulmonary diseases. A moratorium needs to be put in place for all new CAFOs. The letter is in the file.
12. Dowell and Judith Demaray stated they have many reasons to oppose this dairy. The flies make it impossible to enjoy sitting outside. The birds leave so many droppings around the trees, sidewalks and cars that everything is painted white. The odor prevents them from opening their windows at night. With Mr. Rosa's big use of water, they are concerned about their well drying up. Another concern is the waste contaminating their water supply. Who is going to pay to upgrade the road? They feel Mr. Rosa is not a truthful neighbor about what he says he will do and then not following through. The letter is in the file.

13. Leona Patterson stated she has concerns about the proposed dairy. Mr. Rosa owns a dairy southeast of their property and there is already offensive odors coming from there on a regular basis. The promises he has made in the past were only words. She didn't realize with the increase of 200 cows on his current dairy how that would impact their quality of life. What is a dairy with 2,285 animals less than a mile from their residence going to produce regarding odor? How many cows are currently in Gooding County? What are Mr. Rosa's plans for the offensive dairy behind them, when he builds this new one? The highway district doesn't have funds available to build the county road. How obligated are we by law to build that road if the permit is given, funds or no funds? The letter is in the file.
14. The neighboring property owners and concerned citizens requested a continuance of the hearing on April 24 for the new CAFO permit for Mr. Rosa. They are also requesting a continuance of the written testimony deadline date of April 17. The request is because they were unable to obtain a copy of the proposal due to the Incident Command and manpower issues in helping with the possible flooding. The letter is signed with 19 signatures and is in the file.
15. Vance McHan stated at first glance, this would seem an ideal site since there is desert all around and farm ground to the west to take manure. The purpose of the agricultural district is to protect agricultural land and to discourage the loss of agriculture land to urban oriented uses. Are we instead protecting the urban population from the negative aspects of industrial type agriculture? None of the agreements by the consumers to take Mr. Rosa's solid waste have been signed. Two of the consumers live in Wendell. Three of the consumers live north of Gooding, which means the manure would travel down Main Street or down county roads. The Pavkov's would take the remaining manure. This means tons of manure would be spread next to someone's home the P&Z Commission zoned residential. The Rosa plan is a poor plan at best with most of its waste having no reasonable place to go. The letter is in the file.
16. Ron and Debbrah Pauls stated they are opposed to the proposed dairy for several reasons. Mr. Rosa already has a dairy and the odor from it is horrendous. Allowing him to build a bigger dairy would compound the problems. Wind in Gooding County usually follow an east or west cycle. All odors, dust and insects would cover the property west to Hwy. 46 and Hwy. 26 and all the property east of the proposed dairy, which would affect a lot of residents. The dairy waste could contaminate the ground water supply, as well as trucks hauling waste traveling on the roads breaking them down. The proposed dairy would increase traffic using the 2000 S. Road. Gooding County has enough dairies. The letter is in the file.
17. A Statement of Intent with 25 signatures was submitted. They wish to collectively make clear their intent, objectives and concerns about the proposal. They believe there should be a comprehensive independent study on impact to the community as a whole with all factors considered. The issues they are concerned are including water contamination, air born pathogens, flies and odor, which affect the quality of life both physically and emotionally. Property values face serious devaluation as problems of industrial dairies encroach upon them. They believe the mega dairies have crossed the line from agricultural to industrial use. Existing laws may be inadequate to deal with factory farms. The letter is in the file.

ORAL TESTIMONY GIVEN IN SUPPORT

1. Bruce Mortensen stated he supplies chemicals to residences in the Magic Valley. He finds it interesting for him to deliver to an old rundown dairy to a new one. A new dairy improves efficiency and a cleaner environment. Profit is a benefit to the community. He believes a percentage of their friends don't want certain industries in the area. If people say their property values are going down, this isn't fair to Mr. Rosa.

2. Steven Rosa is in support of the application.
3. Karen Durfee stated she is in support.
4. Dick Graves stated he lives approximately two miles southwest of proposed site. He occasionally gets some smell when they clean pens. He lives in an agricultural area and this will happen. One parcel where he applies manure is 65 feet from his backdoor. It isn't odorless but once it is disked in then the smell is gone. Farmers are surviving now because of dairymen paying for their crops. Dairies create a vibrant economy we now have. There are good dairymen and poor players in the industry. Those are the ones to be concerned about.
5. Ben Gnesa stated his family owns the land on the borders of the proposed properties. His family is in support of this venture and the dairy would not adversely affect them. The clay liner in the lagoon is more than the state requires. The parcel of land came up for sale but no one else could afford to buy it. Property values declining is not true because the land sold for premium values. He has a lot of employees and pays benefits and retirement. His pay scale is higher than what a lot of companies pay and this is due to the dairy industry. There are problems in the industry but Dept. of Ag needs to take care of those problems.
6. Tim Pereira stated he has known Mr. Rosa for 10 years. He was in the dairy business. He visited the site and there is not another perfect site for the proposed facility. The prevailing winds come from the west.
7. Jeff Pavkov stated he has known Mr. Rosa for about 10 years. He has raised corn and feed for him and takes his manure. Manure has helped with his fertilizing costs by half. He runs a tight ship.
8. Al Cox stated he has known Mr. Rosa for six years. His house sits less than a mile from the home dairy. He recalls only smelling the dairy twice in the last four years. His property was appraised at \$80,000 and now appraised at \$120,000. Since he is in the breeding business, he stands to make some income from the proposed dairy.
9. Larry Kimmes stated he has known Mr. Rosa about seven years. He is in the feed sale business and a lot of his business is conducted on a handshake. Selling feed for dairies is a good income for him. He farms 400 acres and his property is in the waste management plan. This is a good site to put a dairy.

ORAL TESTIMONY IN OPPOSITION

1. Judith Stockman stated she was speaking for several people. She supports the dairy industry and what it brings. There was a small dairy behind them and in May of 1999, Mr. Rosa asked for an expansion of animal units. IDWR cited Mr. Rosa for not having enough water. In 2004, an environmental complaint for runoff was filed. Mr. Rosa was to install berms and plant trees. The berm was done but no trees. Complaints have been sent to the P&Z Administrator and Calvin Campbell, prosecuting attorney. Judith submitted to the board this testimony with the following attachments: NMP R&R #1 2001; Personal Economic Impact from R&R #1; Environmental Complaint, 3/1/2004; NMP R&R #1 3/18/2004; CAFO Complaint 2005; Inspection by ISDA 2006, which are in the file.
2. Fineas Hughbanks stated he was speaking for several people. He has been a resident for 20 years and a vet for 39 years. If Mr. Rosa has odor with his 300 cow dairy what is it going to be like with 2,000 more cows. If this would increase the tax base and help build roads, then how come the county is the 10th poorest in the state? Imminent domain takings have been in the news a lot lately but they did compensate the owners. There has to be some responsibilities when this happens to people's property if he happens to live in the wrong

place. There needs to be an accurate count before any more permits are allowed. There aren't enough acres to handle the waste. If bioterrorists strike the dairy industry, where would thousands of cows be buried since they can't be moved from the facility. The pivots would carry diseases and a west wind would expose these contaminants. If the aquifer becomes contaminated, the domestic wells would be in danger. Reasons for opposing: proximity to residential area, year round odors, potential for well contamination, cattle numbers already in excess, taking of property value.

2. Debbrah Pauls read her letter into the oral testimony.
3. Carol Bennett stated she has strong concerns for quality of life, residential values of the area and the wells. The big expense to homeowners is to replace their wells due to agriculture usage and drought. Can't those be taken into consideration? Will the time come when we can't drink the water from our wells? There is good growth in the Magic Valley and there is getting to be a stronger employee base. The concerns need to be addressed before a new dairy is permitted.
4. Vern Eames stated he was speaking for several people. There was an error in the notification dairy site. The fire chief said 1 1/3 miles is not an all access road. There is nowhere in the application that addresses this. Maintenance would need to be done on the road. County tax payers don't want to be responsible for care of the road. Highway department states no money to maintain the road. NMP states only 5% of the waste would be land applied. The 90% waste would be exported. The farmers receiving the waste didn't sign the agreements. There is an inconsistent water transfer that hasn't been approved. The manure is on his fence line and encroaching onto his property. Gooding County has more cows than any other county. Project expected to be finished in 2008. Where is the cost for the roads to come from?
5. Bev Johannsen stated her only comment was the concern about Gooding County with the water, air and quality of life. How many more cows and manure can Gooding County handle and still maintain her health.
6. Leona Patterson stated Mr. Ohlensehlen did a great job with the presentation, no flies, birds odors or specks of dirt. There are horrendous odors from Mr. Rosa's dairy that drops by their home. There are 14 homes that would be affected. There is a southeast wind every day. If Mr. Rosa would dry up the dairy he currently has, she would probably approve this one. There are enough cows and dairies. There needs to be things addressed in Gooding County before any more dairies are allowed.
7. Vance McHan read his letter into the oral testimony.
8. Karen Arkoosh stated she was speaking for 22 people. She read a Statement of Intent, which is in the written testimony.

REBUTTAL

1. Mr. Ohlensehlen stated the NMP addresses solid stacked manure. Whether the manure is composted or raw manure, it has no effect on the phosphorous. The plans are not based on nitrogen. Nitrogen is found in chemicals or proteins. Commercial fertilizer is water soluble and manure isn't.
2. Reagon Hatch stated this is not a residential area but surrounded by BLM and desert. Setbacks are incremental. The water right issue is not germane to this issue. You can't run a dairy and have the risk of exposing your cows to disease. Mr. Rosa has a letter from the highway department so must rely on their expertise. The issue of too many cows is a political and land use issue. The land base to take the manure is addressed in the NMP. He would

like to file in the record that the complaint inspections in 2004 and 2006 for Mr. Rosa are now in compliance.

3. John Lothspeich, attorney, stated one of the early letters commented on the local planning act of 1975. Mr. Rosa owns the land and is meeting the standards of the criteria of the ordinance in order to get a permit. All of the criteria has been met and exceeded. If the commission determines this doesn't meet standards and criteria of the ordinance, he cautions the commission they wouldn't be following their own ordinance. This is a low risk site.

CONCLUSIONS

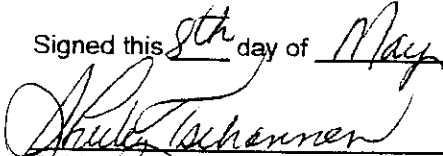
1. The existing zoning of the property is Agricultural.
2. The proper legal requirements for advertisement of the hearing have been fulfilled as required by Gooding County Zoning Ordinance #78 and by the Law of the State of Idaho.
3. The Gooding County Zoning Ordinance #78 designates this area as Agricultural and the proposed use does conform.
4. The Comprehensive Plan designates this area as Agricultural and the proposed use does conform to the Plan.
5. There was written testimony provided by agencies.
6. There was written testimony given in opposition of the application by property owners within one mile of the external boundaries of the property.
7. There was oral testimony given in support of the application.
8. There was oral testimony given in opposition of the application.
9. The CAFO Site Advisory Team visited the site on March 20, 2006 and the Suitability Determination, as determined by the team, was low risk.
10. The CAFO Site Advisory Team stated the final facility engineering and site plans must be submitted to ISDA for final approval before construction can commence. ISDA will inspect the construction and operation of the facility for compliance with State and Federal requirements. Additionally, ISDA will ensure the waste containment and animal housing activities are a minimum of 100 feet from a well or residence.
11. The roadway infrastructure isn't in place. The needed improvements for the highway to service proposed site would need to be done in their five year capital improvement plan. The Gooding Highway and Gooding Fire Districts made the road access a condition for their approval of the site.
12. The CAFO must comply with CAFO Ordinance #77 Criteria for Approval and not be in violation of any federal, state or county law or county ordinance. Evidence was presented of the applicant's non-compliance on an existing CAFO in Gooding County as recently as February 2006.
13. The purpose of the Commission shall be to promote the health, safety and general welfare of the people in the county. Testimony presented has shown the negative impact of an existing smaller R&R dairy facility. A larger facility would be to completely dismiss the concerns of the neighbors. The public impact has to receive greater consideration in this matter.

14. 89% of the solid waste produced from this facility will be exported. Three of the recipients are north of Gooding and two are in Wendell making a significant distance haul on county roads.
15. Export agreements for waste by neighbors haven't been signed.
16. The time frame for construction of the new dairy would be for the year 2008.
17. There are 320 actual acres and only 179.5 of irrigated acres to use waste/water ratio.
18. The extensive number of protest letters and the large number of oral opposition testimony are a compelling indicator that a larger dairy in that area would negatively affect the quality of life for neighbors.

DECISION

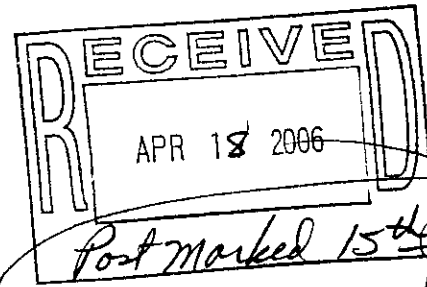
The Gooding County Planning and Zoning Commission having considered the application, the information and the oral and written testimony presented at the hearing, hereby denies the application for a new CAFO Permit for Edward Rosa, DBA R&R Holsteins by a unanimous vote. Roll call vote: Jim, aye; David, aye; Suzanne, aye; Shirley, aye. The applicant has 15 days to appeal the Commission's decision to the Board of County Commissioners. The date of the appeal would begin with the signing of the Findings of Fact.

Signed this 8th day of May, 2006.


Shirley Oschannen, Chairman

April 14, 2006

To: Gooding County Planning and Zoning
Judy Davis Administrator
Board Members: Suzanne Jensen, Shirley Tschannen, Tom Mattice,
Mr. Maestas, and Mr. Brockman



Re: New CAFO permit: Edward Rosa DBA R&R Holsteins

I am offering this written protest to the New CAFO permit for Mr. Edward Rosa.

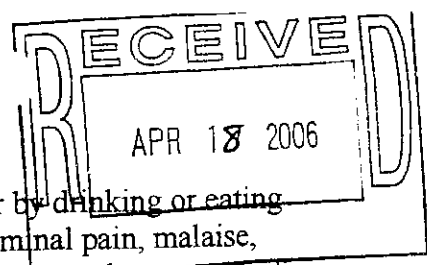
CAFO ORDINANCE NO. 77: Adopted July 8, 2003.

This ordinance is very clear on enforcement and penalties involved with violations. Then the question every Gooding County citizen must ask is: **Is it being enforced?**

1. I have called complaints in on non-compliance with CAFO permitted numbers, and finally started a written complaint with numbers from the ISDA enclosed. I have forwarded the complaint to the Prosecuting Attorney responsible for enforcement and in neither instance have I received resolution of the problem.
 2. What are the actual total dairy cow numbers in Gooding County as of April 1, 2006?
 3. What is the maximum number of dairy cows allowed in Gooding County? What are the maximum numbers of dairy cows Gooding County can handle, all issues taken into account?
 4. What is the maximum amount of dairy waste (solid and liquid) that Gooding County land acreages can receive before irreversible damage is done to the a) aquifer, b) surface water, c) soil, d) air quality, e) sustainability, and the most important item f) animal and human health?
 5. How has Gooding County addressed these issues and has a risk assessment been done concerning the CAFOs? That risk assessment should have been done utilizing evidence-based information from other State, National, and International organizations. Can we have access to this risk assessment document?
- Until the citizens of Gooding County can review this risk assessment along with the current number of dairy animals, I do not feel we should allow **any new or expanded** CAFO permit to go forward. The health and safety of the citizens of Gooding County are at risk.

HEALTH ISSUES OF NEW CAFO PERMIT:

South Central Public Health has just published its top five reportable diseases for 2005. Campylobacteriosis was in the top five for 2005 and the number of cases took a significant increase. The department will be trending and investigating cases for 2006 but have made an initial causal relationship to the dairies and infected dairy cattle. To quote pg. 810 of Hospital Epidemiology and Infection Control by C.G. Mayhall:



"Campylobacter is transmitted by contact with infected material or by drinking or eating infected water or food. Predominant symptoms are diarrhea, abdominal pain, malaise, and fever. Stools may contain blood and Campylobacter has been reported as a cause of severe infection in newborns. The gastrointestinal tract of domestic and wild birds and animals is the reservoir of infection. Infection can occur through person-to-person transmission or contact with infected animals."

To quote another article on manure waste management:

"Imagine if a city of 230,000 people stored its sewage in a giant open cesspool in the middle of town. Then imagine that some of the waste was sprayed through the air and onto adjoining lands. Imagine the smell and the enormous risk of disease through contamination of the air, soil, and water. As far-fetched as this idea sounds, this is what happens on large-scale industrial dairy operations across the U.S. A dairy of 10,000 cows would equal that city of 230,000 in waste as just one 1,200 pound dairy cow alone produces the same amount of waste as 23 human beings."

APPLICATION FOR NEW CAFO PERMIT: EDWARD ROSA:

After a brief review of the permit application, I have some concerns and saw some inconsistencies that I would now like to address:

1. **The road access** into the dairy site is an un-paved non-improved road that will show signs of heavy traffic use by becoming impassable in poor weather conditions. Therefore there would be limited access for Emergency vehicles if there was an event on the dairy. Since there is approximately seventeen homes within the mile radius and within three-five miles the entire town of Gooding, any major event at a dairy this size could mean disaster for a large number of citizens.
2. **The water right** #37-7009 is for 3.04 cfs for irrigation purposes between April 1st and October 15th of each year. I presume the 2.63af/ac that Brockway Engineering is stating as the equivalency is consumptive year around usage. But by drying up 54.8 acres plus 6.4 acres on this new dairy site to provide the needed water right, there is only 90.5 acres left to irrigate his liquid waste. On a 1:1 ratio of water to dairy liquid waste and a 3,199 A.U. CAFO, the 90.5 acres does not seem to be enough to properly apply the waste.
3. **Bio-nutrient Export:** I have already found one inconsistency with the farmers listed on the Export list. This farmer did not agree to receive waste from the New CAFO. How many others listed as receiving waste have not agreed to do so?
4. **Air Quality Permit:** This permit is for 3,199 AU which as of this year requires an Air Quality Permit. I did not see a permit by rule (PBR) registration with the DEQ in the application for the New CAFO. Does this mean the dairy will wait until it is operational and obtain a site-specific air quality operating permit and how will we be sure it is obtained? This is a serious issue for this New CAFO site is within 3-5 miles of a concentrated population and ammonia emissions have been shown to have human health effects.

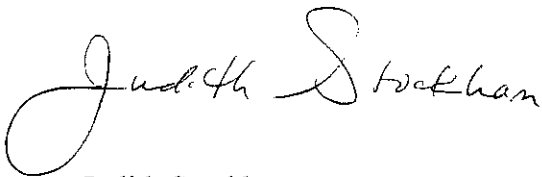
5. **Dead animal removal:** According to Idaho Administrative Code there are ~~four~~ ¹⁸ different methods to legally dispose of dead animals. Those are: rendering, burial, sanitary landfill (with agreement of landfill), and composting. The State of Idaho imposes a penalty and misdemeanor offense for those persons in non-compliance with IDAPA 02.04.17.

There needs to be a separate signed agreement with an outside company, like Darlings, to remove all dead animals from the dairy.

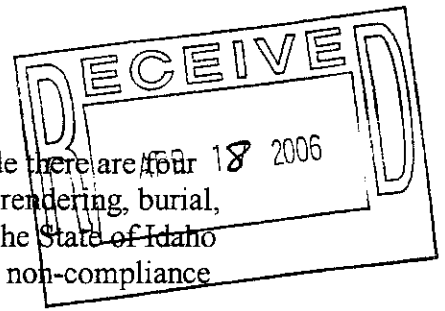
I have personally observed dead animals on Rosa Dairy #1 in varying degrees of non-compliance with the above Administrative Code. I have seen decomposing calf bodies behind his hay stacks, partially buried calf in his hills of waste piled in his corrals, and dead calves placed into holding boxes for greater than 72 hours. I have also had Mr. Rosa place a bleeding/dying 1200# cow up against my wood fence on the property line between us for over one week. This cow bled onto my property and was not removed from the fence line until the outside fencing crew I hired arrived. This crew placed an additional fence-line, pulling my animals 20 feet inside my property so there would be no contact with the cattle he has on the property boundary.

I sincerely hope the Gooding County Planning and Zoning, based on best management practices and a detailed risk assessment for the county, push for an ordinance to stop the influx of dairy waste into our area. I also hope that we do not approve the added numbers applied for in this New CAFO permit.

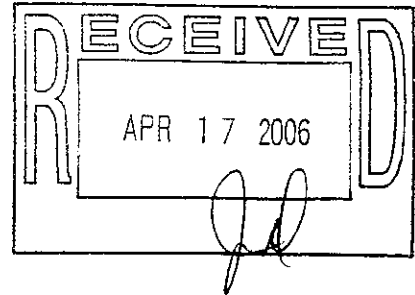
Thank you



Judith Stockham
2135 Hwy 26
Gooding, Idaho 83330
208-934-5770



Gooding County Planning and Zoning Commission
P.O. Box 417
624 Main Street
Gooding, Idaho 83330



April 17, 2006

I am writing in regards to the proposed Ed Rosa CAFO request. I am the southern border neighbor of the dairy referred to as Rosa 1. In the interest of being a good neighbor I have never filed a formal complaint against Rosa 1. That however, does not mean that there are major issues with the current facility. Those issues include flies, odor, general upkeep, and being a good steward of the land.

The fly problem in the summer is horrendous. Having livestock myself I have tried several different products on my property to control the flies. I have been successful at killing flies and larvae, but within hours the flies from Rosa 1 encroach on my home, barn, and animals. The flies not only are a nuisance, but they are a costly intruder that mar everything they touch including siding, windows, vehicles, and fencing. The continual cost of repainting, washing, and scrubbing is a never ending burden on my family.

Flies also spread disease to other animals such as pinkeye. They are a distress to otherwise healthy animals and humans that are continually trying to escape them.

The original dairy on the Rosa 1 site was 105 head. The odor was minimal and tolerable. The current facility can at times, especially when they are running waste through the pivot, create odor that will not allow you to be outside. There doesn't seem to be a cure for this issue and nothing available in the foreseeable future.

Rosa 1 is a fair sized facility, but quite a bit smaller than the proposed site. Due to the size of Rosa 1 it should be fairly easy to keep clean. If Ed can't keep the Rosa 1 facility clean and healthy I do not see how he will be able to keep up with a facility six times larger. I have supplied pictures (Exhibit 1 & Exhibit 2) taken today from my property line looking north.

Exhibit 1

Photo 1 is a picture of a pile of garbage in the middle of an open area north of my fence. The pile includes household furniture and discarded metal equipment.

Photo 2 is a discarded pickup truck, discarded tires, and old hay that never seems to get hauled off.

Photo 3 is supposed to be treeline barrier between our properties. The trees are about seven years old and provide no buffer zone as was original promised by Rosa. The trees were not watered in the summer of 2005 and now are more of an eyesore than anything else.

Photo 4 is several discarded trucks and old hay laying everywhere.

Exhibit 2

This is a photo of the general condition of one of the hay stacking areas. **Remember that this facility is 6 times smaller than the proposed site.**

After Rosa 1 was fully operational they decided to install a mainline running east and west along the border of my property and the property that I lease to the east.

Exhibit 3 shows how the boundary fence was pushed over from the Rosa side while installing the mainline. The fence was never repaired by Rosa and I have become financially responsible for the repairs.

Four years ago Rosa stored manure at the far southeast corner of his property. The manure was literally piled on the boundary fence, again compromising the integrity of the fence and the property line.

Exhibit 4 shows remains of the manure on both sides of the fence and how the fence has been compromised. Again, no repairs were made by Rosa.

I believe Exhibit 1, 2, 3, & 4 indicate that Rosa has not in the past been interested in being a good steward of the land and will not be so in the future. **These issues will only be compounded with a larger facility.**

The next issue that I would like to discuss is the road leading to the facility itself.

Since Rosa 1 has been operational the 2100 mile road running north and south and the 2000 mile road running east and west have fallen apart with the truck traffic required to handle the existing facility. Exhibit 5 & 6 are pictures of the current condition of the road. This road easily handled the normal agricultural traffic before Rosa 1 with minimal repairs. As can be seen by the pictures they can no longer keep the road repaired.

The current road will never be able to handle the traffic required by the proposed facility.

I have seen a letter from the Highway District referring to the current 1.3 mile gravel road entering the proposed site. It appears that the Highway District does not have the funds to fix or maintain the road for the proposed site.

Exhibit 7 & 8 are pictures taken today of the road. It can be seen that the roadbed is very weak and unstable. As a taxpayer and county resident I am concerned with the cost of this access if a CAFO permit is allowed. The road is a mess in the spring winter and fall and I am concerned that the maintenance cost of the road will fall on the shoulders of the taxpayers.

The current access road is only able to handle light traffic in the summer months.

The year around demands of a facility the size of the proposed facility would require a very well made, very well maintained paved road.

My final issue is with the number of dairy cows that are currently in Gooding County and the waste issues that arise from that number. Current studies indicate that the number of cows currently exceed the number of irrigated acres needed to dispense that waste. The result is odor problems, health issues, water contamination, and decreased value of life. The result of those issues are higher health costs, decreased property values, and economic burden to the surrounding neighbors.

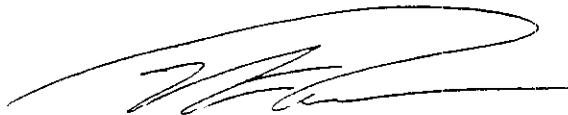
Allowing an additional facility of this size in Gooding County is in direct disregard of the Local Land Use Planning Act of 1975 which states. "It shall be the purpose of this plan to: protect property rights and enhance property values; ensure adequate public facilities and services at reasonable cost; protect and enhance the economy of the county; ensure protection of important environmental features; protect prime agricultural lands and mineral resources; encourage urban development within and near cities; ensure development consistent with the land's physical character; protect fish, wildlife and recreational resources; and to avoid water and air pollution; and allow school districts to participate in the planning process."

I am definitely opposed to the issuance of the proposed CAFO.

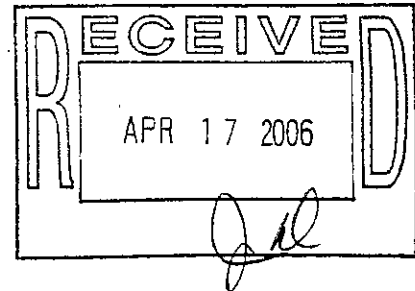
Vern E. Egan

1950 S 2100 E

Gooding, ID 83330



Scott Anderson
1928 S2100 E
Gooding, ID 83330



April 17, 2006

Gooding County Planning and Zoning Commission
145 7th Avenue East
P.O. Box 417
Gooding, ID 83330

This letter is my protest to the New CAFO Permit-Edward Rosa DBA R&R Holsteins at 2230 E 2200 S (which I am sure is in error and should be 2000 S) Gooding, Idaho, for 3199 combined Animal Units on 320 acres.

