

Commissioners Minutes

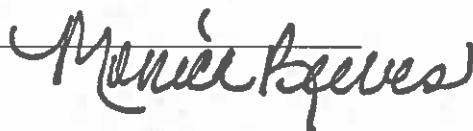
May 30, 2024 – 1:31 p.m. to 4:42 p.m.

**PUBLIC HEARING: APPEAL BY DANNY AND DEBRA CARDOZA OF THE P&Z COMMISSION'S APPROVAL OF CASE NO. CU2022-0036, A CONFINED ANIMAL FEEDING OPERATION FOR AK FEEDERS, LLC, CASE NO. CU2022-0036-APL**

Commissioners Brad Holton, Zach Brooks and Leslie Van Beek

Deputy PA Laura Keys, DSD Principal Planner Debbie Root, DSD Planning Supervisor Carl Anderson, DSD Assistant Director Jay Gibbons, DSD Director Sabrina Minshall, Debbie Cardoza, Danny Cardoza, Mike Lynn, Allie Schiebout, Christina Marston, Susie Lynn, Stephanie Gibbons, Leonard Larson, Joan Mathew, Rebecca Mathew, Derrick Marston, Janice Nowak, Anthony Isaak, Susan Isaak, Vernon B. Case, D. Hawe, Raleigh Hawe, Barbara Case, Dee Dee Alderson, Victoria Case, Vernon E. Case, Deidre Brown, Randall Brown, Nickie Shira, Nolan Shira, Todd Lakey, Matt Wilke, Matt Thompson, Thomas Haren, Alan Mills, Chalyse Edgar, David DeBenedetti, Christopher Rueth, Noel Gomez, Dan Weitz, Kaylee Stoddart, Ty Tolliver, Justin Bayes, Doug Mikelson, Courtney Rueth, Blaine Olmstead, Gabriel, Zachary Anderson

Deputy Clerk Monica Reeves



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The Board met today at 1:31 p.m. to conduct a public hearing in the matter of an appeal by Danny and Debra Cardoza of the P&Z Commission's decision to approve Case No. CU2022-0036, a request by AK Feeders for a confined animal feeding operation (CAFO) permit to expand the existing cattle feedlot operation, Case No. CU2022-0036-APL. The property is located in an "A" (Agricultural) zone at 21696 State Line Road in Wilder. Present were: Commissioners Brad Holton, Zach Brooks and Leslie Van Beek, Deputy PA Laura Keys, DSD Principal Planner Debbie Root, DSD Planning Supervisor Carl Anderson, DSD Assistant Director Jay Gibbons, DSD Director Sabrina Minshall, and Deputy Clerk Monica Reeves. Those in favor of the appeal included: Debbie Cardoza, Danny Cardoza, Mike Lynn, Allie Schiebout, Christina Marston, Susie Lynn, Stephanie Gibbons, Leonard Larson, Joan Mathew, Rebecca Mathew, Derrick Marston, Janice Nowak, Anthony Isaak, Susan Isaak, Vernon B. Case, D. Hawe, Raleigh Hawe, Barbara Case, Dee Dee Alderson, Victoria Case, Vernon E. Case, Deidre Brown, Randall Brown, Nickie Shira, Nolan Shira. Those in opposition to the appeal included Todd Lakey, Matt Wilke, Matt Thompson, Thomas Haren, Alan Mills, Chalyse Edgar, David DeBenedetti, Christopher Rueth, Noel Gomez, Dan Weitz, Kaylee Stoddart, Ty Tolliver, Justin Bayes, Doug Mikelson, Courtney Rueth, Blaine Olmstead, Gabriel, and Zachary Anderson.