I received your notice of this permit application in the mail on April 8, 2006. You certainly do not consider this 8-day period an adequate amount of time for people to consider and respond to an issue of this magnitude and importance.

It appears to me that the grid address in the notice is in error as it is too far south and is completely within Federal land managed by the BLM. I suspect that 2200 S should read 2000 South. It also appears that the legal description you show in Section 11 is in error and should probably be SW1/4 of Section 11. In all reality we are not addressing the proposal at the correct site.

I am an adjoining landowner to an existing Rosa Dairy. I predate this existing operation so I have first hand experience as to the degraded conditions of the environment and neighborhood since this present operation came into existence. Some of the issues of concern to me are: 1. repulsive and possibly toxic odors (hydrogen sulfide and ammonia), 2. masses and hoards of potentially disease ridden flies, 3. starlings swarming my home, driveway, deck, etc. leaving everything coated white with their dung droppings two to four times per day, 4. noise at all times of the day and NIGHT from machinery working the operation, and 5. constant irritating and nuisance dust. These factors are examples of some concerns and should demonstrate my anxiety over this proposal. Also note, that there are numerous family homes within a short distance of this proposal, as you are aware by the number of notices you mailed to potentially affected people.

This proposal is not a replacement for other CAFO's in the local area. It appears to be an addition of about 700 to 800 percent above the existing Rosa Dairy in this area. And, as you are aware, there are several others close by. Maybe we have too many without any more.

I was under the understanding that the Gooding County residents and Governing Leaders had already determined that Gooding County is presently OVER POPULATED with Dairy Cows in confined areas, even though they have to go back to the drawing board on

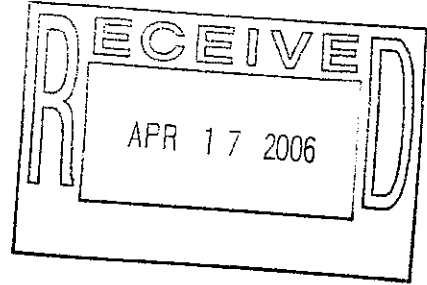
the CAFO issue. I have to agree that we probably do not need more. It also seems that the existing operators need to be held accountable and responsible.

Consideration must be given to precious and essential life sustaining resources to in assessing the impacts of this proposal and others like it. As you should know, many of the wells in this area have been deepened or re-drilled due to drying up and drawing down the aquifer. Consideration needs to be given to water quantity and quality and to air quality as both are essential to health and welfare, and both are concerns to the existing neighbors.

Please consider this correspondence as my protest to the New CAFO Permit-Edward Rosa DBA R&R Hosteins that is described in the NOTICE OF PUBLIC HEARINGS dated 31 March 2006, and received by me on April 8, 2006.

Sincerely,


Scott Anderson



Date: April 14, 2006

To: Gooding Planning and Zoning Commission

From: Darrell R. and Hazel M. Schnitker

1934 S. 2100 E.

Gooding, ID 83330

Subject: CAFO Permit - Edward Rosa

This letter is to voice our opposition to any and all additions to R and R Holstein's present dairy. Far too many residents live within one mile of said site to allow for any expansion. Logic would dictate that enough is enough. Our main concern is the water quality from our water wells. The present dairy sits in a depression with no outlets for liquid matter so it all has to go into the ground. Our well is only one-quarter mile from this dairy. The smell from this dairy is mostly tolerable but at times with an east wind it is very obnoxious.

At some point in time the P and Z must stop the expansion of dairies within our county with the exception of those that are isolated from residential areas. At the time this dairy was established there was considerable opposition but it was approved regardless without consideration to those opposed.

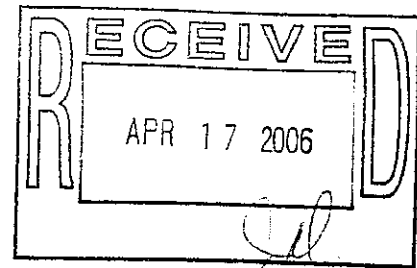
Another reason that we are opposed is the decrease in value of our property because of its location next to a dairy. We were here first. In attempting to sell our property (house) we only had two interested parties in one year. No one wants to live next to a large dairy.

Signed: Hazel and Darrell Schnitker

Darrell R. Schnitker
Hazel Schnitker

April 17, 2006

Attn: Judy Davis, Adm.
Planning and Zoning Committee for Gooding County



This letter is to voice our opposition to the expansion of the Edward Rosa dairy for the following reasons:

- 1) Water
 - a) We are concerned about nitrates and coliforms seeping into the ground water and damaging domestic wells. The year-round problem of large CAFO's disposing of their waste, may allow water to leach these toxic materials into shallow wells.
 - b) A deep well that will supply a large part of the water can further lower the water table and dry up more domestic wells. Many wells have gone dry in this area in the last two years. By law, domestic wells and existing wells have precedence over new applications. Please comply with the existing laws: these wells must be metered!
- 2) Economics
 - a) A paved road will be necessary to handle the increased traffic to the dairy at county expense. I object, as a taxpayer, and do not believe this would be best use of county road funds.
 - b) The waste removal plan that Mr. Rosa submitted requires hauling large amounts of animal waste to Wendell. The heavy truck traffic required to haul this waste could soon damage both county roads and state highways. We have all been exposed the hazards and nuisance of manure that always gets spilled on the roads as a result of these operations. We question also that he would actually haul it that far because of the great expense involved and expect that instead it would remain in this area.
 - c) Property values for all close neighbors would be devastated. There are an abundance of nice homes in the neighborhood, not to mention our Gooding County Golf Course. Very few buyers are willing to move into areas where they must live with the flies, starlings and offensive odor.
- 3) Air Quality (Health)
 - a) Ammonia (NH₃) and hydrogen sulfide (H₂S) are common gases produced by fermenting wastes. In such a large dairy, these gases present a serious health risk to people with asthma, emphysema and related pulmonary diseases. The NH₃ is also a problem for anyone with kidney disease. Neighbors who cannot leave will be forced to stay inside their homes in a filtered environment much of the time (if they can afford the equipment for such an environment).

4) CAFO's

- a) Please place a moratorium on all new CAFO's in Gooding County, at least until we have an accurate assessment of how many cow units are here. Many believe that we have already exceeded our saturation level. No one seems to have a clear picture of how many animals are actually here. We ask that you do counts of dairies without first notifying them and thus enabling them to move cattle off the premises before the counting takes place. We wonder if you fulfilling your obligation to see that these existing dairies are in compliance? We ask that you please do that.
- b) Where is our Risk Assessment Plan for human and animal health?

We would like to conclude with two questions:

- 1) Why are close neighbors not sent notifications of proposed changes in their neighborhood that are going to profoundly affect their way of life? We were made aware of this dairy application on 4/13/06 via a neighbor, allowing us two working days to gather information to submit protests before the cut-off date. Very few people read the legal notices in the paper on a regular basis and few would recognize the location from a legal description. Maybe this is why you do not receive more protests.
- 2) Do we want the quality of life to deteriorate to the point that people leave the area?

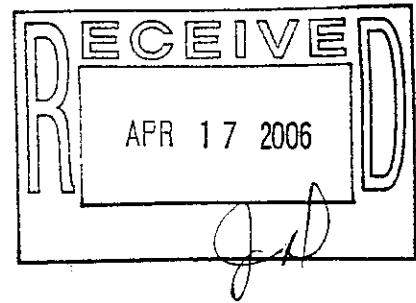
Most of the people who live in Gooding County are here by choice. We are here for the clean air, good water, ready access to rivers, lakes and mountains, long sunny days and cool nights. We enjoy our small, but first-rate golf course, nice parks, etc. We will not live where we must fight flies, starlings and offensive odor on a daily basis with a threat to our good water and property value.

Please say "no" to this dairy expansion and protect our neighborhood.

Sincerely,




Fineas and Nancy Hughbanks
1925 S. 2000 E.
Gooding, ID 83330
208.934.8315



04/17/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

As a Gooding County resident and property owner, I feel it is important to consider carefully the impacts of adding additional industrial dairies into Gooding County. There are many unanswered questions which need to be resolved before issuance of a permit concerning the factory dairy currently being proposed by Mr. Edward Rosa east of the city of Gooding. I have been in the position of selling one home because of because of ineffective and inadequate restrictions imposed by the state and county in the past on pollution controls for large industry. I hope this will not be the case again as I cannot continue to run and there is no place to hide.

I understand that the dairy industry is a economic benefit to many residents of Gooding County. I do believe, however, there is a point where we must take inventory of the detrimental effects as well as the positive.

1. There must be a time when state and local officials realize that many dairies now in operation are not Old McDonald's Farm. They have crossed the line from agricultural to industrial therefore requiring proper study and restrictions.
2. There needs to be a comprehensive study of groundwater in the county identifying pollutants and likely sources.
3. Air pollution including ammonia, particulates and potential airborne pathogens need to be evaluated. Pollution does not stop and drop at the borders of the dairy. It can travel for miles in both air and water. .
4. Impacts on property values and quality of life of surrounding property owners including water contamination, odor, flies and airborne pathogens must be considered.

5. Validity of existing regulation must be scrutinized to determine and reflect problems that multiply with over saturation of cows as it pertains to existing laws. If cows cannot be counted as has been stated, how can a true evaluation be conducted? Until that question is answered there should be no more permits issued.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Arkoosh".

Karen Arkoosh
2005 US Hwy 26
Gooding, ID 83330
208-934-9213

cc: Marv Patten, Dept. of Ag
Gooding County P & Z

April 24, 2006

Gooding County Planning & Zoning Commission
P.O. Box 417
Gooding, ID 83330

RE: April 24, 2006 Public Hearing on New CAFO Permit-Edward Rosa

Board of Commissioners:

As longtime Gooding County residents and property owners, we would like to voice our concerns about Edward Rosa DBA R&R Holstein's new CAFO Permit. We are concerned about the following issues in Gooding County:

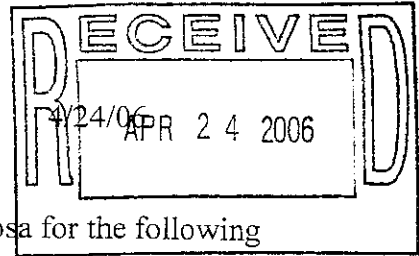
1. **Quality of Life and Economic Development.** Large dairies come with odors, insects, bacteria, and dust. They severely limit their neighbor's enjoyment of property. They have been shown in studies to affect both physical and mental health. Allowing large dairies this close to city limits and residential areas could limit other economic development opportunities in the future.
2. **Contamination of surface and groundwater from CAFO generated manure.** The American Public Health Association has stated that, "CAFO generated manure has constituents and byproducts of health concern including heavy metals, antibiotics, pathogen bacteria, nitrogen and phosphorus, as well as dust, mold, bacterial endotoxins and volatile gases." More than forty different diseases can be transferred to humans through manure.
3. **Odors and hazardous gas emissions from the lagoons.** These types of lagoons can break, leak, or overflow and carry nitrate pollution, hazardous microbes, parasitic worms, viruses, chemicals and drug resistant bacteria into water supplies. They also emit dangerous gases such as ammonia, hydrogen sulfide and methane, which can cause a variety of health problems.
4. **Excessive use of antibiotics, growth stimulants and hormones.** Scientists are increasingly concerned about the rise in antibiotic resistance in bacteria, which has recently been traced, in some cases, to CAFOS. These antibiotics are entering the environment and the food chain, contributing to the rise of antibiotic-resistant bacteria and making it harder to treat human disease.
5. **Devaluation of our property and our neighbor's property.** A CAFO will negatively impact the value of proximate properties because a CAFO is viewed, in the market, as a negative externality.

In consideration of the above concerns we ask you to deny Edward Rosa's Permit. We also ask that a moratorium be place on CAFOs in Gooding County until the number of animals in Gooding County can be determined, a complete study of Gooding County's ground and surface water can be completed, and a comprehensive plan (with citizen and expert input) can be put in place to regulate existing CAFOs and enforce accountability. Gooding County administrators must stop permitting CAFOs and do what is best for the future of our county.

Sincerely,



Mickey and Andrea Cockerham



To the Planning and Zoning Board Members,

I would like to protest the development of a new dairy by Ed Rosa for the following reasons:

The quality of life at our home has been greatly affected since the development of his existing dairy. Mr. Rosa did not own this dairy at the time we built our home. We built a covered patio and planed our backyard so we could spend time with our children enjoying the outside. We have not been able to enjoy the backyard for at least the last four years due to an unbearable odor that settles in around our home most evening.

Our windows remain shut during the summer evenings because we are suddenly awoken at night from such an indescribable overpowering bad odor you end up gagging. This has cost us financially because of an increase use in electricity since we keep our air-conditioning on instead of being able to take advantage of the Idaho cool evening air.

The increase in traffic that the existing dairy has brought has caused problems for us as well. We have lost pets that were witnessed as being hit by Rosa vehicles. They didn't even stop to acknowledge the accident. Since they apparently did not even notice hitting an animal, I feel my children are at great risk of being hit. They are not as free to ride their bikes on the road as they use to be. The increase in vehicles going to and from the dairy has added stress to our lives for fear of an accident.

I have been told that odor is not an issue and that it can not be measured. I would like to share with you an example where odor has affected my feelings and the State economy. I have never liked Pocatello although I have never been in the city. The reason is because of the smell that hits you as you come into the area from the fertilizer plant. As I was looking a Universities to get a nursing education ISU had the best program in the state of Idaho at the time, however I would not even consider it because I felt it was a dirty place. Instead I was educated out of state, causing a loss of income to Idaho. Odor does have an effect on the overall economy and wellness of the area.

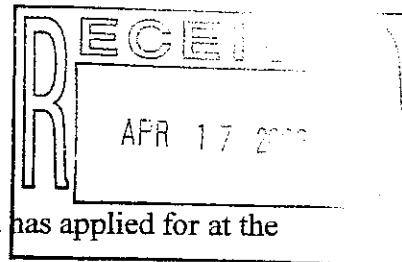
My daughters take dance lessons in Wendell and I often walk around the town during their class. On more then one occasion there has been a heavy manure smell in the town of Wendell. I always think to myself, I can truly say that Wendell stinks. Is this the impression we want to give people about Gooding County. Instead of adding more cows to the area, should we not concentrate on managing the existing cows?

The purpose of this letter is to have "in writing" my objection to allowing Ed Rosa to build a new dairy.

Lori Bellamy
1912 S. 2100 E.

April 17, 2006

Gooding County Planning and Zoning Commission



We would like to file a protest to the proposed dairy that Edward Rosa has applied for at the approximate address of 2230 E. 2200 South, Gooding, Idaho.

We were both raised on farms and have helped raise cattle, have milked cows, cleaned barns and have knowledge of what goes on with having cattle around. We are not city people who have not been around animals and their waste.

There are many reasons why we feel this proposal should be denied and we will list a few of them.

Flies. We have a deck on the back of our house and it faces toward the dairy that Mr. Rosa now has—Dairy #1. In the evening we loved sitting outside enjoying the outdoors and all it offers. We used to host many barbeques on our deck and enjoyed entertaining. Now we are unable to do this as before. We have so many flies that even though we place gallon jars that have bait in them around our yard, we are unable to keep up with the amount of them that there is. We bury gallons of dead flies. If we try to eat outside flies are in our plates and on the food and also all over the people. We simply cannot enjoy being outside now. With the addition of another dairy we can imagine how this hazard will multiply.

Birds. At times there are absolutely 100's of birds that come to the trees that line both sides of our property. These are starlings that fly in from the direction of the dairy where we are sure they have been feeding. These birds leave so many droppings around the trees and sidewalks and even on autos that are parked outside everything is painted white! This is very unhealthy and with the talk of bird flu, who knows when that might be a problem.

Odor. There is very seldom a time when we are not well aware of the smell coming from the waste ponds. This is very unpleasant and is embarrassing when we have company come and that is the first thing they notice when they get out of their cars. We used to open our windows at night to let the cool fresh air in, well, we don't do that anymore as the smells are often so bad you can't go to sleep smelling the waste. We have been awakened at night by the smell and had to get up and close the windows and sometimes when the windows are closed we are still ill from the fumes..

Water. We are not only concerned that his big use of water might dry up our well, but are greatly concerned about the waste from his dairy contaminating our water supply. The dairy he has now sits in a low spot and runoff from the corrals builds up in the bottom. Where is it to go but down into the soil. How much pollution can we keep putting into our water system?

Roads. As to the road that is located on this property, we do not see how what is there can handle the trucks and traffic associated with a dairy. Who is going to pay for upgrading the road?

Not a truthful neighbor. Mr. Rosa has told us some of the plans he had concerning the place he owns that is next to us. He has told us he was going to plant trees on the back of his place to block the view of the dairy he has. Last summer he told us he was going to put the acres in front of our house into grass and have his heifers in there. We were pleased to think that it would be green and have some cattle in it, that is until he placed over 100 head of heifers in the field, They ate down the weeds and he didn't put one drop of water on the ground to irrigate until we complained to the County Commissioners. When he did water he turned on the wheel line and left it run for almost 2 weeks in the same place. It was never moved once so it flooded one corner of the field and all he did was use his water right to keep it. The feed bunks he had in the field to feed the heifers in are still there. He simply does not take care of what he has and we wonder how he thinks he can take care of more. He doesn't appear to be a man of his word.

We really feel that this new dairy would be a detriment to this neighborhood and to the city of Gooding. This dairy is located much too close to our city. The above elements are bound to affect those of us who live close as well as the people of our town. We request a denial of this proposal.

Planning and Zoning Committee
Gooding County

Dear Committee:

My name is Debbrah Pauls, I live at 2007 East - 2000 South
Gooding, Idaho.

My husband and I oppose the Dairy Ed Rosa is proposing to build on
2100 East – 2000 South . The site is about 1 ¼ mile directly east of our
property.

FOR THE FOLLOWING REASONS:

1. Mr. Rosa already has a dairy in our neighborhood. The odor from this dairy is horrendous. Allowing him to build a bigger dairy will just compound the problems the neighbors have to endure on a daily basis.
2. Winds in Gooding County usually follow a east or west cycle. All odors, dust, and insects from this proposed dairy will cover all property west to Hwy. 46 and North to Hwy. 26 and all property east of the proposed dairy. This involves many miles of our county and it will affect a lot of residents living in this area.
3. The dairy waste could contaminate our ground water supply, trucks disposing of the waste will break down and ruin our county roads, the very air we breath will be contaminated.
4. This proposed dairy will increase traffic using the 2000 South Road. Milk trucks, dairy supply trucks, and more employees racing to it at all hours of the day and night.

Our property has been in the Pauls' family for 89 years. Ron was born, raised and has worked his entire life on this property. If you allow this proposed dairy to proceed it will affect us greatly, not only

our way of life but our health as well. At times we can't be outside because of the horrendous odor coming from Mr. Rosa present dairy. The new dairy will be larger and will contaminate our environment more.

Gooding County has enough dairies. Our County Commissioners realize there is a problem and working to come up with a solution that the people of Gooding County can live with.

Thank You,

Ron and Debbrah Pauls

04/24/06

Gooding County Planning and Zoning Commission
PO Box 417
Gooding, ID 83330

RE: Edward Rosa's Dairy Permit

Board of Commissioners

STATEMENT OF INTENT

This statement of intent represents a group of people who have come together with common interest and concern regarding Mr. Edward Rosa's application for a permit to build a large dairy east of the city of Gooding.

As citizens and property owners of Gooding County we wish to collectively make clear our intent, objectives and concerns about Mr. Rosa's proposal. We recognize that the dairy industry has the potential to provide economic benefit to many citizens of Gooding County. We also support existing dairies that have complied with laws and regulations. We believe, however, there should be a comprehensive independent study on impact to the community as a whole with all factors considered.

We are increasingly alarmed about issues including water contamination, air born pathogens, flies and odor, which affect the quality of life both physically and emotionally. We are disturbed that our property values face serious devaluation as problems of industrial dairies encroach upon us. We assert that potential for use and development of personal property near the proposed dairy will be compromised. Many homes are located in close proximity to the proposed dairy with many more in the area of impact. The city of Gooding is also within potential impact area.

The Magic Valley has become inundated with industrial dairies during the past several years. With the rapid onset of this industry, the state of Idaho and its counties have struggled with establishment and enforcement of regulations to protect our communities. We believe that mega dairies have crossed the line from agricultural to industrial use. Existing laws may be inadequate to deal with factory farms.

Validity of current regulations needs to be scrutinized to determine and reflect problems that multiply with over saturation of dairy cows. Conflicting estimates of the number of dairy cows in Gooding County are evident in government agencies including the Department of Agriculture and the DEQ. If cows cannot or will not be counted or reported properly how can a true evaluation be conducted? With the above concerns in mind we ask that the Gooding County Planning and Zoning commission deny Mr. Rosa's permit.

Sincerely,

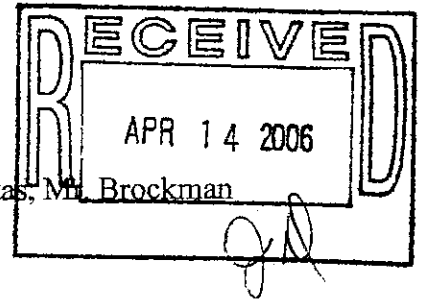
Ed Ryan
Karen Lusk
D.L. Schutker
Hazel Schutker
Don Bellamy
Wayne Bellamy
Sheila Alden
Alan Patterson
Leona Patterson
Marilyn Lockman
Judith Lockman
Judith Lockman
Judith Lockman
Nancy Houghton
James Houghton
Randy Allred
Angela James
Lore Anderson
Ladell Pentt

Terrell Williams
Sharon Buesh
Richard Buesh
Heidi Olson

April 13, 2006

Gooding County Planning and Zoning
Administrator, Judy Davis

Board Members, Ms. Jensen, Ms. Tschannen, Mr. Mattie, Mr. Maestas, Mr. Brockman
Gooding County Attorney, Mr. Heida



RE: April 24, 2006 Public Hearing on New CAFO Permit – Edward Rosa
April 17, 2006 Written Testimony Deadline Date

TO WHOM IT MAY CONCERN:

We are requesting a continuance of the hearing on April 24, 2006 for the new CAFO Permit for Edward Rosa DBA R&R Holstein. We are also requesting a continuance of the written testimony deadline date of April 17, 2006. This request is because we were unable to obtain a copy of the proposal. We were informed by the administrator that a copy was unavailable due to the Incident Command and manpower issues helping with the possible flooding. We are concerned neighbors affected by the new permit and need time to study the CAFO permit application.

Please advise in writing of your decision prior to April 17, 2006. We appreciate the shortness of time, so the telephone contact persons are Vern Eames 934-8271 or 934-8431 and Mickey Cockerham 934-9288 or 539-2429.

Respectfully yours,

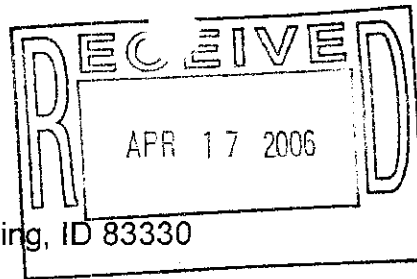
Neighboring Property Owners and Concerned Citizens:

Vern E. Eames
Karen Lupoosh
Dana Pence
Andrea Cockerham
Edy Byce
Bob Byce
Judy Klemm
Vance Mettan
Vance Mettan
Karen Mettan
Nancy Highbanks
Sandra Highbanks
Earl Rosar

Alan Paterson
Hugh A. Johansen
Heidi Olson
Dorothy Johansen
Mickey Cockerham
Judy Stockham
Scott Anderson

To: Gooding County Planning and Zoning

From: Leona Patterson, 1904 S 2100 E, Gooding, ID 83330
934-5356



Re: Protest regarding Ed Rosa's request for **New Dairy Permit**.

My protest deals with several items of concern about the proposed permit request by Mr. Ed Rosa to build a new dairy facility less than a mile from our property. I am not a person that enjoys conflict, and I am really dragging my feet at submitting this protest, but enough is enough.

#1. Odor issues based on past experience.

Everyone knows there are a lot of odors connected with dairies of any size. How much you are affected by those odors depend on how close you live to them, wind direction, and management practices of the dairyman, and NO technology has yet been perfected to prevent them. In Gooding County it is now almost impossible to live any place that not going to be affected by the odors.

Mr. Ed Rosa presently owns a dairy directly south east of our property and we experience offensive odors that come from his dairy on a regular basis. Having lived where I live since 1940, I have experienced odors of every kind. I grew up with my parents milking cows, married a man who has always had livestock and horses, worked as a livestock feed salesman visiting countless dairies around the area, and have smelled every kind of odor related to livestock and livestock feed (including manure), except the kind of odor that comes over our hill and settles over our property.

For years there has been a small dairy south east of our property. We never noticed it was there. But in March, 1999, Mr. Rosa submitted a request to increase his cow numbers from 150 to 350 (approximately). I went to the hearing, and listened to promises he made of how he would manage his dairy to protect his neighbors. He verbally promised making berms and planting trees and assured us we would hardly realize a dairy was there. He said he needed a few more cows in order to make a living for his family. I believed his story, but later learned his promises were not written in his plan. I was told "if it was not in the plan, it can't be enforced". All his promises were only words. To verify this, the recorded hearing is available at the P&Z Office.

I did not realize how much an increase of 200 cows would impact the quality of our life? We seem to be the victims of a lagoon that may not work properly, and daily and nightly hydrogen-sulfide gases rise from this lagoon, drift over the hill and SETTLE over us. As a feed salesman for over 5 years, selling supplements to dairies, I know the smell of manure,

feed, wet cows, spoiled milk, hot milk, all those things, none of which I enjoy smelling, but the odor that most often comes over us smells something like rotten eggs. It is gut-wrenching, and makes us want to throw up. It is very embarrassing and downright humiliating when we have company. There is no way we can tell when it is going to drift over us and because of this we had to give up planning barbeques or outdoor activities with company involved. It comes and it goes several times during the day, and is often worse in the evening and early morning hours. That has something to do with the humidity, and air temperatures. Of course, how much we get also depends on the wind direction. We cannot open our windows for cool evening air and we don't have air conditioning. If 200 cows can make this much difference in the odor, what is a dairy with 2285 animals less than a mile from our residence going to produce? I know odors from other large dairies have impacted areas of 5 miles or more. Also, air that smells that bad cannot be good for our health. That is another topic, and one I will not deal with in this protest, but have plenty of documentation to support.

I have made my complaints known to several people, including Mr. Rosa, Planning and Zoning, Commissioners, and others, but NO ONE offers any solution. I was told by a Nutrient Management Planner, that a permit should never have been issued for this site in the first place, with so many residences so close. At the hearing, Mr. Rosa made several promises that he didn't keep. I also am aware that every odor we get is not always from the Rosa Dairy. We receive odors from other dairies around us along with Glanbia Foods, and from manure being placed on fields all around us. I did not move in on these problems, they moved in on me, thanks to P&Z decisions or lack thereof.

#2. Unanswered Questions?

Exactly how many dairy cows are already in our county presently? What is the limit? We don't seem to be able to get accurate answers to these 2 very important questions. Before issuing new permits, I believe those questions need to be answered. How much longer can our land be saturated by all this manure. At least the fertilizer that Gooding Seed spreads is much more tolerable to smell. We have a statewide reputation for being a stinky county and it is my understanding there is documentation that Gooding has reached its maximum pollution and toxic levels. Where is our pride? If dairies are contributing so much to our county economically, why did Gooding County move up from 12th to 10th poorest county in the state, last year?

#3. Written plans for existing dairies and violations.

What are Mr. Rosa's plans for the offensive dairy behind us, when he builds this new one? What about his other existing dairies. I believe before a new permit is accepted, a plan for the future of the existing

dairies needs to be submitted in writing, because I know there are problems that need to be addressed with those dairies. I am aware of violations on his dairies that the county has not yet responded to or enforced. In other words, in this county, does breaking the law seem to be no big deal?

#4. County road.

Another big concern is the county road that will be required to be built by my tax dollars in order for all those milk trucks and feed trucks to access the dairy. I have been told by the Gooding Highway District personnel and P&Z there are presently no funds available to do this, nor will there be for quite some time. How obligated are we by law to build that road if the permit is given, funds or no funds?

#5. Notification

Why are we allowed only one week from notification to overcome the shock, talk to affected neighbors, gather information and to become an expert on dairy permits, regulations and requirements, and submit a protest, while Mr. Rosa had plenty of time to put his plan in place.

What about stewardship of the land? As a county, let's take care of the problems we already have, before adding more. The final decision as to whether the proposed plan will be accepted or declined will affect a lot of people's quality of life, future health, and property values either positively or negatively. The responsibility will be yours. Please consider all the facts carefully.

Respectfully submitted,

Leona Patterson 4/17/06
Leona Patterson

Harry DeWolfe Feedlot Hagerman

Requesting expansion for an existing
feedlot; currently operating without a CAFO
permit

Approximate distance from Diamond A
Livestock; 15 miles

Attached; Letters of Concern from Gooding
Co. Citizens

GOODING COUNTY PLANNING & ZONING COMMISSION
HEARING –August 21, 2006
PUBLIC MEETING – August 21, 2006
RECESSED MEETING - August 22, 2006

REGARDING HEARING OF)

Harry DeWolfe)
CAFO Siting Permit)
_____)

FINDINGS OF FACT,
CONCLUSIONS OF LAW

REQUESTED ACTION: NEW CAFO SITING PERMIT – Harry DeWolfe, 2844 Ritchie Road, Hagerman, ID 83332. The grid address is the same, which is located in the NW ¼ of Section 29, Township 7 South, Range 14 EBM in an Agricultural Zoning District. The CAFO application is to allow 500 total combined animal units on 190 acres. The CAFO Siting Team site suitability determination letter is in the file. The Siting team determined this to be **low risk**.

The Gooding County Planning and Zoning Commission held a Public Hearing on August 21, 2006 with the following Commission members present: Shirley Tschannen – Chairman; Suzanne Jensen - Hearing Officer, Tom Mattice, David Maestas and Jim Brockman. The Gooding County Planning and Zoning Commission's regular meeting followed. The meeting was recessed until August 22, 2006. The following Commission members were present: Shirley Tschannen - Chairman; Suzanne Jensen, Hearing Officer; Tom Mattice, David Maestas and Jim Brockman. The Commission had no conflict of interest.

FINDINGS OF FACT

Having given due consideration to the testimony presented at the hearing, the Gooding County Planning and Zoning Commission hereby makes the following findings:

1. Public Hearing was held on August 21, 2006.
2. Public Meeting was held on August 21, 2006.
3. Recessed Meeting was held on August 22, 2006.
4. Legal Notice was in the Gooding County Leader, the official county newspaper on July 20, 2006. Notice was posted on the applicant's property on July 26, 2006. Letters to property owners were mailed on July 21, 2006 to neighbors within one mile.
5. The existing zoning of the land is agricultural.
6. Per Gooding County CAFO Ordinance No. 77, Article V, Siting Permit Required and Article IX Criteria for Approval, Section A. General Requirements, Section B. Waste Management, Section C. Water Quality and Section D. Property Rights, to the knowledge of the Commission, the application does not meet all the general requirements applicable to a new CAFO Siting Permit. A copy of the criteria is in the file.
The following criteria have not been met:
Under Section A. General Requirements, No. 1. The CAFO must comply with and not be in violation of any federal, state or county law or county ordinance. The criterion was not met since there hasn't been a CAFO permit issued for Mr. DeWolfe. Letters have been sent to

him from the P&Z Administrator to come in order to bring his operation into compliance. This hadn't been done.

No. 2. The operator must not have begun construction of new improvements for a CAFO upon land to be used as a CAFO. If it is determined during the CAFO Site Advisory Team inspection that construction has commenced, penalties will be imposed in accordance with Section XVII: Enforcement of this Ordinance. According to the Assessor's office, new construction on improvements has been done prior to a CAFO permit being issued.

WRITTEN AGENCY TESTIMONY

1. Tim Peterson, Hagerman Fire Chief, stated he had reviewed the map and looked at the current facility located at 2844 Ritchie Road. As long as the fire department access roads are installed and maintained in a fashion that is in compliance with the 2003 International Fire Code, he sees no adverse effect on the Hagerman Fire Protection District. Agricultural products used to feed the animals (hay, silage, etc.) need to be kept a safe distance from structures as to not involve them if there is a fire in these feed storage areas. The letter is in the file.
2. Dwight Osborne, Hagerman Highway District Chairman, stated the district had received a letter from Nutrient Management Solutions concerning an existing Holstein heifer feeding facility owned by Mr. DeWolfe at 2844 Ritchie Road, Hagerman. According to this letter, Mr. DeWolfe plans to increase his feeding operation from 220 to 500 animal units. The district approves the existing ingress and egress off of Ritchie Road to accommodate the truck traffic involved for this facility. However, if at any time plans are made to change the existing ingress or egress, the district would appreciate being notified. The letter is in the file.
3. Loren Wert, North Side Canal Company, stated they had been asked by Reagon Hatch to comment on what impacts the subject's property may have on the canal system. They suggest the corrals, feedlots and dairy ponds meet the DEQ standards for dairies and the Department of Agriculture and North Side Canal Company regulations. They see no negative impacts to the canal system as long as the following NSCC requirements are met: the dairy barns, corrals, feedlots are to be 50 feet away and dairy lagoons are to be 100 feet away from NSCC; any property that slopes to the canal has to be bermed to keep dairy waste from running into NSCC's canals. The letter is in the file.
4. Stephen Thompson, USDA-NRCS District Conservationist, stated he had reviewed the Teams Suitability Determination and agrees on the low risk assessment. However, he wants to make the observation that all feedlot conditions are not complete to ISDA standards at the current time. On page two in the Facility Management section, the proposal is for winter precipitation waste water containment and storage to be within the corral. On page 3, the team stated there didn't appear to be adequate berming to contain the potential runoff within the corral. The intention that a berm would be constructed to ensure the facility can adequately store the runoff water required by ISDA, which would be the volume generated by a 24 hour, 25 year event. With the slope of the corrals, this berm would store a considerable amount of water within the corrals. At the present time, the nutrient enriched runoff from the corrals is allowed to drain to a low area just outside the corrals, into an area which receives excess irrigation water from neighboring fields. The soils in the area are fine sandy loam which may contain clay content suitable for siting an evaporation storage pond. With present management, the nutrients may be loaded into the area from winter precipitation and be moved through the soil profile toward the ground water by the irrigation tail water. The Curran Springs and Weatherby Spring is in close proximity to this site. The permit should be required to have adequate berming within the corral with a fence to keep livestock from altering the shape of the containment berm or the development of an approved evaporative pond designed to ISDA standards to contain the specified storage amount for 180 days. The letter is in the file.

5. John Bilderback, P.E. ISDA, Lin Campbell, P.G., IDWR; and Kathryn Dallas, IDEQ, stated the CAFO Siting Team had completed its review of the application for Harry DeWolfe. The following technical factors contributed in the site suitability determination, any changes could alter determination.
- a) The proposal is to expand an existing feedlot from about 200 animals (approximately 200 animal units) to 500 animal units.
 - b) The feedlot is run as an open lot facility and solid waste will be stockpiled and applied to cropland typically in the fall. The current proposal is to contain any runoff water and wastewater in the corral, which is an allowed practice for feedlots. The wastewater will evaporate.
 - c) The proposed facility will control approximately 264 irrigated acres for waste utilization according to the approved preliminary Nutrient Management Plan. Of those, 264 acres, 93 acres are leased. According to the NMP, the dairy needs 170 acres to utilize all of the manure and wastewater produced by the facility. All of the liquid and solid waste can be applied to the land owned or controlled by the facility.
 - d) Pest Control. The feedlot will utilize a pest management program, which primarily includes baiting and chemical application.
 - e) An adequate water right does exist for this facility including the proposed expansion.
 - f) Groundwater recharge is primarily from precipitation, irrigation, tributary streams and underflow. Average precipitation is 10-13 inches per year.
 - g) The general lithology of the aquifer consists of fractured basalt with minor interbeds of clay. Well logs indicate depth to water is 80-160 feet below ground surface (bgs). The average static water level is also within the 80-160 feet bgs.
 - h) Groundwater may be susceptible to contamination due to predominant vadose zone material (fractured basalt), and the lack of a significant impermeable layer (i.e. clay layer) in the unsaturated zone.
 - i) The topography of the ground is gently rolling. Rock outcrops can provide a direct pathway for contaminants in surface water to groundwater.
 - j) Groundwater quality data within the area suggest median nitrate concentrations to be 0 to 2 parts per million in the local area and appears to be stable.

Mitigation:

- a) Groundwater may be susceptible to contamination due to predominant vadose zone material and the lack of a significant impermeable layer (i.e. clay layer) in the unsaturated zone. This susceptibility can be mitigated by decreasing the infiltration rate on the site, specifically the animal housing and production areas. The land application area is also important and effective irrigation water management could be utilized to ensure nutrients are not leached below the crop's root zone.
- b) Waste containment can be held within the corral, however at the time of the visit, there didn't appear to be adequate berming to contain the potential runoff within the corral. As part of the information given, a berm will be constructed to ensure the facility can adequately store the runoff water required by ISDA. The waste containment structure would need to meet the state requirements and be inspected by ISDA prior to use.
- c) Phosphorus levels in the soil are over the phosphorus threshold in about 50% of the fields listed in the NMP. Active management needs to occur to ensure the phosphorous is managed appropriately.
- d) On the land application area for solid waste, solid waste should be incorporated into the soil soon after application or berming needs to be in place to ensure runoff doesn't leave the fields. Irrigation practices need to be monitored closely to ensure nutrients are not leached below the crop root zone. Additionally, solid waste shouldn't be applied over rock outcrops.
- e) Additionally, all wells either existing or newly constructed, shall be sited a minimum of 100 feet away from waste containment facilities, which include the animal corrals.

The final facility engineering and site plans must be submitted to ISDA for final approval before construction of the expansion can commence. ISDA will inspect the construction and operation of the facility for compliance with State and Federal requirements. Additionally, ISDA will ensure the new waste containment and animal housing activities are a minimum of 100 feet from a well or residence. The Suitability Determination, as determined by the team, is low risk. The letter is in the file.

6. Robert Ohlensehlen, Certified Nutrient Management Planner and Professional Animal Scientist, prepared a facility description, manure management, land application, odor management, pest abatement and dead animal disposal plan, which is in the file.
7. James Stanton, IDWR Senior Water Resource Agent, stated Mr. DeWolfe owns Water Right 36-7302 for stock water and domestic uses for one home and lawn and 40 non-milking cattle. Mr. DeWolfe plans to expand the stock water usage to 500 animal units (285 400-650 lb animals and 300 650-1,200 lb animals). Section 42-111(a) of the Idaho Code allows up to 13,000 gallons of ground water to be diverted per day for stock water, domestic and related uses without a water right. Up to 1/2 acre of land can be irrigated in connection with a home. It appears the proposed enlarged herd will use up to about 6,200 gallons of water per day, so the proposed expansion should not exceed what is allowed. Therefore, no additional water right should be needed for the proposed expansion.
8. Robert Ohlensehlen, Certified Nutrient Management Planner Nutrient Management Solutions, prepared the Nutrient Management Plan for Mr. DeWolfe, which is in the file.
9. Kenneth Neely, IDWR Technical Hydro-geologist, prepared the following: maps showing select wells in the area of interest; spreadsheet showing water quality results for two nearby statewide program wells; JPEG files showing the attributes of the statewide wells; ground water vulnerability map; ground water flow map, spreadsheet containing a list of nearby wells and their attributes and a spreadsheet containing water level data from nearby wells, which are in the file.
10. Stephen Thompson, NRCS District Conservationist, prepared Exhibit A Site Limitations Rating Criteria for Land-Applied Wastewater, conservation plan map, topographic map, conservation soils map, which are in the file.

WRITTEN TESTIMONY GIVEN IN OPPOSITION

1. Denise McAllister, Dan Norris, Thomas Price, Regina Murua, Irvn and Ruth Ann House, Carol Glauner, Audrey Richardson, Donnie McFadden, Mrs. Gordon Prisbrey, Don and Diane Graham, Amy Joe Glauner, Deb Bennett, Larry and Tara Littlefair and Andrea Summers signed form letters in opposition. The letters state as a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 2844 Ritchie Road, Hagerman, ID. This application is being submitted by Harry DeWolfe, 2844 Ritchie Road, Hagerman, ID 83332. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan." The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975." The purpose of the act is to promote the health, safety and general welfare of the people. The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements. The letters are in the file.
2. Don and Diane Graham stated they object to the increase of cows. It would be an increase of noise during the feeding operation and the odor and flies would increase with the manure

that would be allowed to pile up. This permit would only be a stepping stone for a future dairy in the neighborhood. The letter is in the file.

3. Richard White, Paul Lauritzen, Craig Laughlin, Michael Walker, Steve Dayley and Jeff Jayo signed form letters in opposition. The letters state as a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I have been materially affected in health, safety and property rights because of the influx of CAFO's. There is a bovine saturation in our county. These cattle numbers are destroying the quality of life and our property values. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975." The purpose of the act is to promote the health, safety and general welfare of the people of Gooding County. "It shall be the purpose of this plan to: protect property rights and enhance property values; ensure adequate public facilities and services at reasonable cost; protect and enhance the economy of the county; ensure protection of important environmental features; protect prime agricultural lands and mineral resources; encourage urban development within and near cities; ensure development consistent with the land's physical character; protect fish, wildlife and recreational resources; and to avoid water and air pollution; and allow school districts to participate in the planning process." The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements. The letters are in the file.

ORAL TESTIMONY GIVEN IN SUPPORT

1. Joan Calhoun stated she has known the DeWolfe's ever since they moved onto their property. She is the most southern neighbor. This is a clean operation. There are so many bad operators in the area and wants the DeWolfe's to be recognized for being a good neighbor.
2. Bob Thomas stated Mr. DeWolfe is a hard worker and a good neighbor. He lives across the road and his house is about 3/4 of a mile from DeWolfe's.
3. Gary Coleman stated he used to reside a half mile from Mr. DeWolfe. He has had numerous opportunities to be on their facility. He is excellent with cattle. The phosphorus levels don't affect Mr. DeWolfe or his property. Mr. Coleman's property used to be too toxic with phosphorus and it never had any manure on it. He encourages the commission to grant the permit.

UNCOMMITTED ORAL TESTIMONY GIVEN

1. Richard Breshears stated he has lived in Gooding County about eight years. He grew up on a farm and is not against cattle. He said there are too many cows in the county for the number of acres. Need to slow down and see what we are doing.
2. Armin Sutterlin stated he has lived at his residence since 1978 and has raised a few cows. He jogs several times a week. In January, he ran into some bad air and didn't know where it came from. A couple of days later, his throat was red and irritated, had problems with his lungs and a fever. He went to the doctor and they couldn't figure out what the problem was. It took about six weeks to get over his cough. Several weeks later, he had the same symptoms. He has developed a residential subdivision, which is in a mile of an existing dairy. Within 10 years, he couldn't sell many lots. After the dairy shut down, the lots began selling. People are having health problems. When considering nutrient plans, also need to research environmental issues.

ORAL TESTIMONY GIVEN IN OPPOSITION

1. Beverly Johannsen stated she has been a Gooding County resident for 61 years. She doesn't know the DeWolfe's but have heard they are good neighbors. She wanted to know where the soil samples have been taken. She is concerned about the bacteria in the air and water. She never thought she would live in Gooding County and not be able to drink the water. She is concerned about the property values. She commented on the quality of life the calves have by having their beds bedded, but what quality of life do the citizens have. How come flies aren't mentioned in the pest control plan?
2. Ruth Ann House stated she lives in a residential area with nine other families. She doesn't have anything negative against the DeWolfe's. But with more cows, there will be more manure, flies and smell. She is concerned about the water. The ground has a lot of rock outcroppings. The soil is only 10 inches deep in some areas. You can't go outside because of the smell.
3. Irven House stated the DeWolfe's are nice neighbors. The Coleman's were very good neighbors when they lived there. They have odor and pest problems, which aren't necessarily coming from the DeWolfe property. He isn't against CAFO operations but the timing. Other property owners didn't get noticed.

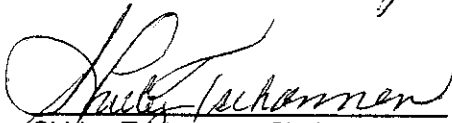
CONCLUSIONS

1. The existing zoning of the property is Agricultural.
2. The proper legal requirements for advertisement of the hearing have been fulfilled as required by Gooding County Zoning Ordinance #78 and by the Laws of the State of Idaho.
3. The Gooding County Zoning Ordinance #78 designates this area as Agricultural and the proposed use does conform.
4. The Comprehensive Plan designates this area as Agricultural and the proposed use does conform to the Plan.
5. There was oral testimony given in support of the application by property owners within one mile of the external boundaries of the property.
6. There was oral testimony given in opposition of the application by property owners within one mile of the external boundaries of the property.
7. There was oral testimony given as uncommitted of the application by property owners within one mile of the external boundaries of the property.
8. There was written testimony provided by agencies.
9. The CAFO Site Advisory Team visited the site on June 21, 2006 and the Suitability Determination, as determined by the team, was low risk.
10. The CAFO Site Advisory Team stated the final facility engineering and site plans must be submitted to ISDA for final approval before construction of the expansion can commence. ISDA will inspect the construction and operation of the facility for compliance with State and Federal requirements. Additionally, ISDA will ensure the new waste containment and animal housing activities are a minimum of 100 feet from a well or residence. The Suitability Determination, as determined by the team, is low risk.

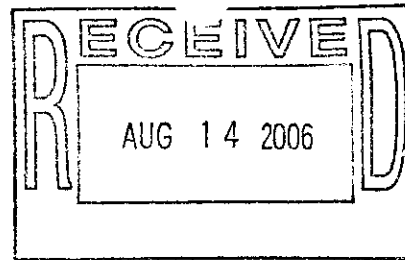
DECISION

The Gooding County Planning and Zoning Commission having considered the application, the information and the oral and written testimony presented at the hearing, hereby denies the application for a new CAFO Siting Permit for Harry DeWolfe by a unanimous vote. However Mr. DeWolfe has been granted a CAFO permit for 250 combined animal units at this time. This is the number he has on his property at this time. Roll call vote: Tom, aye; David, aye; Jim, aye; Suzanne, aye; Shirley, aye. Since there was adverse testimony given, there will be a 15 day appeal process time needed. The date begins with the signing of the Findings of Fact.

Signed this 25 day of August, 2006.


Shirley Tschannen, Chairman

Stan Born
1772 E 1400 S
Gooding, Idaho 83330



RE: Eddy Rosa Expansion

Planning and Zoning Board Members
Gooding, Idaho

Dear Board Members;

The statements contained herein are made of my own personal knowledge and are true and correct to the best of this information.

My family as lived in Gooding County for the past 25 years, and at 1772 E 1400 S for the past 11 years. Our property is bordered on two sides by Mr. Rosa's property. We bought this property with the full understanding of the dairy located on the NE corner of our property. For the record my family is not against dairy's, we live in an agricultural community and fully support them, what our issue are concerning is the enlarging a dairy that is placed in an area that can not handle an expansion, whether it is Mr. Rosa or any other individual.

We took a water sample in on the August 9, 2006 due to the strong odor that came from our shower. As you can see in the report we have Total Coliform and Escherichia Coli. This is the second time in 11 years that we have been tested positive for Escherichia Coli. The first time was after a heavy rain that lasted a couple of days approximately 6 years ago. We have proven that we have a problem, I believe the proof of not contamination our water source should come from Mr. Rosa not me proving it did. I have water that can't be used plain and simple.

The pictures provided are the type of dairy manager we are dealing with. Photo 1, this was taken from my driveway as you can see he has no consideration or knowledge of the regulations of storing his feed. This has been moved after many complaints that where filed. Mr. Rosa stated that he didn't know they where going to dump it there. But took the time and money to bring someone in and cover it, and also stated to me that this would be the first to be used to get it out of there. Didn't happen.

When Richard Wells owned this dairy and land we never had issues, Richard Wells came to me prior to him placing a pivot on his property. He stated to me that he would like to make the pivot go a full circle, but to do this he would have to come through the back half of my property. The past experience I had with Richard I saw no problem as long as he placed gates in the fence to allow his pivot to go through but keep my horses and cows in. When Mr. Rosa took over the farming of Richards land, Richard told Eddy what need to be done and agreed cause he likes to keep his neighbors happy. As you can see Mr. Rosa cut the fence did not place anything to keep my animals in. The photos show two of

the best attempts to fix the holes that he had his employee's do. His inability to do what he says is an on going situation. Mr. Rosa asked if he could run his water through my property to the waste water ditch that feeds his pivot pond, I said yes, as long as he did not leave the dirt piled next to it, I showed him where I wanted it dumped, after the ditch was dug the dirt was piled alongside the ditch just as I asked not to, he said he would send someone over to correct it. After a year I hired someone to fill the ditch back in. Then Mr. Rosa took it upon him self this year to cut all access to my water for the back half of my property. This makes two years that I have had to loose money on renting my pastures cause Mr. Rosa does what he pleases.

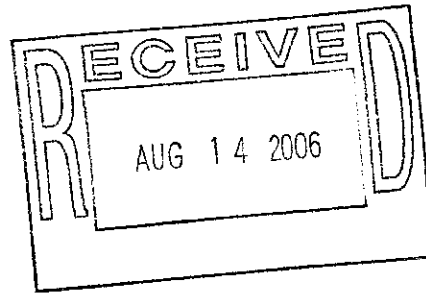
As you may tell I am against the expansion of Eddy Rosa's dairy at 1357 South 1800 East Gooding, Idaho.

Stan Born

A handwritten signature in cursive script, appearing to read "Stan Born".

1772 E 1400S

Gooding



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 1357 South 1800 East, Gooding, ID. This application is being submitted by Edward Rosa (dba: R&R Holsteins), 2149 B Hwy 26, Gooding, ID 83330. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people.

The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

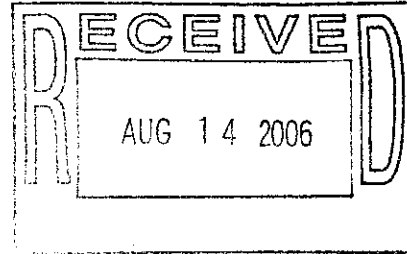
Sincerely,

Roger + Celia Starny
49980 Ellis Rd.
North Powder, OR

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



P&Z Commission:

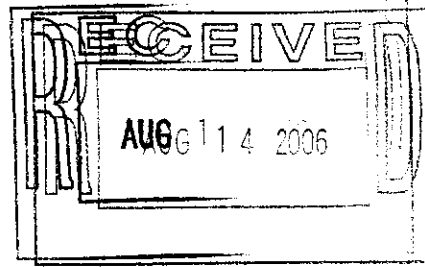
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Sincerely,

Michelle Julie Stacey
1245 B St. 46
Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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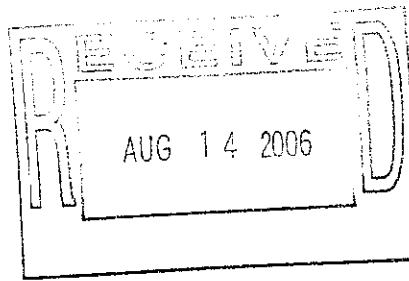
Sincerely,

Larry Velasquez

Quanne M. Velasquez

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

*1723 E 1400 S
Gooding*



August 13, 2006

P & Z Commission
Judy Davis, Administrator

Att. R & R Holsteins
2149-B Hwy. 26
Gooding, Id 83330

Bob and Lillian Esterbrook have lived North of Gooding since 1939 & 1950 .Our concerns for the expansion of the Rosa Dairy are:

1. Water Quality in domestic wells are now contaminated.
- X 2. His own well contaminated. He had to drill a new well.
3. The pipeline size from Rosa's pumping pond that goes to Bob Esterbrook is too small to carry run-off water or in an emergency of floods.
4. His docking area on the road is a big nuisance to all the neighbors.
5. The sprinkling system that takes the dairy products from the holding pond goes to the neighbors farm and too close to the houses.
6. The hold he has on neighbors property to keep them from improving their land ,or from selling their land for other reasons.
7. Managing in the past with the existing dairy has been staggering for the operation to maintain a clean environment
8. He may have the right to improve his holding, but the people who already own their land also have that same right. And most all of them were there before he was.
- 9 Sink holes have always been a problem for that property. In the land and the canals.

Sincerely,

Bob Esterbrook

Lillian Esterbrook

Bob Esterbrook
Lillian Esterbrook
1355 St Hwy 46
Gooding

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P & Z Commission:

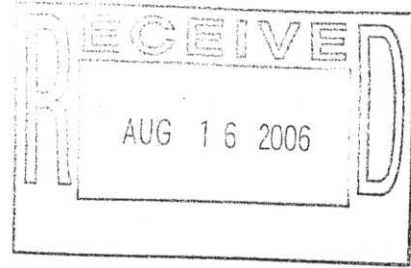
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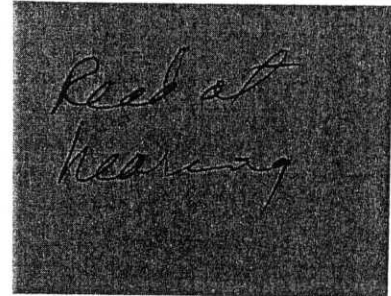
Harold Olson
2154 B. Hwy 46
Gooding, Id 83330

cc: Marv Patten, Dept. of Ag
Gooding County P & Z



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



P&Z Commission:

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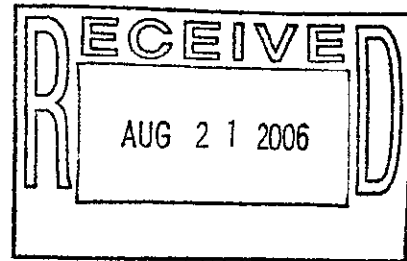
Denise W. McAlister
2861 B Ritchie Rd, Hag-

P.O. Box 713
Hag

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



P&Z Commission:

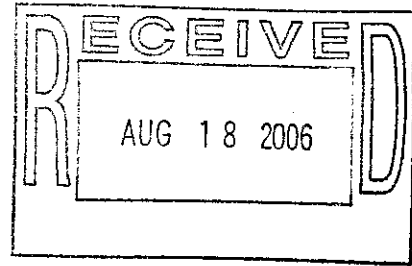
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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Jan [Signature] (DAN Norris) VADer grade & Ritchie Road
1190 E 2900 S. Hagerman

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas R. Price".

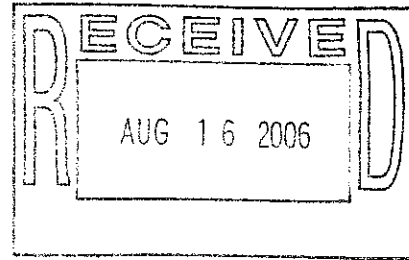
Thomas R. Price

3706 Eastcliff Dr.

S.L.C., UT

Property 1171 E 2800 S. Hagerman.

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

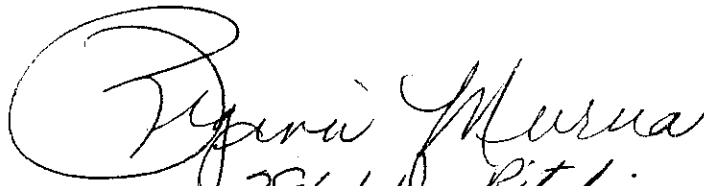
Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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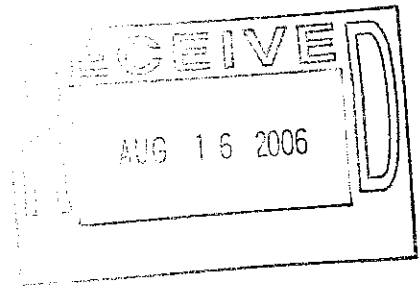
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Sincerely,


2861 E. Ritchie Rd, Hag.

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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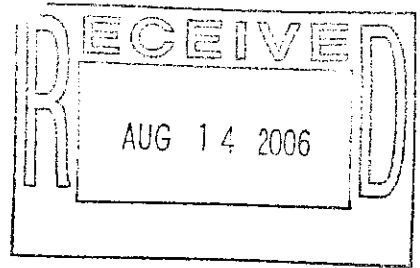
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Sincerely,

Spencie House (Irene)
Ruth Ann House
2861 C Ritchie Rd, Hagerman

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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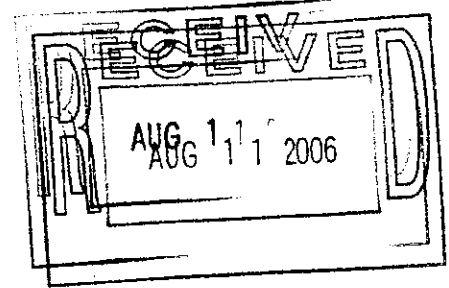
Sincerely,

Carol Staunton
506 E Street
Parkville, MO

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



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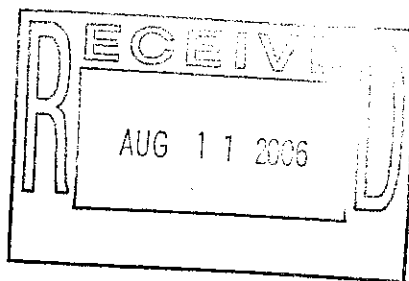
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Sincerely,

Gooding Richardson
2861-A Ritchie Rd, Hagerman
cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



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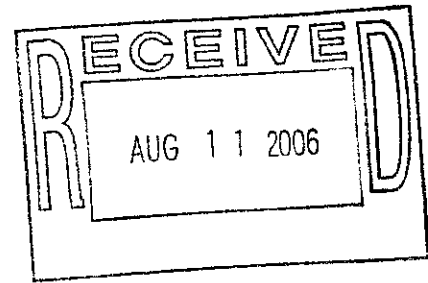
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Sincerely,

Donna McFadden
Billingsley Creek Ranch
2726 S. 1050 E
Hagerman

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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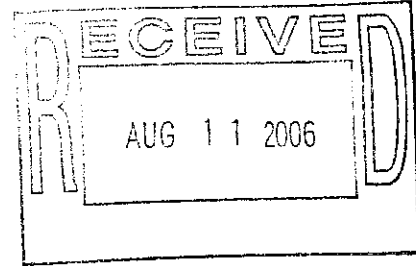
The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

This Cafo expansion goes against all good common sense, we are being over whelmed by flies & Odors in our Area, not to mention water problems.

Sincerely,

*Mrs Gordon L. Puskey
2844 Ritchie Rd.
Hagerman*

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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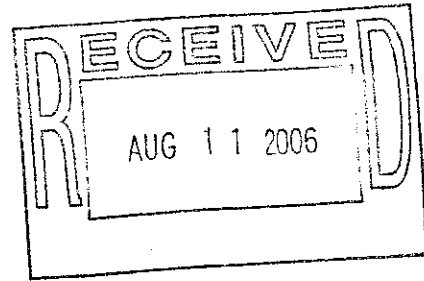
Sincerely,

Don & Diane Graham
2867 Ritchie Rd
Hagerman, ID

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



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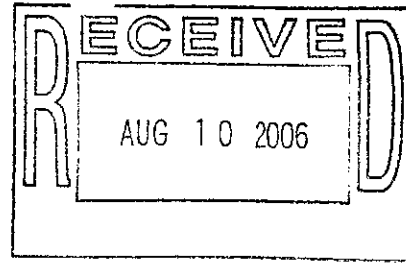
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Sincerely,

1251 E 2850 S., Hagerman

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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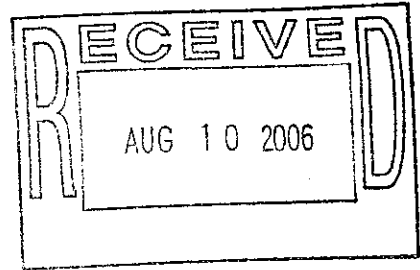
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Sincerely,

Deb Bennett
1301 Calif. St., Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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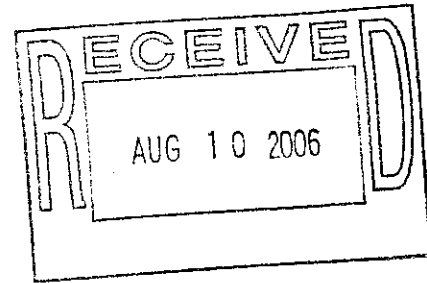
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Sincerely,

Gary Littlefair
Sara Littlefair

2906 S. 1175 E, Hagerman

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 2844 Ritchie Road, Hagerman, ID. This application is being submitted by Harry DeWolfe, 2844 Ritchie Road, Hagerman, ID 83332. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people.

The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

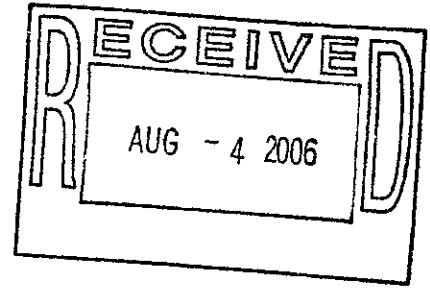
Andrea Summers

1121 A 2900S Hagerman

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

August 2, 2006

Gooding County Planning and Zoning Commission
145 7th Ave E.
P.O. Box 417
Gooding, ID 83330



RE: CAFO Permit - DeWolfe

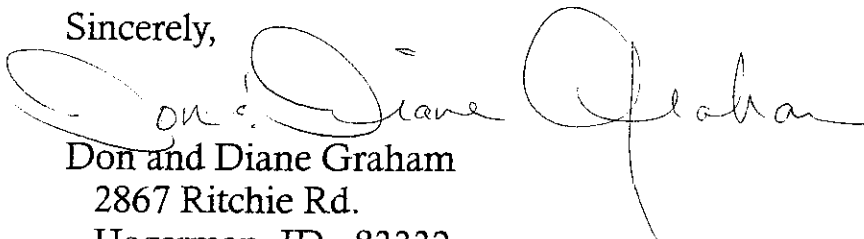
Dear Judy,

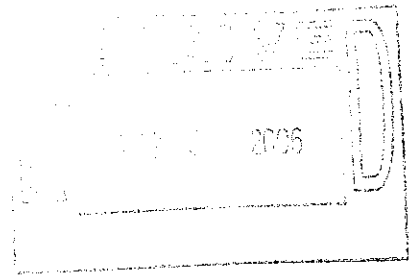
In regards to the New CAFO Siting Permit for Harry DeWolfe at
2844 Ritchie Rd, Hagerman -

We OBJECT to the increase of cows. It will be an increase of noise during the feeding operation and the odor and flies will increase with the manure that will be allowed to pile up. This permit will only be a stepping stone for a future dairy in our neighborhood.

Again we OBJECT to any increase of cows.

Sincerely,


Don and Diane Graham
2867 Ritchie Rd.
Hagerman, ID 83332



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I have been materially affected in health, safety and property rights because of the influx of CAFO's. There is a bovine saturation in our county. These cattle numbers are destroying the quality of life and our property values. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people of Gooding County. "It shall be the purpose of this plan to: protect property rights and enhance property values; ensure adequate public facilities and services at reasonable cost; protect and enhance the economy of the county; ensure protection of important environmental features; protect prime agricultural lands and mineral resources; encourage urban development within and near cities; ensure development consistent with the land's physical character; protect fish, wildlife and recreational resources; and to avoid water and air pollution; and allow school districts to participate in the planning process."

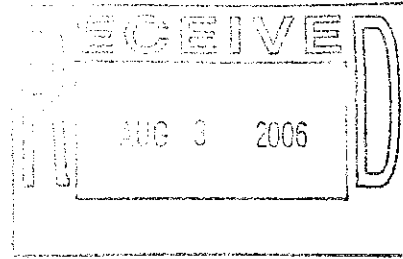
The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,



986 Hillside dr -
Hagerman Id 83332

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/13/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

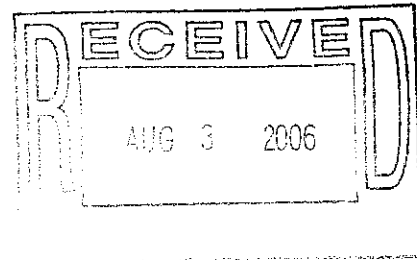
Board of Commissioners:

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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely, *Paul E Lauritzen*
2588 Ritchie Rd
Hagerman ID

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

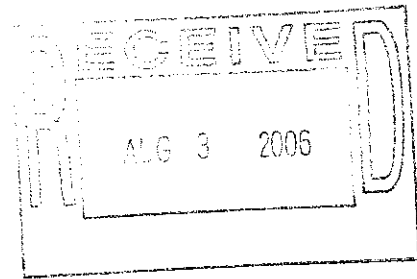
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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Craig Laughlin
17870 W.S. Hwy 30
Hagerman Id 83332

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



0-1576

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83350

Board of Commissioners:

As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I have been materially affected in health, safety and property rights because of the influx of CAFO's. There is a bovine saturation in our county. These cattle numbers are destroying the quality of life and our property values. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people of Gooding County. "It shall be the purpose of this plan to: protect property rights and enhance property values; ensure adequate public facilities and services at reasonable cost; protect and enhance the economy of the county; ensure protection of important environmental features; protect prime agricultural lands and mineral resources; encourage urban development within and near cities; ensure development consistent with the land's physical character; protect fish, wildlife and recreational resources; and to avoid water and air pollution; and allow school districts to participate in the planning process."

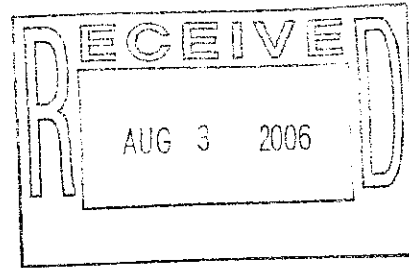
The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Michael D. Walker
902 F Justice Blvd
Hagerman ID 83332

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

04/13/06



Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

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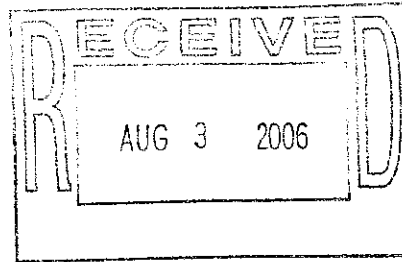
The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Steve Dayley
1101 E 2700 S

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

Hagerman Id. 83332



04/13/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I have been materially affected in health, safety and property rights because of the influx of CAFO's. There is a bovine saturation in our county. These cattle numbers are destroying the quality of life and our property values. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people of Gooding County. "It shall be the purpose of this plan to: protect property rights and enhance property values; ensure adequate public facilities and services at reasonable cost; protect and enhance the economy of the county; ensure protection of important environmental features; protect prime agricultural lands and mineral resources; encourage urban development within and near cities; ensure development consistent with the land's physical character; protect fish, wildlife and recreational resources; and to avoid water and air pollution; and allow school districts to participate in the planning process."

The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Jeff Jayo
980 Hillside Drive
Hagerman, Idaho
83332

A handwritten signature in dark ink, appearing to read "Jeff Jayo".

5-2-06

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

Rosa Dairy North of Gooding

Application denied by
P&Z

Approximate distance from Diamond A
Livestock; 8 miles

Attached; Letters of Concern from Gooding
Co. Citizens

CAFO SITING PERMIT
CRITERIA FOR APPROVAL ORD. No. 77

CRITERIA FOR APPROVAL FOR SITING PERMIT: Prior to approval of a siting permit for a CAFO, the Commission must find that the new CAFO meets the following requirements:

A. ? General requirements:

- ok 1. The CAFO must comply with and not be in violation of any federal, state or county law or county ordinance.
- ok 2. The operator must not have begun construction of new improvements for a CAFO upon land to be used as a CAFO. If it is determined during the CAFO Site Advisory Team inspection that construction has commenced, penalties will be imposed in accordance with Section XVII: Enforcement of this Ordinance.

B. ok Waste management:

- ok 1. All CAFO's, which fall under the jurisdiction of a State of Idaho agency, shall follow and be in compliance with any nutrient management plan, which has been adopted by said agency.
- ok 2. For the purpose of distribution or application of waste, the setbacks contained herein shall not apply.
- ok 3. The waste treatment system shall not be located or operated closer than one thousand three hundred twenty (1,320) feet from a residence belonging to someone other than the applicant, or be located and/or operated closer than three hundred (300) feet from property lines. No new residence located in an agricultural zone shall be built within one thousand three hundred twenty (1,320) feet of a waste treatment system.
- ok 4. No waste treatment system shall be located and/or operated closer than five hundred (500) feet from a domestic well not owned by the CAFO. A domestic well for a new residence, which doesn't belong to the CAFO, must meet the five hundred (500) feet setback from CAFO waste treatment system.
- ok 5. The waste treatment system shall have a fifty (50) foot setback from the public right of way.
- ok 6. Storage of manure/compost shall not be closer than one thousand three hundred twenty (1,320) feet from a residence belonging to someone other than the applicant, or be located and/or operated closer than three hundred (300) feet from property lines. No new residence located in an agricultural zone shall be built within one thousand three hundred twenty (1,320) feet of storage of manure/compost. Storage of manure/compost shall have a fifty (50) foot setback from a public right-of-way. No storage of manure/compost shall be allowed in any zone other than an agricultural zoning district.
- ok 7. That a CAFO facility shall have a rating of 3 by the CAFO Site Advisory Team or a letter from NRCS or a comparable agency or firm, showing the detail for the mitigation of a rating less than 3, prior to commencement of operation, and have a compliance certification from the Idaho Department of Agriculture. All other CAFO sites shall have a compliance certification from the appropriate state agency.
- ok 8. That considering the Site Limitations Rating Criteria for Land-Applied Wastewater as set forth in Exhibit A, there shall be no rating of very severe or severe in any

GOODING COUNTY PLANNING & ZONING COMMISSION
HEARING –August 21, 2006
PUBLIC MEETING – August 21, 2006
RECESSED MEETING - August 22, 2006

♦♦♦♦♦♦♦♦

REGARDING HEARING OF

R&R Holsteins (Edward Rosa)
CAFO Siting Permit Enlargement

**FINDINGS OF FACT,
CONCLUSIONS OF LAW**

REQUESTED ACTION: CAFO SITING PERMIT ENLARGEMENT – R & R. Holsteins (Edward Rosa), 2149-B Hwy 26, Gooding, ID 83330. The grid address is 1357 S. 1800 E., Gooding, ID, which is located in Sections 12 W ½ SE ¼; NE ¼ SE ¼ and Section 13 NW ¼ NE ¼, Township 5 South, Range 14 EBM in an agricultural zoning district. The CAFO application is to allow 859.2 additional animal units making the total combined animal units 1,599 on 160 acres. The CAFO Siting Team site suitability determination letter is in the file. The Siting Team determined this to be **low risk**.

♦♦♦♦♦♦♦♦

The Gooding County Planning and Zoning Commission held a Public Hearing on August 21, 2006 with the following Commission members present: Shirley Tschannen – Chairman; Suzanne Jensen - Hearing Officer, Tom Mattice, David Maestas and Jim Brockman. The Gooding County Planning and Zoning Commission's regular meeting followed. The meeting was recessed until August 22, 2006. The following Commission members were present: Shirley Tschannen - Chairman; Suzanne Jensen, Hearing Officer; Tom Mattice, David Maestas and Jim Brockman. The Commission had no conflict of interest.

FINDINGS OF FACT

Having given due consideration to the testimony presented at the hearing, the Gooding County Planning and Zoning Commission hereby makes the following findings:

1. The hearing was originally scheduled for February 27, 2006 but due to information brought forward concerning sinkholes, the hearing was cancelled.
2. Public Hearing was held on August 21, 2006.
3. Public Meeting was held on August 21, 2006.
4. Recessed Meeting was held on August 22, 2006.
5. Legal Notice was in the Gooding County Leader, the official county newspaper on July 20, 2006. Notice was posted on the applicant's property on July 26, 2006. Letters to property owners were mailed on July 21, 2006 to neighbors within one mile.
6. The existing zoning of the land is agricultural.
7. Per Gooding County CAFO Ordinance No. 77, Article V, Siting Permit Required and Article IX Criteria for Approval, Section A. General Requirements, Section B. Waste Management, Section C. Water Quality and Section D. Property Rights, to the knowledge of the Commission, the application does not meet all the general requirements applicable to a new CAFO Siting Permit. A copy of the criteria is in the file.
The following criterion has not been met:

Under Section A. General Requirements, No. 1. The CAFO must comply with and not be in violation of any federal, state or county law or county ordinance. The criterion was not met since there has been no indication violations have been resolved.

WRITTEN AGENCY TESTIMONY

1. Stephen Thompson stated he had reviewed the Siting Teams follow-up report and believes the Team gave careful consideration to the potential impact to groundwater from nutrients transported via sinkholes in the area north of the canal. While the ISDA report focused on the north fence line due to the visual existence of the sinkholes, history has demonstrated the sinkholes may develop in a variety of locations from the fence line, to and including the canal. The landowner has taken a good first step in avoidance for much of this area by positioning his pivot to provide sprinkler irrigation to a large portion of the irrigated land north of the canal. Of the areas remaining, the greatest opportunity for impact is the waste compost area and the corrals themselves. ISDA has stated the compost area is required to be constructed as per wastewater storage criteria, which requires proper lining consideration or suitable soils with containment berms to control potential runoff. For the corrals, ISDA has stated in-corral storage of wastewater isn't allowed so an exterior containment facility or pumping plant will need to be designed. He would recommend a containment structure be designed to contain the total required storage volume to insure the groundwater is protected from management mistakes or mechanical failure of a pumping system. A waste application or a pumping facility to empty the containment structure to the main lagoon will be necessary to provide winter storage capacity. The geologic anomaly of this area needs to be recognized. The sinkholes are a condition derived from the basalt layers hardening in a porous condition, creating tubes or channels through the basalt rock. This condition is buffered by the topsoil, is always present, and applied water can reach the basalt fissure when the topsoil is disturbed either by hydrologic, mechanical or rodent activity. Vigilance is necessary to provide management action for closure of any sinkholes when they occur. The secondary berm discussed by the siting committee as a backup along the fence line would be a good precaution, however; recognizing the berm will be rather large if it is intended to provide much storage due to the slope of the land. The letter is in the file.
2. Lynn Harmon, Big Wood Canal Company, stated there is currently a canal that runs through the property. Mr. Rosa has constructed bridges where the pivots cross the canal. When the expansion takes place, Mr. Rosa will pipe the canal where the pivot travels, using appropriate pipe to meet the canal company and the Department of Ag requirements to ensure that no liquid waste being pumped through his pivot irrigation system would contaminate the canal water. This would be sufficient to address any possible contamination issues. The letter is in the file.
3. Silas Cheney, Sliman and Butler Irrigation, stated Mr. Rosa approached the company as he was concerned the slough running through his property which carries wastewater could potentially become contaminated by the liquid waste being discharged through his pivot irrigation system. It was recommended piping the slough. A 10" pipe was installed by Mr. Rosa. It was recommended to put a second overflow on the pond which holds his water and the surface wastewater to be applied through the pivot irrigation system. The 10" pipe and overflow would be sufficient in the event of huge runoff in the spring. Mr. Rosa has two pumps with which he would be able to move large amounts of water to his property on the west, north and south. This should address any overflow issues. The letter is in the file.
4. Bob Ohlensehlen, Nutrient Management Solutions, stated the P&Z Administrator had received a CAFO Siting Team Suitability Report from the CAFO Siting Team, which wasn't favorable. After reviewing the score sheet, errors were identified that, when corrected, resulted in a favorable follow-up letter, which was sent to Gooding County with a low risk. Some residents contacted the siting team with concerns regarding the geology of the area to the north of the dairy site. Because of the sensitive nature of the concerns raised regarding

the sinkholes, Mr. Rosa hired Brockway Engineering to perform an assessment of the property. The assessment found the geological areas of concern were not located on the Rosa property, but rather on neighboring farms. The neighboring farms provide runoff to the area of concern that likely contain nutrients and manure and pesticides, which are unregulated. Mr. Rosa is not allowed to discharge water from his dairy operation. The project showed there was adequate soil and clay content in the soil for the construction of an earthen holding pond to contain the liquid manure and runoff generated by the dairy and heifer raising facilities. Recommendations are as follows. Construction of a runoff containment structure to contain the runoff from the north corrals. Gooding County setback requirements make the construction of such a structure to comply with the siting team's recommendation impossible. To accomplish the intent of their instruction, Mr. Rosa will construct a berm and ditch to carry runoff from the corrals to a concrete collection sump from which it will be pumped to the main lagoon. The pump station will have a redundant system so if one pump fails the second pump will insure there is no runoff. A fail safe berm will be placed along the west and north border of the property in proximity to the corrals and manure application site. The setbacks of 100 feet from the property line to the corrals and berms will be complied with. The storage pond has been enlarged to accommodate runoff water from all the facilities. The small corral and riding area will be contained with berming or they will be abandoned for their current use and seeded for pasture. The letter is in the file.

5. John Bilderback, Idaho Dept. of Ag, P.E., stated site suitability letter was sent to Gooding County from the CAFO Siting Team on January 30, 2006. The letter is in the file which at that time showed moderate risk. The mitigation letter was sent to Gooding County on March 1, 2006. The letter is in the file. The CAFO Siting Team revisited the property on June 21, 2006 to follow up on concerns addressed by area residents. Upon further inspection by the team, there appears to be geologic features of concern on the northwest property line (commonly referred to as sinkholes by the community). This geologic feature is believed to follow the north property line. The soil pits evaluated by Brockway Engineering were 225 feet or greater from the property line. This is believed to be a direct conduit to groundwater. All property owners having property draining to this geologic feature along the north property boundary should be aware of the significant potential to impact groundwater. According to the site plan, all the wastewater and runoff water from the Rosa facility north of the canal is planned to be held as in-corral containment. ISDA's Dairy Bureau is going to require a wastewater containment storage structure to capture and contain all of the wastewater and runoff water from all the corrals. Any composting area is required to be built to wastewater storage construction specifications and must be approved for use by ISDA. It is recommended a minimum of a 100' setback is required for all feed storage, pesticide storage, chemical storage, corrals and waste holding structures from the north property line. On the south of the canal, the team concluded the soil investigation conducted by Brockway is sufficient to alleviate concerns about the geologic features of concern (sinkholes) and about significant groundwater contamination. When excavating the wastewater storage pond, the pond bottom should be greater than 40" from the bedrock base. A wastewater pond depth of seven feet is shown on the site plan and will be seven feet in depth below ground surface. Runoff Containment #2 needs to be built according to ISDA requirements. Any runoff water and wastewater from the feed storage area needs to be contained in a wastewater containment structure meeting ISDA requirements. The letter is in the file.
6. John Bilderback, Idaho Dept. of Ag, P.O., stated a change in the site suitability determination for the Rosa Dairy has been made based on additional information obtained. The producer will utilize hydraulic cleaning of the waste storage pond and settling pond instead of heavy equipment. The settling pond will be emptied annually and the accumulated sludge will be cleaned every 5-10 years. The producer will partially compost the solid waste from the facility. Any area where solid manure or liquid wastewater is stored is required to meet the State's waste storage requirements. If composting is done on a regular basis with the appropriate C:N ratio, monitoring and turning required, the scoring on risk would change. All of these changes decrease the score from 215 to 165, which would change the risk to low. It

has been recommended to Mr. Rosa to hire a qualified, licensed geologist to evaluate the shallow subsurface geology and soil characteristics on his property. The letter is in the file.

7. Bob Ohlensehlen, Nutrient Management Solutions, stated he is enclosing an addendum to the Nutrient Management Plan, which is a requirement of the agreement with Mr. Bilderback to mitigate the final evaluation of the Rosa Dairy site to a Low Risk site. The letter and addendum are in the file.
8. Charles Brockway, Brockway Engineering, stated he has enclosed a Soil Suitability Evaluation for the proposed expansion of Rosa Dairy #2, which is in the file.
9. Robert Ohlensehlen, Nutrient Management Planner, prepared a Facility Description, Manure Management, Land Application, Odor Management, Pest Abatement and Dead Animal Disposal Plan. The plan is in the file.
10. Darren Nelson, Brockway Engineering, prepared applications for Transfer of Water Right 37-7447A to the Idaho Department of Water Resources. The packet is in the file.
11. Pat Bishop, Gooding Rural Fire District Fire Chief, stated after reviewing the revised plan of placing new corrals and feed storage areas, the access appears to be adequate. The roadways would be extended into the expansion area allowing complete access to the new areas. The roadways need to be at least 20' wide and be an all weather road. The emergency access lanes need to be kept open and passable at all times. An immediate concern he has is where the hay is stacked now. The access in front of the milking parlor is blocked off. If there was a fire with the hay stacks along the county road, they wouldn't be able to access the property. The hay is stacked too close to the power lines, which would come down if the hay catches fire. The letter is in the file.
12. Dean Sabala, Gooding Highway District Superintendent, stated the Gooding Highway Board approves the request dated November 10, 2005, which was received by Nutrient Management Solutions. The letter is in the file.
13. Robert Ohlensehlen, Nutrient Management Planner, prepared a Nutrient Management Plan, which is in the file.
14. The Natural Resources Conservation Service provided soil characteristics, engineering properties, chemical soil properties, agricultural disposal of wastewater by irrigation and overland flow, agricultural disposal of manure, food-processing waste and sewage sludge and a soil map. These are in the file.
15. Ken Neely, IDWR Technical Hydro-geologist, prepared the following items: map showing select wells in the area of interest; spreadsheet showing water quality results for two nearby Statewide program wells; JPEG files showing the attributes of the two Statewide wells; map of Eastern Snake River Plain Ground Water Elevations; spreadsheet containing a list of nearby wells and their attributes and a spreadsheet containing water level data from nearby wells. These are in the file.
16. Stephen Thompson, USDA-NRCS District Conservationist, prepared the following items: National Cooperative Soil Survey, physical soil properties, chemical soil properties, engineering properties, soil features, water features, Exhibit A Rating Criteria for Land Applied Wastewater. These are in the file.

WRITTEN TESTIMONY GIVEN IN SUPPORT

1. Michael Sliman stated he is in support of the proposed CAFO expansion for R&R Holsteins. Increasing the number of animal units at the facility will generate additional demand for locally

produced forage crops. These forage crops are a critical source of income for area farmers. The letter is in the file.

WRITTEN TESTIMONY GIVEN IN OPPOSITION

1. Debra and Hilary Brown stated they want to express their opposition concerning the application to allow additional animals units at 1357 S. 1800 E., Gooding. Gooding County is already hindered by an excess of large animal confinements and this permit would further endanger our quality of air and especially the contamination of the aquifer. This many animals on 160 acres is a hardship and detrimental not only to the land, but the area surrounding the facility. The letters are in the file.
2. Michael Walker stated he is opposed to the expansion of the Ed Rosa Dairy and lists his reasons. They are: Most every night during warm and dry weather conditions they get a breeze bringing with it odor and dust from the dairy. Since I have lived here from November of 1989 to the present time, I have had to lower the pump in my well twice for a total of 30 feet. I am very concerned about the ground water around this area, not only the quantity but also the quality. I feel if the size of this or any other dairy in this area is allowed to expand this ground water is at great risk due to the increased volume used and the waste generated. There are a lot of sinkholes around this area including the dairy property. There are already domestic wells in the area with contaminated water. There are dozens of wells in this area that have gone dry in the last few years. Flies are a big problem. He is opposed to wastewater being pumped through pivots, wheel lines and/or hand lines because of the odor and the chance of contaminating the well water. His north boundary fence along with part of Stan Born's fence has dirt, rock, cement and fence posts pushing the fence over. This is due to a holding pond that was dug the spring of 2005. It is full of runoff water from the dairy corrals most of the time. In the past before this pond was dug, he had the liquid waste run down the side of his hay field killing all the alfalfa for an area of 100' by 300' long. Mr. Walker submitted several letters, which are the file. There are also pictures and copies of violations from the Dept. of Ag in the file.
3. Stanley and Colette Born stated they purchased their property in 1995 to build a home on. They purchased the second parcel of land as an investment. As per CAFO Ordinance No. 77, a waste treatment system shall not be located or operated closer than 1,320 ft. If the proposed expansion of Mr. Rosa's dairy happens, their north 17 acre parcel would have no value. The property won't be sellable nor their plans for their children to build a home due to the location of the holding pond for waste. Mr. Rosa would be building corrals and a runoff containment area over the existing irrigation ditch. The map in the file shows a new irrigation pipeline but doesn't show where their head gate will be located. There is also a proposed containment berm where the water should come through. Mr. Rosa will use the existing pivot to get rid of a portion of his liquid waste. The map doesn't show how or where the liquid waste is to be pumped. If he is planning to pump to his existing irrigation pond, he will be in violation of Ord. No. 77 Waste Removal. The pond is fed by a wastewater ditch, which continues on to the Malad River. The pivot discharges over the pond, wastewater ditch and comes within 200 feet of their house. The pivot won't go through their property. They had signed an agreement with the previous owner on where the path for the pivot would travel. Mr. Rosa cut their fence in four places and cut their tree down and never cleaned up the mess. There are concerns about the location of silage pits and setbacks not being met. They are also concerned about the transfer of the deep well permit for the dairy. Many wells in the area went dry and have been tested for contaminants, which are present. There are known sinkholes on the property. The letter is in the file.
4. Harold and Heidi Olson, David and Brenda Jensen, Robert and Linda Larsen, Dale Harris, Roger and Clela Stamy, Mike and Julie Storey, Larry and Dianne Velasquez, William Hurd, Dale Ricks, Kathy and Tim Allen, Ashlee, Debra and Hilary Brown, Sara Miles, Richard and Thelma Fink, Melvin Brooks, Hugh and Beverly Johannsen, Lester Jensen, Willie Henderson,

Reese DeSmet and Gayle Yakovac signed form letters in opposition. The letters state as a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 1357 S. 1800 E., Gooding. This application is being submitted by Edward Rosa (dba: R&R Holsteins), 2149-B Hwy. 26, Gooding, ID 83330. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan." The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975." The purpose of the act is to promote the health, safety and general welfare of the people. The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements. The letters are in the file.

5. Jessica Harris, Jennifer Koski, Teresa Miller, Dona Rothrock, Mary Len Burns, Misty Winkler, Marci Nielson, Robin Reitch, Robin Ulrich, Michael Walker, Dora Estep, Bob Esterbrook, Rosie Arrossa, signed form letters in opposition. The letters state as a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I have been materially affected in health, safety and property rights because of the influx of CAFO's. There is a bovine saturation in our county. These cattle numbers are destroying the quality of life and our property values. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975." The purpose of the act is to promote the health, safety and general welfare of the people of Gooding County. "It shall be the purpose of this plan to: protect property rights and enhance property values; ensure adequate public facilities and services at reasonable cost; protect and enhance the economy of the county; ensure protection of important environmental features; protect prime agricultural lands and mineral resources; encourage urban development within and near cities; ensure development consistent with the land's physical character; protect fish, wildlife and recreational resources; and to avoid water and air pollution; and allow school districts to participate in the planning process." The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements. The letters are in the file.
6. Ben Johnson stated as a property owner he is opposed to the expansion. The farm is not sufficient to support cows and the property has sinkholes. With the experience he has had, they can show up in different places. The letter is in the file.
7. Jose Mesa submitted a coliform bacteria analysis report on his well. The sample came back contaminated with total coliform and Escherichia coli. The report is in the file.
8. Jeremey Anta submitted a coliform bacteria analysis report on his well. The sample came back contaminated with total coliform and Escherichia coli. The report is in the file.
9. Arden Schmitt submitted a coliform bacteria analysis report on his well. The sample came back contaminated with total coliform and Escherichia coli. The report is in the file.
10. Stan Born stated he has lived in Gooding County for 25 years. His property borders on two sides of the Rosa property. When they bought the property, they knew a dairy was on the NE corner of their property. He isn't against dairies. He took a water sample on August 9, 2006 due to the strong odor coming from their shower. The report came back positive for total coliform and Escherichia coli. This is the second time in 11 years their well has tested positive for Escherichia coli. He has provided pictures of the dairy manger and the feed storage area. When Mr. Rosa took over the farming on the Wells land, he began having problems. Mr. Rosa cut the fence but didn't replace it with anything to keep his animals in.

Mr. Rosa asked if he could run his water through his property to the wastewater ditch that feeds is pivot pond. He said yes as long as he did not leave the dirt piled next to it. After the ditch was dug, the dirt was piled alongside the ditch just as I asked him not to. The problem wasn't taken care of so he hired someone to correct it. Mr. Rosa cut all access to my water for the back half of my property. Mr. and Mrs. Born have submitted several letters, which are in the file.

11. Lawrence Velasquez stated as a registered professional geologist he is opposed to the expansion. The dairy in question is sited on a series of lava tubes and pressure domes as well as many faults. The CAFO Siting Team, which visited the property on June 21, 2006 made mention of these features as what the local community refers to as sinkholes. The sinkholes are surface reflections of collapse features within the lava tubes and press domes. Some of these features are on the surface while others are buried by many feet of topsoil. Due to the constant seismic activity in this area, these features have the possibility of collapse at any given time. Any storage lagoons containing any pollutants have an extreme risk of doing irrevocable damage to our groundwater if and when they collapse. He has a three acre pond on his property, which is a catch all of tail water for the irrigation system. The proposed expansion is upstream of this pond. All surrounding ground drains into said pond and any application of manure, pesticides or other chemicals will drain into the pond. The rest of said water systems will directly and negatively impact our main source of livelihood since without said water remaining contaminant and pollutant free, we will not be able to maintain our operation. This ground is too unstable to sustain such an expansion. The expansion unfairly damages and devalues our property. The letter is in the file.
12. Bob and Lillian Esterbrook stated their concerns. The water quality in domestic wells is now contaminated. Their well is contaminated and he had to drill a new well. The pipeline size from Rosa's pumping pond going to his property is too small to carry runoff water or in an emergency of floods. His docking area on the road is a big nuisance to all the neighbors. The sprinkling system taking the dairy products from the holding pond goes to the neighbor's farm and too close to the houses. The hold he has on neighbor's property keeps them from improving their land or from selling their land for other reasons. Managing in the past with the existing dairy has been staggering for the operation to maintain a clean environment. He may have the right to improve his holding, but the people who already own their land also have the same right. Most of them were there before he was. Sinkholes have always been a problem for that property in the land and the canals. The letter is in the file.
13. Leona Patterson stated she isn't against Mr. Rosa. The protest is based solely on the location of the proposed expansion. Because of the power and money of the dairy industry, the neighbors are often the ones being prejudiced against. Neighbors seem to be categorized as whiners and complainers, as our rights to breathe clean, unpolluted air, to be able to use our wells without having them tested twice or more a year, to use our backyards without the rotten egg smell of hydrogen-sulfide gases drifting over us are being jeopardized. It is time for the Gooding County Commissioners to take some responsibility and institute an ordinance that will stop increasing the livestock numbers in Gooding County until the present numbers have been counted and the distribution of animal waste has been accounted for. The letter is in the file.
14. Michele Velasquez stated she runs livestock with her family on a property adjacent to the proposed expansion. Her father is a registered professional geologist and has written a letter strongly opposing the expansion of said dairy. As a property owner that will be adversely affected by said expansion, she states her objections to the expansion. The letter is in the file.
15. Terry Ruby stated he would like to invoke his rights as an affected person. He is opposed to the application. His main objections to the application are the location and the presence of geological features that enhance the potential for aquifer contamination. The footprint of the

expansion encroaches on the rights of surrounding landowners and will limit their ability to use their property for which it was intended. The geological features contained on this property have a history of allowing surface water to leak into the groundwater without warning, making the potential contamination of surrounding domestic wells a risk that should not be taken lightly. The letter is in the file.

16. Richard and Thelma Fink stated they are in opposition of the enlargement. The county has had an influx of dairies and we are saturated with a bovine population, which is not in the best interest for the health, safety and general welfare of the people. The increased pollution of local wells, odor and insect infestation is just the beginning of the problems all of us will face should this uncontrolled dairy growth continue. They have personally observed the animals currently located at the dairy in muck and mire between ankle and knee deep. To enlarge the dairy would be detrimental to the value of the surrounding property and to the health of those living in the adjoining area. The letter is in the file.
17. Kenneth Nyman, attorney, stated his law firm was representing the following affected parties: Tim and Kathy Allen; Stan and Colette Born; Bob and Lillian Esterbrook; Toby Flick; Bruce and Leanne Hanson; Bill Hurd; Lester and Valoy Jensen; Beverly Johannsen; Heidi Olson; Terry and Kristine Ruby; Mark and Arlene Shaw; Larry Velasquez; Mike and Mary Walker. He stated the factual issues. The affected parties are Gooding County farmers and ranchers. Mr. Rosa's proposed CAFO would help destroy a farming community by putting a milk and animal waste factory in the middle of it. Gooding County shouldn't ignore all of the information it has received and analyzed concerning the inadequacy of its existing CAFO Ordinance No. 77. Given the lax enforcement of CAFO laws by the State of Idaho, and Mr. Rosa's own unsatisfactory management practices, there is virtually no likelihood that his proposed CAFO will be operated in the interest of the health, welfare or other public good of Gooding County. If granted, the CAFO would not be in compliance with a multitude of federal environmental laws. There is no reason to believe the CAFO will be granted sufficient water rights to supply adequate water for the proposed facility. If the Commission grants the application and thereby allows Mr. Rosa to diminish land values in the vicinity of the dairy by creating and expanding a nuisance, the county will be liable to the affected parties and others for "taking" their property without compensation. He proceeded with the arguments. All of the parties to this opposition have standing under Idaho law because their health, welfare and property values will be adversely affected if the application is granted. The proposed expansion would change the character of north Gooding. By granting a CAFO expansion on the basis of the minimum requirements of Ordinance No. 77 would be inconsistent with the county's determination that Ordinance No. 77 does not adequately protect the public health and welfare of Gooding County. The State of Idaho's appalling record of non-enforcement of laws and regulations relating to CAFO's and Mr. Rosa's record of conducting his operations in complete disregard of his neighbors, make it clear that granting his application would not be in the best interests of Gooding County. By granting the application, it would constitute a taking of the affected parties' property, for which they will be entitled to compensation from Mr. Rosa and possibly the county. Mr. Rosa has not provided sufficient reason to believe his proposed CAFO would be granted sufficient water rights to supply adequate water for the proposed facility. If Mr. Rosa's application is granted, his CAFO will violate federal environmental laws. The letter is in the file.
18. Bruce Hanson stated his concerns for opposing the expansion. The foremost reason is the issue of water quality. The underground geologic structure of the area is porous basalt. Much of the surface water in this area can get directly down into the water table. There are already wells contaminated in the area with coliform and E-coli bacteria. There is a line of sinkholes running across the property from southeast to northwest in the direction of the Rosa property. Another issue is water quantity. Many domestic wells in this area north of Gooding have had to be deepened or re-drilled. Another issue is smell and increased air pollution. Three of his children have asthma so increase in particulate matter is a real concern. Economic impact on him and his neighbors is another concern. It is not fair or right

that Mr. Rosa be able to take away our right for us to do what we want on our own land. Even though Mr. Rosa has contingencies put into his plan, he doesn't want to run the risk of incurring irreversible damage that could occur. He doesn't keep a clean place. He disregards local and state regulations. He has stacked his hay directly under the power lines. Effluent runoff from corrals collected on the southern property line adjacent to Mr. and Mrs. Walker's place. He piles silage only a few feet from the Born's western property line. Trucks and equipment either servicing the dairy or belonging to the dairy use the right of way across the road. Hay and straw clog up this same right of way and piled up against the fence. His trucks or equipment often block the road. The letter is in the file.

ORAL TESTIMONY GIVEN IN SUPPORT

1. Steven Rosa stated he was in support of the expansion.
2. Vicki Pavkov stated she was in support. This dairy was in disrepair years ago. Some improvements have been made. Mr. Rosa has expended large sums of money and has met all the requirements and setbacks required. The improvements will be a benefit to the facility. The facility will be cleaner and more efficient.
3. Al Cox stated he has been breeding cows for Mr. Rosa for about seven years. He had seen the shape of the dairy and the improvements made so far are night and day. Mr. Rosa does a good job in dairying on all four of his dairies. The cows are taken care of which makes his job easier.
4. Bernie Saul stated he has known Mr. Rosa for 10 years and is an organic farmer. Mr. Rosa took over a little tiny mess of a dairy, cleaned it up and did a good job. He is a good neighbor. He bought a dairy south of Gooding, cleaned it up, and it is now a nice place. The neighbors don't care for dairies. Bernie spoke of the newspaper article in the Times News about phosphorous. Nitrate is the concern. There is a lot of ground around Mr. Rosa that want his manure.

ORAL TESTIMONY GIVEN IN OPPOSITION

1. Bev Johannsen stated she was raised on a farm and milked cows. She is concerned about the water, health and air qualities. She is seeing more corn being grown due to over saturation of manure being put on the ground. On the expansion, she didn't hear anyone mention a filter on their domestic well or has it been tested. Where Mr. Rosa was going to put composting it used to be a rock pile, is this also next to the sinkholes?
2. Stan Born stated he was speaking for four people. He said what gives Mr. Rosa the right to tell people what to do with their property. If the permit is granted, the neighbor's property is worthless except for farm ground. You can't build homes or anything. What gives one man the right to do what he wants and not another. He wanted to build a home for his son on his property and won't be able too. He has the Shu Fly Arena, which was built prior to this application. He can't do anything else with the business. His well tested positive for coliform and E Coli. Mr. Rosa's pivot comes within 280 feet from his house. This is a violation. His fence has been cut and not fixed to keep the animals in. Mr. Rosa blocked any access to the irrigation ditch. Stan has 32 shares of water and can't use it since the ditch is covered up. Who is going to monitor soil testing? The silage pit is too close to the fence.
3. Lester Jensen stated no water would leave the property. Air is not considered. Wells are contaminated around the area. Water goes down, the cows pee and poop and their drinking water is down below. The dirty water from the CAFO will go into wells and contaminate them.
4. Mike Walker stated he was speaking for three people. The dairy sets on slopes north and south and approximately 40 acres. With the natural problems, how can you spend enough

money to get the property to where it can handle the number of cows, which have increased over the years? Now the ground is saturated. Corrals are full of waste with no place for anything to go. In 2004, the waste discharge from Mr. Rosa's corrals went down into his hayfields, which killed the alfalfa. A berm constructed on the south property line doesn't meet any setbacks from the house, public right-of-way and property boundaries. He went over the violations from the Dept. of Ag, which are in the file. If the expansion is allowed, the ground water is at great risk. There are a lot of sinkholes in the area. Wells are already contaminated. What about their rights and property values? Mr. Rosa needs to go back to the number of cows that were first allowed.

5. Bruce Hansen stated he is a teacher in Gooding. He wants to be a part of the community. He knew there was a small dairy next to his property when he purchased the land. He moved here a year and a half ago and wanted a quality of life but feels this would seriously be compromised if allowed. The water quality is a factor. They have sinkholes that run across his property in line with the other sinkholes. He is worried about the potential value of his property if allowed. He has seen the lagoon overflow and it is set up too close to the road. The expansion is not in the best interest of the community.
6. Larry Valequez stated the waste ditch goes to his pond and on out to the Malad and Snake River. The soil samples are worthless. He explained about the seismic activity and how it affects the area. So far he has had good water quality but if it does get contaminated, it would no longer be viable. This would be in violation of the Clean Water Protection Act. Mr. Rosa's pivots are within inches of Louis Leguineche and Bob Esterbrook's water.
7. Toby Flick stated he is speaking for himself and three others. His specific concerns are the sinkholes. He used to stack hay for the previous owner and knows where they are located. He has filled in sinkholes on his own property. He raises cattle and can't drive his vehicle across the gate because of a sinkhole. He told the siting team about the sinkholes during their first inspection. There has to be strong management on the property to keep in eye on the sinkholes.
8. Terry Ruby stated he was speaking for himself and two other people. He lives a mile west of the expansion and has for nine years. The proposed corral drains and pumps for the wastewater won't work in this area because of snow and winter weather. The plan appears to be a high maintenance plan, which needs a super operator. There are six wells not listed on the plan. He wants to know the size of the drains. He spoke of the newspaper article in the Times News on phosphorus. How can Gooding County allow another dairy or expansion to take place with these test results?
9. Mark Shaw stated he was speaking for himself and several others. Two thirds of the crops on his property is livestock feed. He is concerned about ground water contamination. The land north of Gooding is fractured with a clay soil. Clay results in percolation within a day of water. He irrigates the land and it goes down a lot faster than an inch a day. If you work it too wet, it doesn't soak in. When it freezes and thaws, it won't compact. He has been involved in plugging sinkholes for years. It is the sinkholes that would contaminate the ground water.
10. Vern France stated he put in a sewage lagoon and then four domestic wells were contaminated. Big Sky Heifers now owns the property. Wells are being contaminated since Big Sky Heifers came in. He showed a graph of the contaminated wells. He listed five different dairy operations north of Gooding where contaminated wells have sprung up. Drilling wells deeper and casing them is not the answer. Engineering is not going to resolve that.

REBUTTAL

1. John Lothspeich stated he doesn't want to reiterate the application. The Criteria for Approval has been met. He hasn't begun any construction. Setbacks have been complied with or exceeded in the application. The sinkholes on the property have been identified and addressed. Mr. Rosa is adding additional precautions with the berms to contain any runoff.
2. Robert Ohlensehlen stated the setbacks Mr. Rosa was required to meet goes also to the property owners. The water permit has been submitted to IDWR for approval but not yet granted. It is now illegal to have runoff water that isn't contained. Pump pond is not being used for containment of waste. Pumps will bring the water from the lagoon. A berm had to be put in to keep the water off the neighbor's property. The existing lagoon is grandfathered. This is an agricultural zone. There are zones for residential and the ag zone is not the place for them.
3. Reagon Hatch addressed the water quality issue. How often are wells being tested for contamination? Recently sampled wells can be contaminated by cattle on the ditch bank or poor construction. South Central District Health can help with well testing. Just because a dairy is close, doesn't mean it is the dairy causing the contamination of the wells.
4. Dr. Brockway stated he has been to 50 hearings and sinkholes always come up. Discounting the seismic effect, sinkholes occur when soils are over lined and amenable to piping. A channel needs to get started and then get infiltrating water to go through which creates piping. It starts eroding and creating a sinkhole. Sinkholes are not predictable and do occur when you have a concentrated flow of water. Sprinklers decrease the possibility of sinkholes. Soils on this project will have sprinkler application and are not going to create sinkholes.

CONCLUSIONS

1. The existing zoning of the property is Agricultural.
2. The proper legal requirements for advertisement of the hearing have been fulfilled as required by Gooding County Zoning Ordinance #78 and by the Laws of the State of Idaho.
3. The Gooding County Zoning Ordinance #78 designates this area as Agricultural and the proposed use does conform.
4. The Comprehensive Plan designates this area as Agricultural and the proposed use does conform to the Plan.
5. There was written and oral testimony given in support of the application.
6. There was written and oral testimony given in opposition of the application.
7. There was written testimony provided by agencies.
8. The CAFO Site Advisory Team visited the site on January 9, 2006 and the Suitability Determination, as determined by the team, was moderate risk. A mitigation letter was sent to Gooding County on March 1, 2006, which would change the rating to a low risk.
9. The CAFO Site Advisory Team revisited the site on June 21, 2006 to follow up with the concerns addressed by the local area residents.
10. The CAFO Site Advisory Team stated the final facility engineering and site plans must be submitted to ISDA for final approval before construction of the expansion can commence. ISDA will inspect the construction and operation of the facility for compliance with State and Federal requirements. Additionally, ISDA will ensure the new waste containment and animal

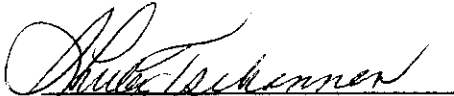
housing activities are a minimum of 100 feet from a well or residence. The Suitability Determination, as determined by the team, is moderate risk.

11. The CAFO Site Advisory Team stated it is their recommendation that the county require Mr. Rosa to hire a qualified, licensed geologist to evaluate the shallow subsurface geology and soil characteristics on the property. In particular, anywhere Mr. Rosa plans to contain and apply waste, feed and fertilizer, including but not limited to, wastewater storage structures, corrals, solid stacking areas, land application areas and feed storage areas, needs to be site fully characterized. The depth to bedrock should be characterized using either a hand auger or power auger. This expert may also need to work with a licensed geotechnical engineer to give additional specifications for the soil liner, pond construction or general construction recommendations presented by the expert. A change in the site suitability determination for the Rosa Dairy based on the additional information obtained changes the risk to low.

DECISION

The Gooding County Planning and Zoning Commission having considered the application, the information and the oral and written testimony presented at the hearing, hereby denies the application for a CAFO Siting Permit Enlargement for R&R Holsteins (Edward Rosa) by a unanimous vote due to the sinkhole documentation, wells being contaminated in the area, adverse testimony and protecting the health, safety and the general welfare of the public. Roll call vote: Tom, aye; David, aye; Jim, aye; Suzanne, aye; Shirley, aye. Mr. Rosa can appeal the Planning and Zoning Commission's decision to the Gooding County Board of Commissioners. He has 15 days from the signing of the Findings of Fact.

Signed this 6th day of September, 2006.


Shirley Tschannen, Chairman



**GOODING COUNTY
PLANNING AND ZONING COMMISSION**

JUDY DAUBNER-DAVIS
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September 7, 2006

To Affected Persons

Re: R&R Holsteins (Edward Rosa)
1357 S. 1800 E.
Gooding, ID 83330

To Whom It May Concern:

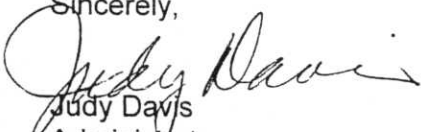
On September 6, 2006, the Findings of Fact were mailed to you regarding the R&R Holsteins (Edward Rosa) New CAFO Siting Permit Enlargement.

There was an error on the Findings of Fact. Therefore, the amended Findings of Fact will be brought before the Planning and Zoning Commission at their regular meeting on September 25, 2006. The error was on page 10. Vern France had not submitted oral testimony in opposition as stated. Mark Shaw had presented the testimony and had talked about the France Feedlot.

When the amended Findings of Fact have been approved and signed, the date will then begin for the 15 day appeal process time to begin. Sorry for the inconvenience.

If you have any questions, please feel free to call the office.

Sincerely,


Judy Davis
Administrator

of the ~~15~~ factors. If either severe or very severe ratings appear, the applicant shall have a detailed environmental plan setting forth how this factor will be resolved, not merely a letter stating that it can be mitigated.

- ok 9. A new dairy siting permit will require applicant to provide a letter confirming approval of a Nutrient Management Plan prepared in accordance with Idaho Code 37-401 (4) (3) from the appropriate state agency.
- ok 10. As per Idaho Code 25-3803(2) "Best Management Practices" means practices, techniques or measures which are determined by the department to be a cost-effective and practicable means of managing odors generated on an agricultural operation to a level associated with accepted agricultural practices.
- ok 11. As per Idaho Code 25-3805 – Design and Construction. All new or modified liquid waste systems shall be designed by licensed professional engineers and constructed in accordance with standards and specifications either approved by the director for management of odors or in accordance with any existing relevant memorandums of understanding with the department of environmental quality. All persons shall submit plans and specifications for new or modified liquid waste systems to the director for approval. No person shall begin construction of a liquid waste system prior to approval of plans and specifications by the director. (Idaho Code 25-3805)
- N/A 12. Aquaculture CAFO's are exempt from the waste treatment setbacks except for the storage of solid waste on land.

C. Water quality:

- ok 1. All existing CAFOs must be in compliance with the Clean Water Act.
- ok 2. There will be no discharge of pollutants into surface or ground water except as permitted by the appropriate state and federal agency with jurisdiction. A copy of any permit from any agency relative to discharge of pollutants must be on file with the Siting Permit file of the applicant.
- ok 3. That the CAFO enjoys adequate potable water to operate, which must be evidenced by a permit or license from the Idaho Department of Water Resources, or that the CAFO is in the process of obtaining the permit or license from the State of Idaho, in which case the siting permit will be contingent upon obtaining the appropriate permit or license. The Administrator will not issue a CAFO occupancy permit without written proof of an approved water right, or completed transfer from the IDWR. *is in process*

D. Property rights:

- ok 1. The maximum density of animals shall not exceed ten (10) animal units per acre.
- ok 2. Corrals shall be located at least seven hundred fifty (750) feet away from any residence not belonging to the owner of the CAFO. Residences shall be constructed at least seven hundred fifty (750) feet away from existing corrals not belonging to the owner constructing the residence. Corrals shall have a fifty (50) foot setback from a public right-of-way and property lines.
- ok 3. Silage, haylage, potatoes or any other feed product resulting from the ensilage process which is stored in the open air shall be located at least seven hundred (700) feet from any existing residence not belonging to the owner of the feed. Residences shall be constructed at least seven hundred (700) feet from any

existing feed storage areas of this type not belonging to the owner constructing the residence.

- ok 4. All feed storage areas shall have a fifty (50) foot setback from a public right-of-way and three hundred (300) feet from an existing residence not owned by operator.
- ok 5. Lights from CAFO's shall be placed and shielded to prevent the light source from becoming a nuisance or hazard outside the property lines of the CAFO.
- ok 6. No CAFO facility shall be located within three thousand nine hundred sixty (3,960) feet of a transitional zone, residential zone or an existing platted subdivision with improvements constructed as of the effective date of this ordinance. Residential subdivisions proposed after the effective date of this ordinance shall be located no closer than three thousand nine hundred sixty (3,960) feet to any existing CAFO facility with improvements.
- N/A 7. No CAFO facility shall be located within two thousand six hundred forty (2,640) feet of the rims of the Snake River Canyon and the Malad River Canyon and Zone "A" flood plains as set out on the Federal Emergency Management Agency's 1985 Flood Insurance Rate Map for Gooding County. However, this setback can be adjusted on an individual basis if the operator can establish that they have taken the appropriate steps to mitigate or eliminate the possibility of polluting the water sources or the neighboring property. No variance shall be granted to this setback if it would cause an adverse impact to the neighboring property owners.
- ok 8. CAFO's, which are in excess of one thousand (1,000) animal units, shall have an incremental increase to the setbacks contained herein, except there shall be no incremental increase to the setback from a public right of way or to the setbacks from the canyon rims. There shall be a one percent (1%) increase per one hundred (100) animal units, to a maximum of one hundred percent (100%) increase to the setback distance. By way of an example, seven hundred fifty (750) foot setback from a residence, not belonging to the CAFO for a fifteen hundred (1,500) head CAFO would be increased to seven hundred eighty-eight (788), $(1.05\% \times 750 = 788)$. An existing CAFO wishing to expand with animal units in excess of one thousand (1,000) units must meet the increase in the setbacks for a new construction, except for the setbacks from the existing barn and facility.
- N/A 9. Aquaculture CAFO's are exempt from the setbacks contained herein except for storage of solid waste on the land.
- N/A 10. Setbacks contained in this section shall not apply to the construction of any residence and/or residential subdivisions located in any transitional zones that are established as of the date of this Ordinance.

Red = designates Canal Ed Rosa (R. Wells Farm)

Black = designates "Sink hole" occurrence

Black = designates "Sink hole" occurrence



1 → Sink hole occurrence on 4-21-99 took all canal water at 10'/second. Not able to fill sink hole - piped over top. This is surrounded by corrals.

2 → Sink hole occurrence able to stop flow into occurrence

3 → Sink hole occurrence able to stop flow

4 → Large sink hole occurrences — Not filled — Piped over entire ^{Black} area of canal

WELL CONTAMINATION NORTH OF GOODING

A. GARCIA DAIRY 1772 EAST 1300 SOUTH (4 operators over several years)

Wells affected:

1. Youren 1646 East 1300 South well replaced and cased several years ago
2. Hurd 1323 South 1700 East well deepened & cased
3. Jensen 1723 East 1250 South contaminated several years ago when lagoon ran over, currently okay.

B. ROSA DAIRY #2 1357 South 1800 East

Wells affected:

1. at the dairy well lowered and cased winter/spring 2000
2. Walker 1798 East 1400 South contaminated 2006 still is
3. Born 1772 East 1400 South contaminated 2006 still is
4. Rothrock 1403 South 1800 East contaminated 2006 still is
5. Schmitt 1421 South 1800 East contaminated 2006 still is

Problem wells Rosa not suspected

1. Shaw 1477 South 1800 East contaminated 2006 still is
2. Fields 1816 East 1500 South contaminated 2006 still is

C. GABRIEL DAIRY 1613 South 1800 East (closed last 3 months)

Wells affected:

1. Sabala 1740 East 11650 South well lowered and cased several years ago

D. BIG SKY HEIFERS 1496 SOUTH 2550 EAST

(formerly France Feedlot)

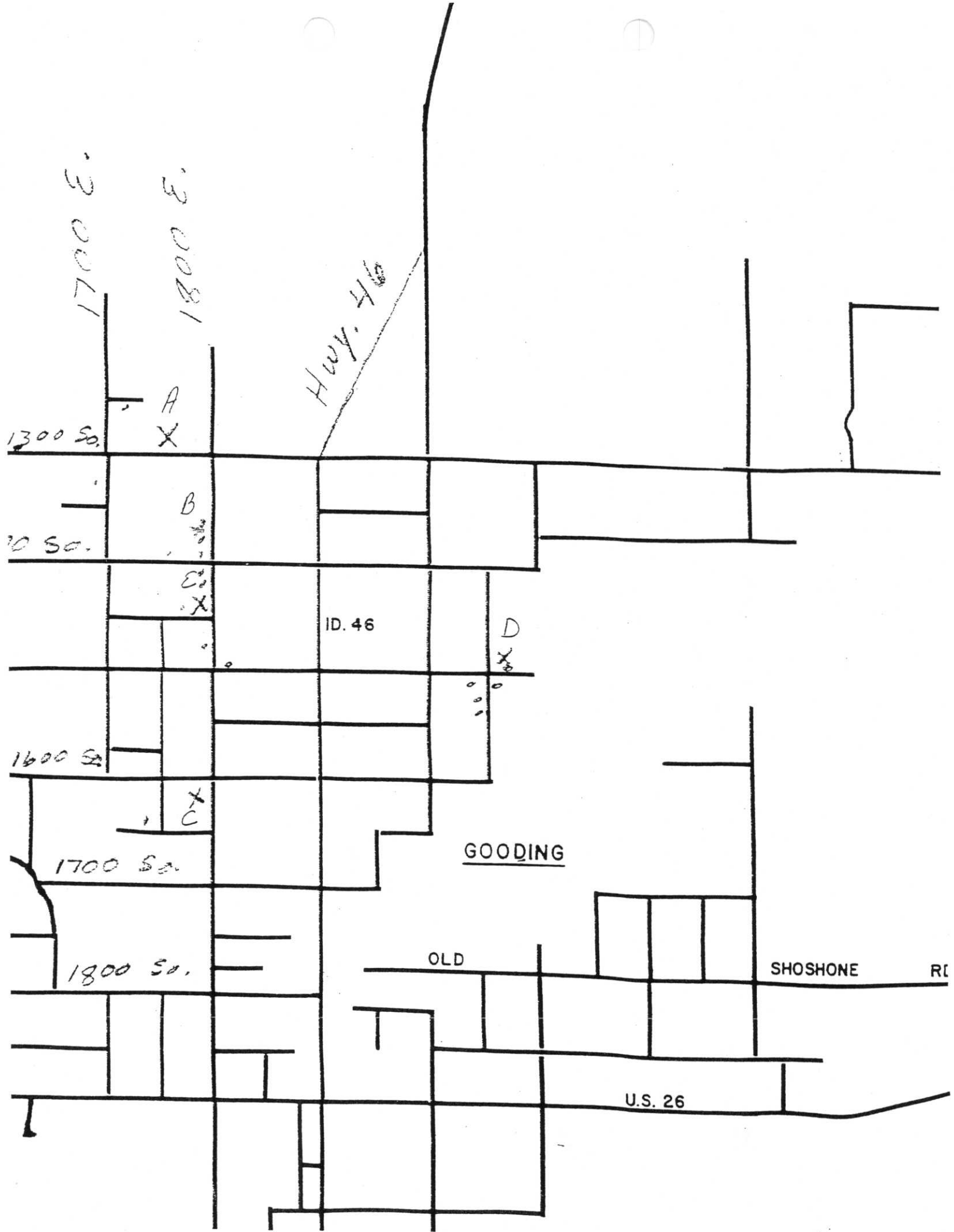
Wells affected:

1. Home place 1496 South 2550 East well deepened and cased several years ago
2. Anta 2037 East 1500 replaced well several years ago, new well currently contaminated
3. Meza 1525 South 2550 East currently contaminated
4. Anta 1521 South 2550 East currently contaminated
5. 1563 South 2550 East intermittent problems
6. 1526 South 2550 East intermittent problems

E. Seamons (current owner, last dairy closed 3 years ago)

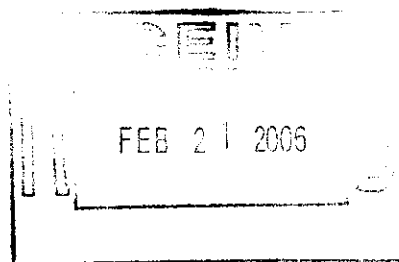
Wells affected by previous dairies

1. Allen 1425 South 1800 East, no current problem
2. Walker 1798 East 1400 South
3. well at dairy contaminated during spring run off when operating



February 18, 2006

Stanley and Colette Born
1772 East 1400 South
Gooding, ID 83330



Gooding County Planning & Zoning Commission and Judy Davis:

In 1995, we purchased the parcel of land (Part of SE1/4 SE1/4 Sec. 12, T5S, R14 EBM, Gooding County, Idaho) to build a home on. Shortly after, the connecting parcel (Part of N1/2 of the W 990ft of the SE1/4 SE1/4 Sec. 12, T5S, R14 EBM, Gooding County, Idaho) was for sell. We purchased the second parcel of land as an investment. CAFO ordinance No.77, Waste Management, Paragraph 3 states: *The waste treatment system shall not be located or operated closer than one thousand three hundred twenty feet from a residence belonging to someone other than the applicant, or be located and /or operated closer than three hundred feet from property lines. No new residence located in an agricultural zone shall be built within one thousand three hundred twenty feet of a waste treatment system.* If the proposed expansion of Ed Rosa's dairy happens, our north 17 acre parcel would have no value. The property would not be sellable nor our plans of our children building a home be possible due to the location of Rosa's proposed holding pond for waste.

In Ed Rosa's map it does not show how our irrigation water will enter our north half of our property. It looks like he is going to build corrals and a run off containment area over the existing irrigation ditch. The map shows a new irrigation pipeline but it does not show where our head gate will be located. There is also a proposed containment berm where the water should come through.

In Ed Rosa's business plan it states that he will use the existing pivot to get rid of a portion of his liquid waste. In his map it does not show how or where the liquid waste is to be pumped. If he is planning to pump to his existing irrigation pond, he will be in clear violation of Ordinance No. 77 Waste Removal. The pond is fed by a waste water ditch which continues on to the Malad River. Also, the pivot discharges over the pond, waste water ditch, and comes within 200 feet of our house. **The pivot will not go through our property.** We had an agreement with Richard Wells (previous owner) that he could run his pivot through the back corner of our property as long as the pivot watered the path traveled. The agreement was between Richard and ourselves. A new lease had to be formed between Stan Born and the new owner. As soon as Ed Rosa came into the picture he cut our fence in four places (which were never rebuilt to allow the pivot to go through without our animals getting out), and cut our huge tree down and never cleaned up the mess.

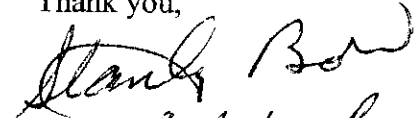
We also have concerns of the location of the existing open air silage pit located 246 feet from our southwest corner of our house and the placement of approx. 25 one ton hay bales located 106 feet from the southwest corner of our house. Ordinance No. 77, Section D, Paragraph 3 states: *Silage, haylage, potatoes or any other feed product resulting from the ensilage process which is stored in the open air shall be located at least seven hundred feet from any existing residence not belonging to the owner of the feed.* He stated to us that the silage pit and hay would not be there long. It would be the first feed to be used at his dairies. As of today, February 18, 2006 both silage and hay are still there. In Ed Rosa's business plan, he states that he wants to maintain a good relationship with his neighbors. If this is true, why would he place a new silage pit next to our house?

We're also concerned about the transfer of the deep well permit to his dairy. We feel fortunate that our well did not go dry this past summer as many did in the surrounding area. Since 2001, we have had our well water tested for contaminants. There is total coliforms present each time and fecal coliform has been present. We are concerned that more corrals of cows in a confined area directly north of us will contribute to further water contamination. There are known sinkholes located on Rosa's property which can contribute to serious water problems.

At our neighborhood meeting on February 15, 2006 Ed Rosa attended and shared his plans. He stated that trees would be planted along our connecting property line between the wastewater pond to help with odor. In his drawing of the dairy enlargement it does not show the trees nor does his business plan state it. If he does plant trees, what size and kind? He also stated that his risk level has been placed to low instead of moderate. He said we would be receiving a new letter in a couple days. After reviewing his file at Planning and Zoning on February 17th, there is no evidence showing that this is true.

Please consider all our concerns and the problem of not being able to build on a piece of property that we purchased as an investment.

Thank you,

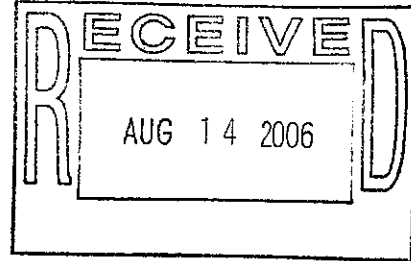



Stanley Born and Colette Born

Lawrence & Dianne Velasquez
1723 E 1400 S
Gooding, ID 83330

August 12, 2006

Ms. Judy Daubner-Davis
Administrator
Gooding County
Planning and Zoning Commission
P.O. BOX 417 Gooding, ID



Dear Ms. Daubner-Davis

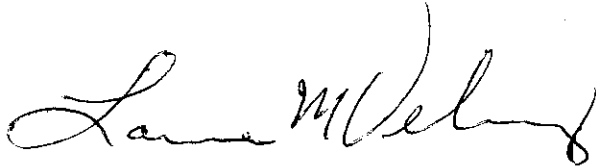
As a Registered Professional Geologist and owner of land bordering said property, I am opposed to the expansion of Ed Rosa Dairy #2, 1357 South 1800 East Gooding, ID. For the following reasons:

- (1) The dairy in question is sited on, as is most of Northern Gooding County, a series of lava tubes and pressure domes as well many faults, as can be seen on my property, which is directly to the west. The CAFO Siting Team which visited the property on June 21, 2006, made mention of these features as what the local community refers to as "sink holes." They also thought, these sink holes are a "direct conduit to ground water." These "sink holes" are in fact surface reflections of collapse features within the lava tubes and pressure domes. Some of these features are on the surface while others are buried by many feet of topsoil. Due to the constant seismic activity of this area; some major activity such as the Yellowstone earthquake of 1958, and the Bora earthquake of 1983, and some minor activity as evidenced by the constant 1.0-2.0 Richter scale earthquakes register by the BSU seismology department, these features have the possibility of collapse at any given time. Any storage lagoons that contain any pollutants have an extreme risk of doing irrevocable damage to our groundwater if and when they collapse.
- (2) On our property we have an approximately 3 acre pond, which is a catch all of tail water for the irrigation system and the main source of our irrigation water, as well as a main source of stock water, recreational use and is a habitat for game and song birds, herons and swans. Since we have lived on our property we have enjoyed good water quality in said pond, as evidenced by, the quality and quantity of healthy life growing in and around said pond, including but not limited to: frogs, snakes, herons, song birds, swans, fish, dragonflies, butterflies, raptors and numerous plant species. The proposed expansion is up ditch (up stream) of this pond, as well as the Dry Creek Drainage and eventually the entire Snake River System. All surrounding ground drains into said pond and any application of manure, pesticides or other chemicals will drain into our pond and the rest of said water systems and will directly and negatively impact our main source of

livelihood, since without said water remaining contaminant and pollutant free we will not be able to maintain our operation.

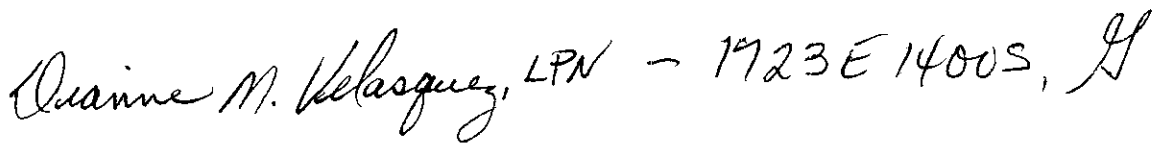
Any application of storage lagoons, manure or pesticides, as is common with dairy operations, will invoke irrevocable damage to land, groundwater, irrigation and river systems. From a geological standpoint this ground is much too unstable to sustain such an expansion as the one proposed by the Rosa's. Also, said expansion unfairly damages and devalues our property, as stated above. The CAFO Siting Team categorized the area of proposed expansion as a "medium risk area," I believe I have shown strong evidence to substantiate that the area is in fact high or extreme risk. As a registered professional geologist and engineering groundwater geologist, with more than 30 years practice in Southern Idaho, including cooperative studies with BSU and U of I in hydrology and geothermal energy, and as a land owner in the area of impact, I strongly oppose the proposed expansion.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence M. Velasquez". The signature is fluid and cursive, with the first name "Lawrence" written in a larger, more prominent script than the last name "Velasquez".

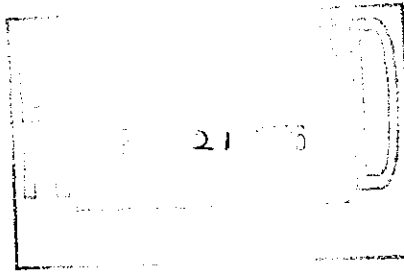
Lawrence M Velasquez

Registered Professional Geologist

A handwritten signature in black ink, appearing to read "Dianne M. Velasquez, LPN - 1723 E 1400S, H". The signature is cursive and includes the name, title, and address.

Dianne Velasquez, LPN

Cc: Marv Patten, ISDA



2/20/06

Gooding County Planning and Zoning:
(In regards to the Ed Rosa dairy #2 expansion permit.)

I Michael H. Walker at the address of 1798 East 1400 South Gooding, Idaho 83330 am very, very, very much opposed to the expansion of the Ed Rosa Dairy that joins my property to the north. Below are the reasons why:

1. Most every night during warm and dry weather conditions we get a breeze bringing with it odor and dust from the dairy.
2. Since I have lived here from November of 1989 to the present time I have had to lower the pump in my well twice for a total of 30 feet. I am very, very concerned about the ground water around this area, not only the quantity but also the quality. I feel if the size of this or any other dairy in this area is allowed to expand that this ground water is at great risk due to the increased volume used and the waste generated. There are a lot of sink holes around this area including the dairy property. There are already domestic wells in the area with contaminated water. Also, there are dozens of wells in this general area that have gone dry in the last few years.
3. Flies are already a big enough problem, we don't need any more.
4. I am also very opposed to waste water being pumped thru pivots, wheel lines, and/or hand lines because of the odor and the chance of contaminating the well water.

My north boundary fence along with part of Stan Born's fence has dirt, rock, cement, and fence posts pushing the fence over. This is due to a holding pond that was dug the spring of 2005. It measures approximately 500' long by 20' wide and if measured from the top of the berm it would be 6'-8' deep. It is full of run off water from the dairy corrals most of the time. In the past before this pond was dug I had this liquid waste run down the side of my hay field killing all the alfalfa for an area of 100' wide by 300' long.

In the CAFO Ordinance #77 Pg. 5 under definitions:

- **Waste-Waste is the presence of :**
 1. Liquid waste: waste water and other waste material in liquid form, which generated as a by-product of a CAFO.
- **Waste Treatment System:** The process, area, or mechanism employed for the retention, storage, or treatment of waste.
- **Criteria for approval:** (pg. 10) Prior to approval of a citing permit for a CAFO, the commission must find that the new CAFO meets the following requirements:

B. Waste management:

- #3. The waste treatment system shall not be located or operated closer than 1,320 feet

from a residence belonging to someone other than the applicant or be located and/or operated closer than 300 feet from property lines.

#5. The waste treatment system shall have a 50 foot set back from the public right of way.

Due to the ordinance information above the actual measurements from my back door step to the waste pond is approx. 1,218 feet.

From my property fence line where the berm is to the edge of the waste water in the pond is 17 feet.

If the pond is allowed to fill approx. 1-2 feet the waste water will be right at the edge of the paved public road.

6. I realize that if this expansion was allowed the dairy would increase in value, but at the same time this **would de-value all the property in the impact zone**, and this to me includes a lot more than just the a-jointing property.

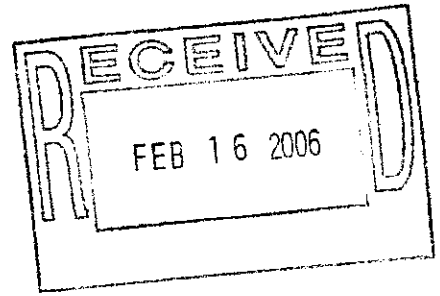
These are very important concerns to me. I realize that even though I only own a small portion of property, it is still very valuable to me. I hope all concerns are considered.

Thank You,

A handwritten signature in cursive script that reads "Michael H. Walker".

Michael H. Walker

Hilary Brown
1853 E 1500 S
GOODING, IDAHO 83330
208-934-5155



February 14, 2006

Gooding County
Planning & Zoning Commission
145-7th Avenue East
P.O. Box 417
Gooding, Idaho 83330

RE: R & R Holsteins
Edward Rosa
Site Location: 1357 S 1800 E, Gooding, Idaho

I would like to express my opposition concerning the application to allow additional animal units at the above location.

Gooding County is already hindered by an excess of large animal confinements and this permit would further endanger our quality of air and especially the contamination of the aquifer.

This many animals on 160 acres is a hardship and detrimental not only to the land, but the area surrounding the facility.

Sincerely,

Hilary Brown

DEBRA BROWN
1853 E 1500 S
GOODING, IDAHO 83330
208-934-5155

February 14, 2006

Gooding County
Planning & Zoning Commission
145-7th Avenue East
P.O. Box 417
Gooding, Idaho 83330

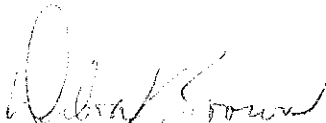
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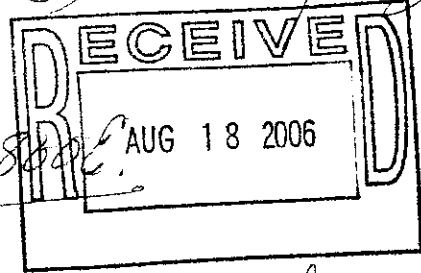
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This many animals on 160 acres is a hardship and detrimental not only to the land, but the area surrounding the facility.

Sincerely,


Debra Brown

Gooding County Planning + Zoning

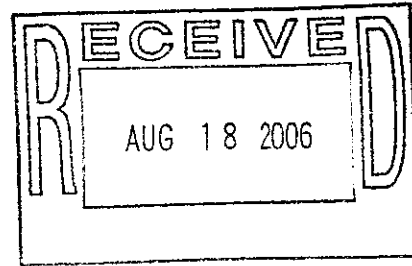


Location: 1357 S. 1800 E.

As a property owner, I don't want Mr. Rosa to expand his cat's permits:

Because farm is not sufficient to support cows and I ~~have~~ heard property has sink holes. With the experience I've had they can show up in different places.

Ben Johnson
1455 S. 1750 E
Gooding, Id.



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

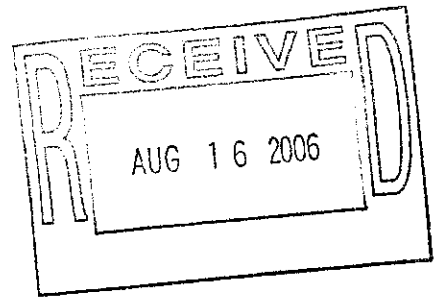
As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 1357 South 1800 East, Gooding, ID. This application is being submitted by Edward Rosa (dba: R&R Holsteins), 2149 B Hwy 26, Gooding, ID 83330. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people.

The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

From: Dale Hattis
1655 E. 1600 S.
Gooding.



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

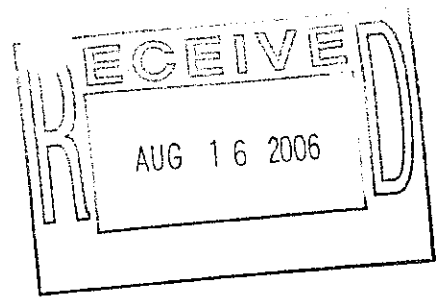
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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Robert & Linda Larsen
1504 S. 1800E
Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

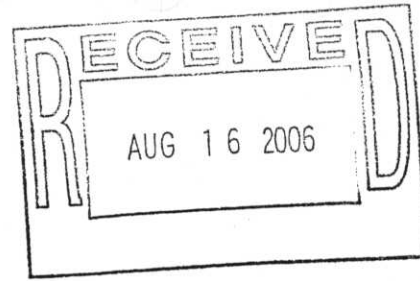
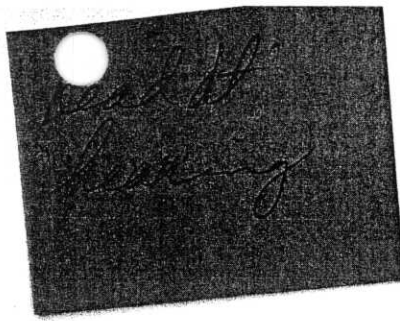
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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Brenda Kay Jensen
1723 E 1250 S.
Gooding, Id

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 1357 South 1800 East, Gooding, ID. This application is being submitted by Edward Rosa (dba: R&R Holsteins), 2149 B Hwy 26, Gooding, ID 83330. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people.

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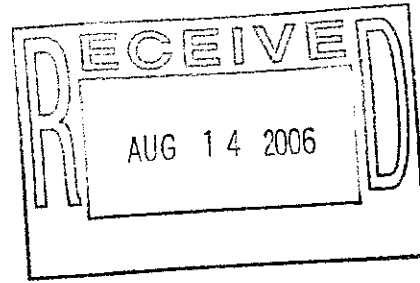
Sincerely,

David E. Jensen
1723 E 1250 S, Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

August 14, 2006

Judy Davis, Administrator
Gooding County P & Z Board



Dear Judy;

As a Gooding County resident and property owner, I would like to submit my protest for the application that has been submitted by R&R Holsteins located at 1357 S 1800 E, Gooding Idaho, to increase their present Dairy herd.

I am not against Mr. Rosa and contrary to his claim of prejudice, this protest is based solely on the location of the proposed expansion, I don't care who would be submitting this permit request. Unfortunately, because of the POWER and MONEY of the Dairy Industry, the neighbors are often the ones that are being prejudiced against. Neighbors seem to be categorized as "whiners and complainers", as our rights to breathe clean, unpolluted air; to be able to use our wells without having them tested twice or more a year; to use our backyards without the rotten egg smell of hydrogen-sulfide gases drifting over us (*only one of the various odors that comes from producing milk*) are being jeopardized.

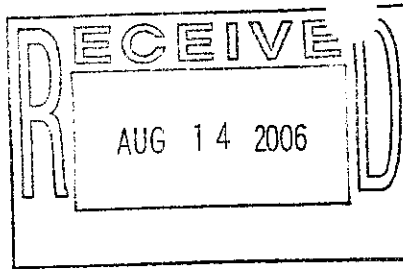
Location of new and expanded properties is VERY important. How many other property owners are having their rights taken away when a permit for one is granted?

I believe that it is time Gooding County Commissioners take some responsibility and institute an Ordinance that will stop increasing the livestock numbers in Gooding County until the present numbers have been counted adequately and the distribution of animal waste has been accounted for. I understand several Dairies have been notified of over saturation in this County. At the very least that would put to rest the "rumors" that Gooding County is overly saturated in livestock numbers and application of manure. I am NOT against Dairies. I ask that you take responsibility in managing what we have.

Sincerely,

Leona Patterson
1904 S 2100 E
Gooding ID 83330

Cc: Gooding County Board of Commissioners



Michele Velasquez
1723 E 1400 S
Gooding, ID 83330

August 12, 2006

Ms. Judy Daubner-Davis
Administrator
Gooding County
Planning and Zoning Commission
P.O. BOX 417 Gooding, ID

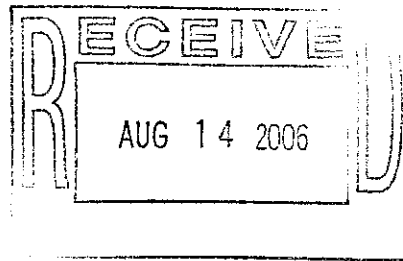
Dear Ms. Daubner-Davis

I run livestock with my family on a property adjacent to the proposed expansion of Ed Rosa Dairy #2, 1357 South 1800 East Gooding, ID. My father is a registered professional geologist and has written a letter strongly opposing the expansion of said dairy. As a property owner that will be adversely affected by said expansion, as stated in my father's letter (Lawrence M Velasquez), I too must state my objection to said expansion for the same reasons my father cites.

Sincerely,

Michele Velasquez, BA 1723 E 1400 S Gooding
Michele Velasquez, BA

Cc: Marv Patten, ISDA



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

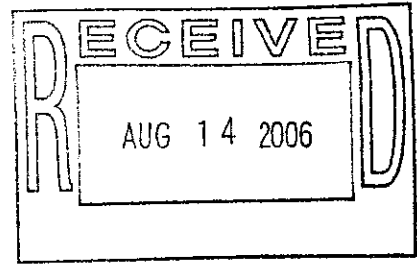
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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

William B. Furd
William B. Furd
13,23 S 1800 E.
Gooding, ID

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at ~~1357 South 1800 East, Gooding, ID~~. This application is being submitted by Edward Rosa (dba: R&R Holsteins), 2149 B Hwy 26, Gooding, ID 83330. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people.

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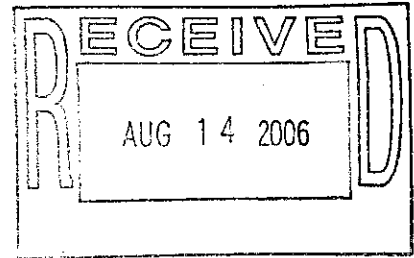
Sincerely,

Dale Riches
1466 South 1800 E
Gooding, Idaho 83330

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



P&Z Commission:

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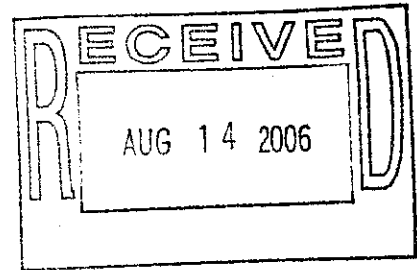
Sincerely,

Kathy Allen
1425 S. 1800 E
Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



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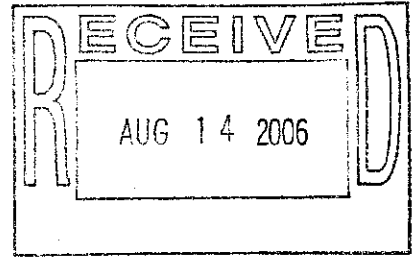
Sincerely,

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

Tim Allen

1425 S. 1800 E

Idaho



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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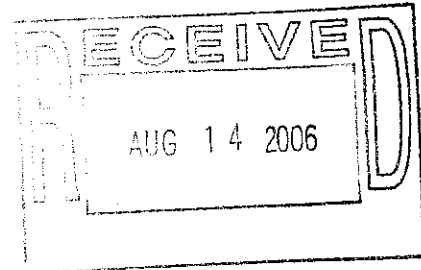
Sincerely,

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

Debra Brown
1853E 1500 S.
Gooding

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



P&Z Commission:

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Sincerely,

Hilary Brown

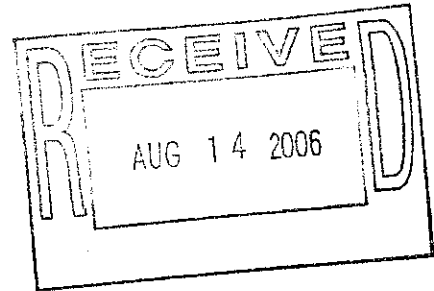
cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

Hilary Brown
1853 E 1500 S

Gdg

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



P&Z Commission:

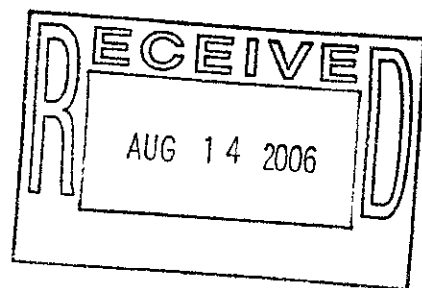
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Sincerely,

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

Ashlee Brown
1853E 1500S
Idg.



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

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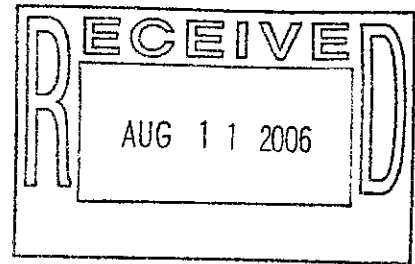
Sarah Brown Miles

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

1853E/1500S.
Edg.

August 5, 2006

Stanley and Colette Born
1772 East 1400 South
Gooding, ID 83330



Gooding County Planning & Zoning Commission and Judy Davis:

In 1995, we purchased the parcel of land (Part of SE ¼ SE ¼ Sec. 12, T5s, R14 EBM, Gooding County, Idaho) to build a home on. Shortly after, the connecting parcel (Part of N1/2 of the W 990 ft. of the SE ¼ SE ¼ Sec. 12, T5S, R14, Gooding County, Idaho) was for sell. We purchased the second parcel of land as an investment. Richard Well's small dairy north of our property did not cause any problems. He rented our back pasture to graze heifers and was a great neighbor. CAFO ordinance No. 77, Waste Management, Paragraph 3 states: *The waste treatment system shall not be located or operated closer than one thousand three hundred twenty feet from a residence belonging to someone other than the applicant, or be located and/or operated closer than three hundred feet from property lines. No new residence located in an agricultural zone shall be built within one thousand three hundred twenty feet of a waste treatment system.* If the proposed expansion of Ed Rosa's dairy happens, our north 17 acre parcel would have no value or future possibilities. The property would not be sellable nor our plans of our children building a home or expansion of our business be possible due to the location of Rosa's proposed waste pond. Please consider all adjacent property owner's rights when making your decision to expand Ed Rosa's dairy. Why should he be allowed to expand his business and use our property to make it "legal"?

In the fall of 2005, Ed Rosa had placed a silage pit 246 feet from our southwest corner of our house and placed approx. 25 one ton hay bales 106 feet from our house. Ordinance No 77, Section D, Paragraph 3 states: *Silage, haylage, potatoes or any other feed product resulting from the ensilage process which is stored in the open air shall be located at least seven hundred feet from any existing residence not belonging to the owner of the feed.* He stated to us that the silage pit and hay would not be there long. In February it was still there. After filing a complaint, Rosa received a letter regarding the complaint on March 2, 2006. He removed the silage and hay. We had no idea that it would continue to smell horribly! Apparently, it sinks into the ground and has an odor even after the ground is worked up. In Ed Rosa's business plan, he states that he wants to maintain a good relationship with his neighbors. If this is true, why would he place a silage pit next to our house?

For 12 years we have received our shares of water through the north end of our property. Ed Rosa has filled in our ditch. We are unable to irrigate our back parcel of land.

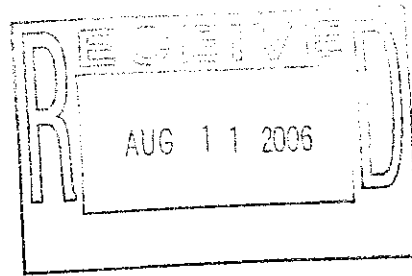
The placement of his pond for his pivot causes flooding on our property. When Ed Rosa shuts off his pumps it causes the pond to back up on our property which floods around our horse corrals. The waste water ditch is unable to flow properly due to a 10" pipe he placed across his property.

Please consider our concerns when making the decision to allow the expansion Ed Rosa's dairy.

Thank you,

A handwritten signature in cursive script that reads "Stan Born".A handwritten signature in cursive script that reads "Colette Born".

Stan and Colette Born



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

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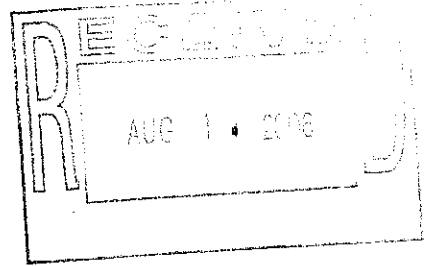
Richard A. Fink

Thelma Fink 1653 E 1500S., Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

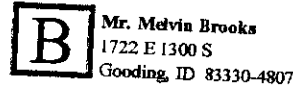


P&Z Commission:

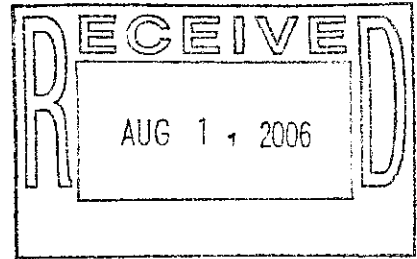
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Sincerely, *Melvin B. Brooks*
Deborah Brooks



cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



HJ 8/11/06
~~08/04/06~~

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

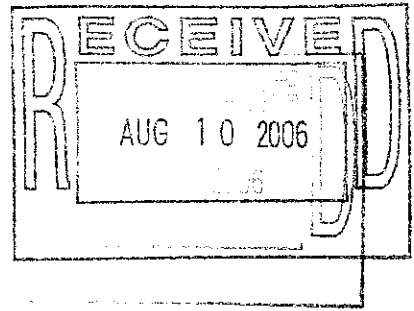
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Sincerely,

Hugh & Beverly Johansson
1707 St. Hwy 46, Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

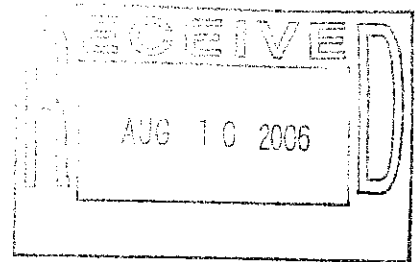
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Sincerely,

Lester D. Jensen
Lester D. Jensen
1719 E. 125th S.
Gooding, ID 83330
208 - 934 - 8410

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



County of Gooding
Planning and Zoning Commission
624 Main St.
Gooding, ID 83330

8 Aug 2006

First of all I want to thank everyone at the Planning and Zoning for taking the time to hear my concerns.

I am very concerned about the increase in pollution in our area. The air doesn't smell very good quite often. There seems to be a lot of contaminated wells in the area and the number on manure piles around the country is great. This surely is not the good clean country I knew as a child. I hear of tire burning north of Shoshone, many large dairies and large feed lots that have moved to this area. Some dairyman expand to great numbers of animals.

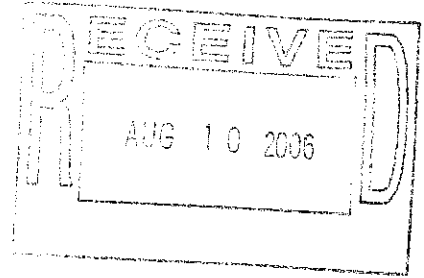
Just recently a person by the name of Ed Rosa applied to expand his dairy by nearly a thousand cows, 859, to be exact according to a letter mailed from your office. With the top of the earth's surface in this area that we call dirt, the many faults, sink holes and lava formations it seems like this would only add to our water contamination. Our well was contaminated the last time we had it tested.

Please put a stop to any type of activity that may pollute our water or air. Especially I am very much opposed to Ed Ross's plan to increase the number of cows in his dairy. It appears that the land where his dairy is located will let the liquid waste run down into the underground water.

Sincerely

Lester D. Jensen

Lester D. Jensen
1719 E. 1250 S.
Gooding, Idaho 83330
208-934-6810



9 Aug 2006

Gooding County
Planning & Zoning Commission
145 7th Ave E
Gooding, ID 83330

We received a letter from your office dated July 14, 06 informing us that Edward Rosa has requested to enlarge his dairy herd by 859.2 cows, bringing the total animals to 1,599. Many cows are already in that small feeding area. Mr. Rosa has already encroached on many of his neighbor's property lines for various reasons. Putting this many more animals in this small feed lot will make it more difficult for him and his workers to stay within his property lines.

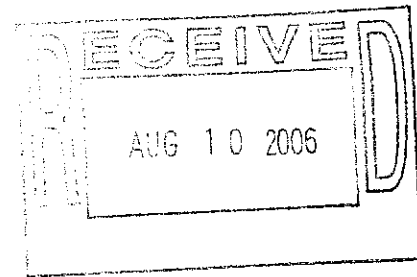
We are also concerned about the quality of the water we drink from our wells. We drank from a well on the farm I grew up on northwest of Gooding for 50 years. There was not a problem until dairies came to the area. Our well has been contaminated.

Adding 859.2 cows to this already overcrowded feed lot is not a good thing.

Respectfully
Valoy Jensen
1719 E 1250 S
Gooding, ID 83330

August 8, 2006

Gooding County Planning and Zoning Commission
PO Box 417
145 7th Ave East
Gooding, Idaho 83330



Board of Commissioners:

As a Gooding County resident and property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 1357 S 1800 E, Gooding, Idaho. This application has been submitted by Edward Rosa (dba: R&R Holstiens), 2149 B Hwy 26, Gooding, Idaho 83330.

My main objections to this application are the location and the presence of geological features that enhance the potential for aquifer contamination.

The footprint of this proposed expansion encroaches on the rights of surrounding landowners and will limit their ability to use their property for which it was intended.

Further, the geological features contained on this property have a history of allowing surface water to leak into the groundwater without warning, making the potential contamination of surrounding domestic wells a risk that should not be taken lightly.

We realize that potential hazards can be mitigated so as to give the appearance of being safe, but history shows that in many cases these efforts have been fruitless and groundwater contamination has occurred.

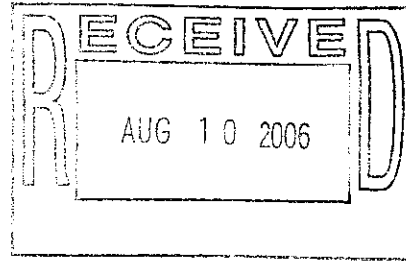
We ask that this application be denied on these grounds.

Sincerely

Terry D. Ruby

Kristine M. Ruby

13705 S. 1700E, Gooding
Cc: Gooding County Board of Commissioners
Marv Patten ISDA



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Willie D. Henderson

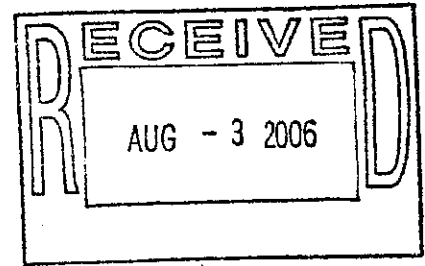
8-8-06

1796 E 1600S, Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



Board of Commissioners:

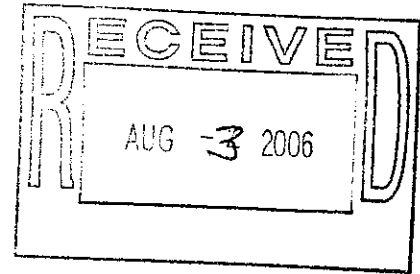
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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Jessica Harris
106 Nebraska St.
Gooding Id 83330

cc: Marv Patten. Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

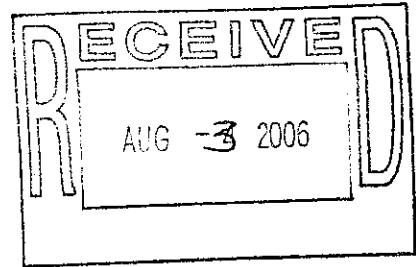
Board of Commissioners:

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Sincerely,

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I have been materially affected in health, safety and property rights because of the influx of CAFO's. There is a bovine saturation in our county. These cattle numbers are destroying the quality of life and our property values. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people of Gooding County. "It shall be the purpose of this plan to: protect property rights and enhance property values; ensure adequate public facilities and services at reasonable cost; protect and enhance the economy of the county; ensure protection of important environmental features; protect prime agricultural lands and mineral resources; encourage urban development within and near cities; ensure development consistent with the land's physical character; protect fish, wildlife and recreational resources; and to avoid water and air pollution; and allow school districts to participate in the planning process."

The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

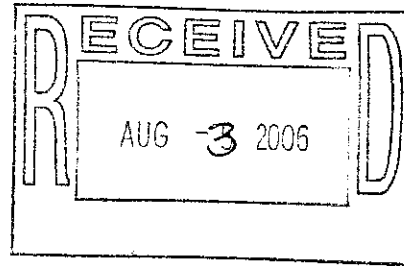
Sincerely,

Jessie S. Miller
1722 S. 1625 E.
Gooding, ID 83330

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



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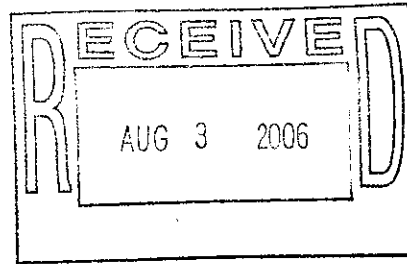
Sincerely,

Dona Rottrock
1405 S. 1800 E.
Gooding, Id. 83330

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330



Board of Commissioners:

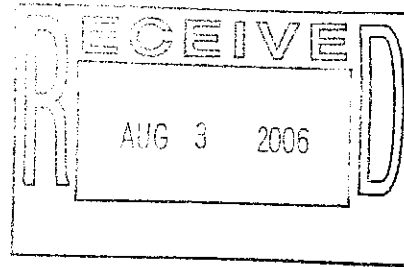
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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Marylen Burns
159th B S 2050 E
Gooding, ID 83330

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

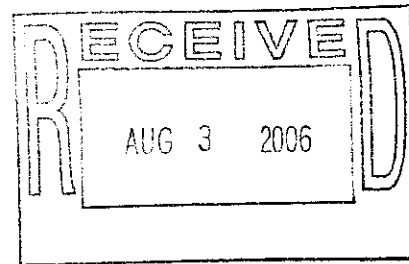
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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Misty Winde
605 7th Ave West
Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

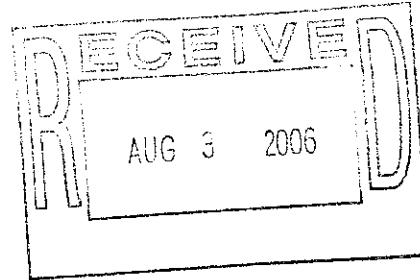
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The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Marcia Nielson
813 Idaho St.
Gooding Id 83330

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

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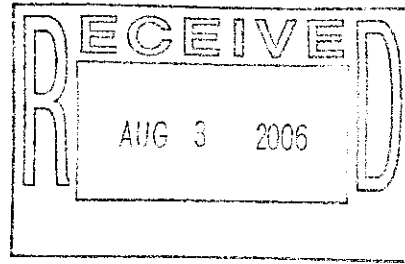
The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Robin Leitch

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners

*Robin Leitch
926 Idaho
Gooding, ID 83330*



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

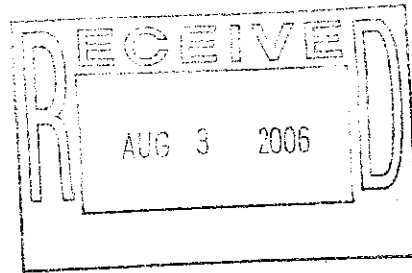
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Sincerely,

Robin L. Ulvestad
Box 92
Gooding, ID 83330

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

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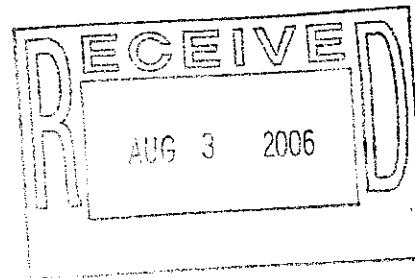
Sincerely,

Michael H. Walker

1798 E 1400 S

GOODING IDA. 83330

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

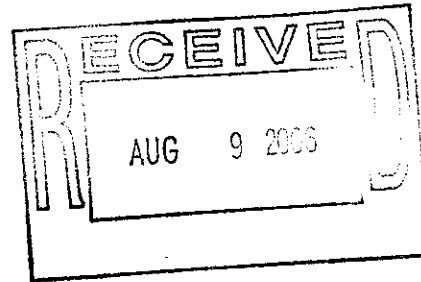
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Sincerely,

Dora Estep
1110 4th Ave. W
Gooding, ID 83330

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

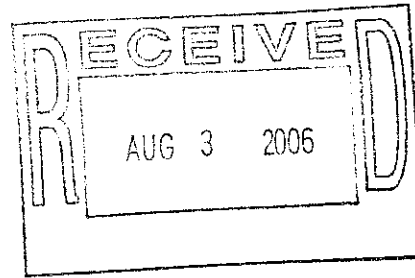
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Sincerely,

Bob Elmhurst
1355 St Hwy 46, Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



04/18/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

Board of Commissioners:

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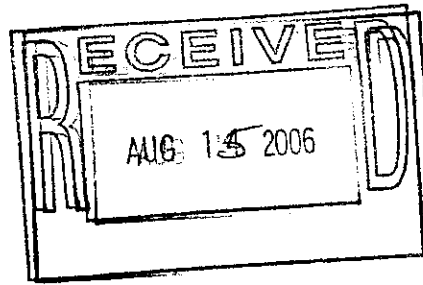
The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Bosie Anossa

722 4th Ave W., Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



August 14, 2006

Gooding County Planning & Zoning
P.O. Box 417
Gooding, Idaho 83301 - 0417

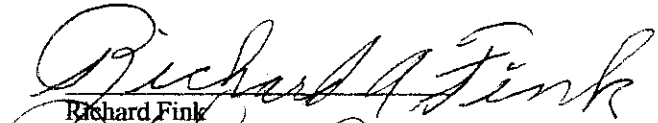
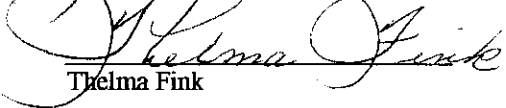
Re: CAFO Siting Permit Enlargement
R&R Holstein Dairy (Edward Rosa)
2149-B Hwy 26
Gooding, Idaho 83330

Dear Sir or Madam:

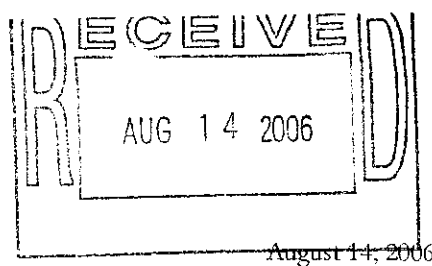
We are writing to voice our opposition for the approval of the enlargement of the above referenced dairy. Our county has had an influx of dairies and we are saturated with a bovine population, which is not in the best interest for the health, safety and general welfare of the people. The increased pollution of local wells, odor and insect infestation is just the beginning of the problems all of us will face should this uncontrolled dairy growth continue.

We have personally observed the animals currently located at the dairy in muck and mire between ankle and knee deep. To allow enlargement of the dairy would be detrimental to the value of the surrounding property and to the health of those living in the adjoining area.

We appreciate the opportunity to address this issue and thank you for your consideration.


Richard Fink

Thelma Fink

1653 East 1500 South
Gooding, Idaho 83330
Telephone - (208)934 5379



Gooding County
Planning and Zoning Commission

Dear Sir or Madam:

This is our letter of concern. Through it we are expressing our opposition to the expansion of the dairy doing business as R & R Heifers run by Mr. Edward Rosa. We own the property that is directly to the west of the Rosa dairy. We have several reasons for adamantly opposing this expansion. I'll briefly outline these reasons below.

- We believe that the foremost reason for not allowing this expansion is the issue of water quality. The underground geologic structure of our area is, which you all are most likely aware of, porous basalt. Much of the surface water in this area can get directly down into the water table. We have to be ever so careful about what we do or allow into our surface water because of **the irreversible damage that can so easily be done**. The neighbors around our house and land, 1806 E. 1400 S., have reported that their well water is already contaminated by coliform and E-coli bacteria. We are going to have our water tested today. Furthermore, there is a line of sink holes that run across our property from SE to NW in the direction of the Rosa property. On the other side of the Rosa property the sink holes continue. **There is very real danger that a hole could open up on the dairy property or that surface drainage can drain downhill from the corrals into a hole on neighboring property. We have been told that this has, in fact, been happening when it rains or snow melts.** We cannot allow this to happen let alone make the problem worse by allowing an expansion.
- A second and related issue is water quantity. Already, we know that **many domestic wells in this area north of Gooding have had to be deepened or re-drilled**. This may be because of the years of drought, but the aquifer needs more than just this one wet year for complete restoration. Dairies require lots of water as I'm sure you know and it doesn't take an expert hydrologist to figure out that **there is very great potential for depleting all of the neighbors' underground water**.
- Another very real concern is the issue of **smell and increased air pollution**. We as well as some other of our neighbors will be down wind from the corrals and more importantly from the pivot(s) that Mr. Rosa plans to sprinkle effluent from. I have had the very unpleasant experience of being downwind of a similar pivot in the past and **the stench was overwhelming**. I challenge anyone to tell me they would choose to live even near the smell of an effluent lagoon or a sprinkler that sprinkles effluent unless they had some overwhelming economic interest which we do not. It is enough to make some people including my young children sick. **Three of my children have asthma so increase in particulate matter is a real concern to us**. Again we will be down wind from this expanded dairy so the dust will be blowing toward our house at least some of the time. Trees can act as a barrier to dust travel and even smell reduction in some cases. Rosa hasn't even begun to plant any and I don't think he ever will.
- A further issue is the economic impact that it will have on us and our neighbors. If you allow this expansion, it will cancel any possibility for us to subdivide our land and sell it if we so desire. Not only that, if our children want to build on our land in the future, they won't be able to except in a very restricted area of the south east corner of our property. **It is not fair or right that Rosa be able to take away our right for us to do what we want on our own land!**

August 14, 2006

- Our final argument is this: we know Rosa has contingencies put into his plan that will supposedly meet the concerns that Gooding County has as well as all of the neighboring property owners. We don't believe that we should have to run the risk of incurring the irreversible damage that could occur. **Once the damage is done it will be too late!** *What's more, we don't believe that most if any of these measures will ever come to pass.* Rosa has proven to be someone who 1) **does not keep a clean place.** There is trash all over the dairy usually. The old two story house is boarded up. The lawns around the house have died. Garbage blows across the road onto our property constantly (*see the attached photos and affidavit), 2) **disregards local and state regulations** (*see affidavit). For example, **he has stacked his hay directly under the power lines** for months at a time and after complaints were made. **Effluent overflowed** from his current lagoon (which is too close to the road already) during the winter/spring. **Effluent run off from corrals collected on the southern property line adjacent to Mike and Mary Walker's place.** He piled silage only a few feet from the Born's western property line. Trucks and equipment either servicing the dairy or belonging to the dairy routinely used the right-of-way across the road next to our property (that's east of the dairy) during the winter and spring. Under the weeds and dry grass you can still see the tracks that were made in the mud. **Hay and straw clogged up this same right of way and piled up against the fence** during the winter and spring. **His trucks or equipment (or those servicing the dairy) often blocked the road** forcing local people (and even the mail carrier) to take another route way out of their way.

In conclusion, I and my wife and family are absolutely opposed to this dairy expansion. It is bad for us and for the immediate area. It will very adversely affect our lives and the quality of our lives. It is not right for a person to demand to do a thing on his property when it really will cause trouble, much trouble for those living around him. We have to share our spaces with those who live and work near us and **when everyone around (we have not yet met anyone who lives around here who is favorable to this expansion) is very upset about the negative impact of this proposed expansion, something must definitely be wrong!**

Sincerely,



Bruce Hanson

1806 E. 1400 S
Gooding, ID 83330

AFFIDAVIT

State of Idaho
County of Gooding

I, Bruce Hanson do hereby swear that the following information is true and correct to the best of my knowledge.

In the Spring, around March, during a rainstorm, my wife Leanna Hanson and my mother Mary Hanson observed runoff from the corrals and/or lagoon on the dairy just west of our property flowing over the road and onto our property which then drained into the ditch which, in turn, drains into a sink hole. Also, we have observed and picked up trash which has blown from this same dairy property owned by Edward Rosa onto ours. The amount has been as much as 2-3 reg. sized garbage bags full. Also in the Spring, we (my wife and I) observed 1-ton bales of hay stacked directly under the power lines (only 4-5 feet below) and partially on the public right-of-way along 1800 E.

Dated This 14 August, 2006

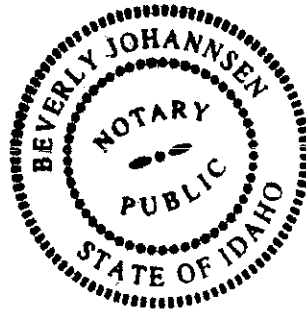
Bruce Hanson
Signature
Bruce Hanson
Print name
1806 E. 1400 S.
Address
Gooding, ID 83330
City, State, ZIP

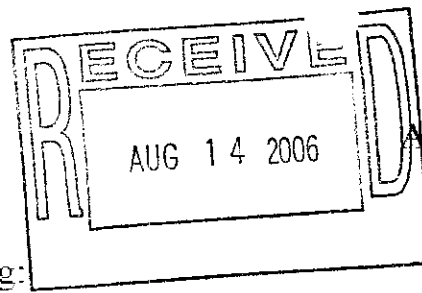
State of Idaho
County of Gooding
On 14 day of Aug 2006

Bruce Hanson personally appeared before me and stated before me the above statements are true and correct.

Notary Name Beverly Johansson
Notary Public for the
State of Idaho
Residing at Gooding
Commission expires 5/22/2010

Beverly Johansson





August 14, 2006

Gooding County Planning and Zoning:
(In regards to the Ed Rosa Dairy #2 expansion permit.)

I Michael H. Walker at the address of 1798 East 1400 South Gooding, Idaho 83330 am very, very, very much opposed to the expansion of the Ed Rosa Dairy that joins my property to the north. Below are the reasons why:

1. Most every night during warm and dry weather conditions we get a breeze bringing with it odor and dust from the dairy.
2. Since I have lived here from November of 1989 to the present time I have had to lower the pump in my well twice for a total of 30 feet. I am very, very concerned about the groundwater around this area, not only the quantity but also the quality. I feel if the size of this or any other dairy in this area is allowed to expand that this ground water is at great risk due to the increased volume used and the waste generated. There are a lot of sink holes around this area including the dairy property. There are already domestic wells in the area with contaminated water. As of 8-4-06 our well water analysis report shows contaminated. (Refer to page 5 of this document)
3. Flies are already a big enough problem, we don't need anymore.
4. I am also very opposed to waste water being pumped thru pivots, wheel lines, and/or hand lines because of the odor and the chance of contaminating the well water. In 2004 I had an illegal liquid waste discharge run down the west side of my hay field for approx. 100ft. Wide by 300ft. Long. Trying to be a good neighbor I did nothing but discuss it with Ed Rosa. (See bottom page of 23 inspection report.)

My north boundary fence along with part of Stan Born's fence has dirt, rock, cement, and fence posts pushing the fence over. This is due to a holding pond that was dug in the spring of 2005. It measures approximately 500ft. Long by 20ft. Wide and if measured from the top of the berm it would be 6'-8' deep. (Refer to Department of Ag Inspection Report pages 9, 10, 11, and 12.) Refer to complaint of 2-24-06 which is page 4 of this report.

Waste water was pumped out on the ground. (Refer to pages 13, 14, 15, 16, 17, and 18) After waste water was pumped out of south pond the bottom of the pond was filled with dirt. (Photos enclosed show what pond & berm look like on 8-13-06) (see paragraph 3 on page 23 of inspection report) About the only things that have changed on this waste pond is that it is not as deep & does not have any water in it right now. The potential problem is still there. (Wait till winter.)

In the CAFO Ordinance #77 Pg. 5 under definitions:

- **Waste-Waste is the presence of :**
 1. Liquid waste: waste water and other waste material in liquid form, which generated as a by-product of a CAFO.
- **Waste Treatment System:** The process, area, or mechanism employed for the retention, storage, or treatment of waste.
- **Criteria for Approval:** (pg. 10) Prior to approval of a citing permit for a CAFO, the commission must find that the new CAFO meets the following requirements:

B. Waste management:

#3. The waste treatment system shall not be located or operated closer than 1,320 feet from a residence belonging to someone other than the applicant or be located and/or operated closer than 300 feet from property lines.

5. The waste treatment system shall have a 50 foot set back from the public right of way.

Due to the ordinance information above the actual measurements from my back door step to the waste pond is approximately 1,218 feet.

From my property fence line where the berm is to the edge of the waste water in the pond is 17 feet.

If the runoff waste pond is allowed to fill approximately 1-2 additional feet, as of the date of this letter, the waste water will be right at the edge of the paved public road. (2-20-06)

6. I realize that if this expansion was allowed the dairy would increase in value, but at the same time this **would de-value all the property in the impact zone**, and this to me includes a lot more than just the adjoining property.

#5. The Rosa Dairy set back map is very disturbing to me. I agree that the Rosa property is 160 acres, but at the same time the dairy is sitting on approximately 40 acres which means if this expansion were allowed, most of the set backs for the CAFO & the new lagoon would be a (taking) of at least 6 surrounding neighbors property. (HOW CAN THIS HAPPEN)

What about out rights and property values? In my opinion this dairy sets on a piece of property that is about 6 times too small to contain it's own set backs. (See map on Pg. 6)

Why do we as Gooding County tax payers have to put up with all this crap just so one person can get richer?

These are very important concerns to me. I realize that even though I only won a small portion of property, it is still very valuable to me. I hope all concerns are considered.

Thank You,

Michael H. Walker

Michael H. Walker

COMPLAINT

2-24-06

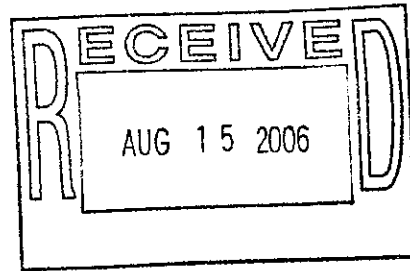
TO: GOODING COUNTY PLANNING & ZONING

I HAVE 2 COMPLAINTS ABOUT THE ED ROSA PAIR
AT 1357 S. 1800 E GOODING FID. 83330.

#1. MOST NIGHTS DURING WARM DRY WEATHER CONDITIONS
WE GET A BREEZE BRINGING WITH IT ODOR & DUST FROM
THE CORRALS

#2. THE SET BACKS ON THE RUNOFF WASTE POND
ARE NOT EVEN CLOSE TO THE CAFO #77

THANK YOU MICHAEL H. WALLER



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

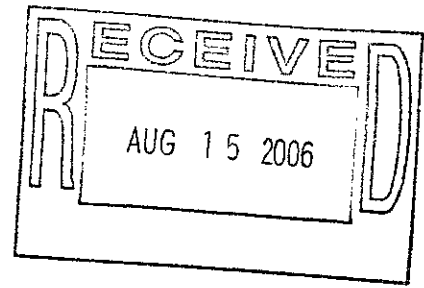
As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 1357 South 1800 East, Gooding, ID. This application is being submitted by Edward Rosa (dba: R&R Holsteins), 2149 B Hwy 26, Gooding, ID 83330. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people.

The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Deane W. Smet
1386 S. 2100 E
Gooding

cc: Marv Patten. Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

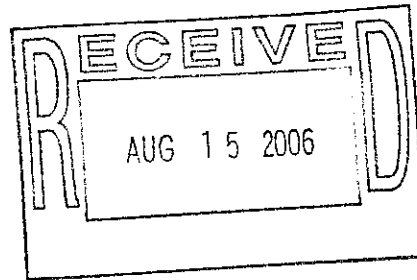
As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 1357 South 1800 East, Gooding, ID. This application is being submitted by Edward Rosa (dba: R&R Holsteins), 2149 B Hwy 26, Gooding, ID 83330. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people.

The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

Sincerely,

Gayle Yakovac
1386 S. 2100 E
Gooding, ID

cc: Marv Patten. Dept. of Ag
Gooding County Board of Commissioners



08/04/06

Gooding County Planning & Zoning Commission
P.O. Box 417
624 Main St.
Gooding, ID 83330

P&Z Commission:

As a Gooding County resident and/or property owner, I would like to invoke my rights as an affected person. I am opposed to the application for a new siting permit that will allow an expansion of a CAFO located at 1357 South 1800 East, Gooding, ID. This application is being submitted by ~~Edward Rosa (dba. R&R Holsteins)~~, 2149 B Hwy 26, Gooding, ID 83330. There is a bovine saturation in our county. The cattle numbers are destroying the quality of life and the property values of Gooding County. The prevailing odor, the contamination of the areas in the site footprints, the astronomical amounts of waste, and unacceptable management practices are not in accordance with Gooding County's "Comprehensive Plan". The Comprehensive Plan was written according to the "Local Land Use Planning Act of 1975". The purpose of the act is to promote the health, safety and general welfare of the people.

The time has come for the Gooding County administrators to stop permitting CAFO's and to enforce current management practice requirements.

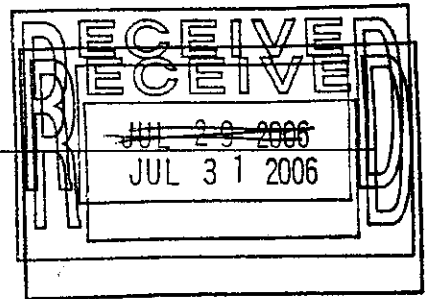
Sincerely,

Hildi Olson
2154 B St Hwy 46
Gooding

cc: Marv Patten, Dept. of Ag
Gooding County Board of Commissioners



Natural Resources Conservation Service
820 Main Street, Gooding, ID 83330-6155
Telephone: 208-934-8481 FAX: 208-934-4327



Date: 7/11/2006

To: Judy Daubner-Davis
Gooding P&Z Administrator
POB 417
Gooding, ID. 83330

Thank you for the opportunity to attend the Siting Committee visit of Rosa #2 dairy and subsequent review considerations. I have reviewed the Siting Teams follow-up report and believe the Siting Team gave careful consideration to the potential impact to groundwater from nutrients transported via sinkholes in the area north of the canal.

While the ISDA report focused on the north fence line due the visual existence of the sinkholes, history has demonstrated the sinkholes may develop in a variety of locations from the fence line to, and including the canal. The landowner has taken a good first step in avoidance for much of this area by positioning his pivot to provide sprinkler irrigation to a large portion of the irrigated land north of the canal. Of the areas remaining, the greatest opportunity for impact is the waste compost area and the corrals themselves. ISDA has stated the Compost area is required to be constructed as per wastewater storage criteria, which requires proper lining consideration or suitable soils with containment berms to control potential runoff. For the corrals, ISDA has stated in-corral storage of waste water is not allowed so an exterior containment facility or pumping plant will need to be designed. In this regard I would recommend a containment structure be designed to contain the total required storage volume to insure the groundwater is protected from management mistakes or mechanical failure of a pumping system. A waste application or a pumping facility to empty the containment structure to the main lagoon will be necessary to provide winter storage capacity.

It is important to recognize the geologic anomaly of this area, the sink holes are a condition derived from the basalt layers hardening in a porous condition which has created tubes or channels through the basalt rock. This condition is buffered by the topsoil, is always present, and applied water can reach the basalt fissure when the topsoil is disturbed either by hydrologic, mechanical, or rodent activity. Awareness of this condition and vigilance is necessary to provide management action for closure of any sinkholes when they occur. The secondary berm discussed by the siting committee as a backup along the fence line would be a good precaution however; recognizing that the berm will be rather large if it is intended to provide much storage due to the slope of the field.

Reviewing the plan for the area south of the canal, it should be noted that Brockway engineering reportedly stated the bottom of the pond should be 40 inches above bedrock and my review of the test holes revealed most had an effective depth of 5 feet or 60 inches. As stated in the siting correspondence if depth is a concern, it is anticipated the storage width and height will become a factor in the siting footprint.

Sincerely,

Stephen N. Thompson
District Conservationist
USDA-NRCS, Gooding Idaho



IDAHO STATE DEPARTMENT
OF AGRICULTURE

ENGINEERING SERVICES



July 10, 2006

Ms. Judy Daubner-Davis
Administrator
Gooding County
Planning and Zoning Commission
PO Box 417
Gooding, ID 83330

RE: Ed Rosa Dairy #2 Expansion, Gooding County, CAFO Siting Team Follow-up

Dear Ms. Daubner-Davis:

A site suitability letter was sent to Gooding County from the CAFO Siting Team dated January 30, 2006 for the Ed Rosa Dairy #2. A mitigation letter was also sent to Gooding County on March 1, 2006 signed by John Bilderback.

The CAFO Siting Team revisited the property on June 21, 2006 to follow-up with the concerns addressed by the local area residents. The engineering report conducted by Brockway Engineering, Inc. was also reviewed.

For this letter and analysis of the dairy farm, I have separated the dairy farm into two parts:

- 1) North of the canal and
- 2) south of the canal.

North of the Canal

Upon further inspection by the CAFO Siting Team, there does appear to be geologic features of concern on the northwest property line (commonly referred to as sinkholes by the local community). This geologic feature is believed to follow the north property line. The soil pits evaluated by Brockway Engineering were approximately 225 feet or greater from the property line. This feature is believed to be a direct conduit to groundwater. As such, all property owners who have property (including property not owned by Mr. Rosa) that drain to this geologic feature along the north property boundary should be aware of the significant potential to impact groundwater. Any and all chemicals, nutrients and pesticides should be applied in accordance to crop uptake or in accordance to the labeling on the package. Any over application could lead to the chemical, nutrient or pesticide running off the property into the geologic feature and ultimately, into the groundwater.

According to the site plan, all the wastewater and runoff water from the Rosa facility north of the canal is planned to be held as in-corral containment. However, ISDA's Dairy Bureau is going to require a

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wastewater containment storage structure to capture and contain all of the wastewater and runoff water from all of the corrals. This system(s) must be designed and operated to allow wastewater to drain out of the corrals (in-corral containment is prohibited). If a wastewater containment pond is not built on the north side of the canal, a wastewater pump pit will need to be designed, built and operated to pump all wastewater and runoff water to the main waste containment pond.

Also according to the site plan, there is a composting area on the north side of the canal. Any composting area is required to be built to wastewater storage construction specifications and must be approved for use by ISDA before use.

Berming will be required to prevent runoff of wastewater from the land application and composting area north of the canal due to the vulnerability of the abovementioned geologic features.

In addition to meeting all the other State regulatory requirements, it is recommended a minimum of a 100' setback required for all feed storage, pesticide storage, chemical storage, corrals and waste holding structures (including containment berms) from the north property line. It is also recommended a secondary containment berm along the north property line should also be constructed to ensure an additional line of defense against runoff leaving the property and entering the geologic feature of concern. The secondary containment berm can be within 100 feet of the north property line.

South of the Canal

The CAFO Siting Team has concluded the soil investigation conducted by Brockway is sufficient to alleviate concerns about the geologic features of concern (also commonly referred to as sinkholes by the local community) and about significant groundwater contamination.

With that said and in particular when excavating the wastewater storage pond, the pond bottom should be greater than 40" from the bedrock base according to Brockway Engineering. (Please note: The state requirement is 24 inches above bedrock). From the site plan, a wastewater pond depth of 7 feet is shown and it will be assumed all 7 feet in depth is below ground surface. The wastewater storage pond's footprint may have to be enlarged to accommodate a more shallow depth if bedrock is encountered at a depth of less than 10 feet 4 inches (10' 4"). Additionally if other runoff water and wastewater from the site is pumped to the main waste storage containment structure, it is expected the volume of the main waste storage containment structure will increase which will more than likely include an enlarged footprint.

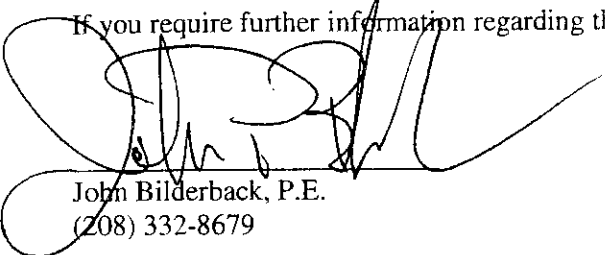
Additionally, from the site plan there is a runoff containment area listed as "Runoff Containment 2". Again, this area needs to be built to ISDA's wastewater storage containment requirements. As stated above, in-corral containment is prohibited. A feed storage area is depicted on the site plan in the southwest corner of the CAFO site. Runoff water and wastewater from this area also needs to be contained in a wastewater containment structure that meets ISDA requirements.

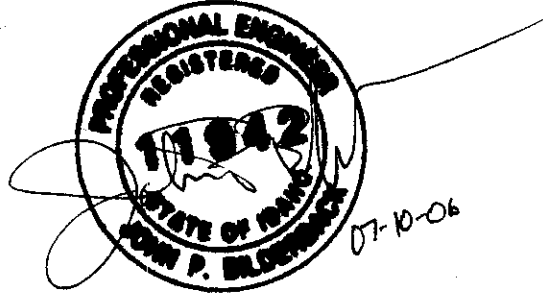
Lastly, the riding arena and the small horse corral in the northeast part of the CAFO site needs to have containment. From the site plan, no containment practice is listed.

Conclusion

There is a significant area of concern on this property, specifically the geologic features along the north property line. If additional county requirements are made, please ensure ISDA's Dairy Bureau and Engineering Services receives a copy of said requirements.

If you require further information regarding this letter, please feel free to contact me.


John Bilderback, P.E.
(208) 332-8679



Please note: CAFO Siting Team members and others present during the June 21, 2006 follow-up visit were Kathryn Dallas (IDEQ), Scott Miller (IDEQ), Lin Campbell (IDWR) Craig Tesch (ISDA), John Bilderback (ISDA), Judy Daubner-Davis (Gooding County P&Z Administrator), Steve Thompson (NRCS, Gooding County), Reagon Hatch (Owner's Consultant) and Ed Rosa (Owner)

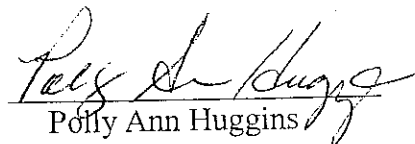
cc: ISDA: Pat Takasugi, Director; Phil Bandy, Deputy Director; Fred Rios, Ag Resources Deputy Administrator; Marv Patten, Dairy Bureau; Donell Fluckiger, Magic Valley Engineer; Craig Tesch, P.G., Ag Program Manager
IDWR: Helen Harrington, P.G., Technical Hydrogeologist; Lin Campbell, P.G., Technical Hydrogeologist
IDEQ: Joe Baldwin, P.G., Senior Environmental Hydrogeologist; Kathryn Dallas, Environmental Hydrogeologist; Scott Miller, P.G., Environmental Hydrogeologist

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 15th day of Sept 2006, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by the method indicated:

IDWR Document Repository PO Box 83720 Boise ID 83720-0098	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Court Folder ☐ Facsimile ☐ Federal Express
Allen D. Merritt IDWR - Southern Region 1341 Fillmore St Ste 200 Twin Falls ID 83301	☒ U.S. Mail, postage prepaid ☒ <u>Hand Delivery</u> ☐ Court Folder ☐ Facsimile ☐ Federal Express
Mr. Williams Fredrick, Williams, Meservy & Lothspeich, LLP PO Box 168 Jerome, ID 8338-0168	☒ U.S. Mail, postage prepaid ☒ <u>Hand Delivery</u> ☐ Court Folder ☐ Facsimile ☐ Federal Express
Heidi Olson 2154 B Hwy 46 Gooding, Idaho 83330	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Court Folder ☐ Facsimile ☐ Federal Express
Polly Ann Huggins PO Box 382 Gooding, Idaho 83330	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Court Folder ☐ Facsimile ☐ Federal Express
Nicole Reed Le Ann Reed 2094 Hwy 46 Gooding, Idaho 83330	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Court Folder ☐ Facsimile ☐ Federal Express
Steve Paulin 2185 S 1800 E Gooding, Idaho 83330	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Court Folder ☐ Facsimile ☐ Federal Express
Christine Davis PO Box 386 Hagerman, Idaho 83332	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Court Folder ☐ Facsimile
DIAMOND A LIVESTOCK 1997 S. 1875 E. Gooding, ID 83330	☒ U.S. Mail, postage prepaid


Polly Ann Huggins