DSD Principal Planner Debbie Root gave the oral staff report. The appellants, Danny and Debra Cardoza, live adjacent to the subject property. The feedlot location will not be immediately

adjacent to their house in accordance with the setbacks required through the CAFO ordinance. AK Feeders is requesting a conditional use permit (CUP) to provide for a 3,700-head confined animal feeding operation for beef cattle on approximately 80 acres of Parcel R37348010. The parcel is 163.23 acres, and the 80-acre site location is located at 21696 Stateline Road in Wilder. The property is zoned agricultural and a CAFO is an allowed use by CUP in an agricultural zone. On November 16, 2023, the P&Z Commission approved the CAFO permit subject to the conditions of approval as amended. On January 3, 2024, Danny and Debra Cardoza filed an appeal and are requesting the Board deny the permit. Their appeal indicates the following concerns: traffic impacts, impacts to wells, increased facility footprint, environmental impacts, reduced property values, violations of statutory and constitutional rights, violation of notice and hearing procedures, neighborhood meeting requirements, and violations of due process. In 2022, AK Feeders rebuilt and expanded the existing feedlot to accommodate the number of cattle that are permitted on the site, up to 999-head based on ordinance requirements and the amount of acreage owned by AK Feeders and the DeBenedetti Family. Therefore, the permit being sought is for a new CAFO facility. Planner Root reviewed the regulatory jurisdiction; CAFO permit criteria; site history; and character of the surrounding area. The proposed application, as mitigated by the siting team and Idaho State Department of Agriculture (ISDA) requirements and by the proposed conditions of approval, meets the overall intent and purpose of the comprehensive plan. In response to neighborhood comments, the applicant reduced the original number of proposed animals from 6,000 to 3,700 and relocated the initial proposed facility to the current site location south of the Allen Drain. Staff received letters of opposition from the neighbors noting concerns about noise, dust, flies, odor, lighting, traffic and safety on multiple sharp curves on Stateline, Peckham and Red Top Roads, water contamination, nitrate pollution, shallow wells, a more intensive use of water at the facility, viewshed and changing character of the area, interference with wildlife including the migratory snow geese, and decrease in property values. Staff reviewed and incorporated many of the concerns and views in the findings for the P&Z Commission's consideration as well as the Board's consideration. Many of the concerns are woven into the fabric of living in a predominately agricultural area with intensive agricultural crop and livestock production. Staff has provided draft conditions of approval to provide for mitigation of many of the concerns as well as regulations that the CAFO operator is required to comply with. Planner Root was advised that during the process of document transmittal on April 7, 2024, some of the exhibits were not received. The appellants' attorney transmitted a link for staff to access the file; however, staff did not receive the appellants' presentation file nor the exhibits they marked as A through F. Following the staff report, Planner Root responded to questions from the Board.

Testimony in favor of the appeal/in opposition to the CAFO expansion was as follows:

Allie Schiebout, the attorney representing the appellants, asked to enter the missing exhibits into the record which includes her presentation as well as the nitrate reports which are one of the biggest components of their appeal. There was Board discussion regarding the request to enter the late exhibits. Director Minshall said this hearing was scheduled prior to the adoption of the new ordinance which says late exhibits cannot be accepted, but it is at the Board's discretion. If

the Board chooses not to accept them there could be a verbal reading into the record of the information from the presentation and as long as in the findings you are not referring to something on the applicant's presentation then that would be an option if you do not want to enter it into the record. The other option is continue the hearing and keep the public comment period open to enter it at that point. The Board allowed Ms. Schiebout to read her presentation into the record which included the following nitrate information:

On February 10, 2021, tests were conducted at 26550 Upper Pleasant Ridge Road by Analytical Laboratories and the nitrate levels at that time were 4.7 milligrams per liter. On January 17, 2023, a test was conducted by Western Laboratories, Inc., at 31252 Peckham Road in Wilder and the nitrate level was 6.53. On December 12, 2023, a test was conducted by Analytical Laboratories, Inc., on the sample water discharge at Stateline Road and Peckham Road and the nitrate level was 9.4. On March 19, 2024, there was a certificate of analysis from the Idaho Department of Health and Welfare, and it was done on the private well on the Cardoza residence. The nitrate level was 13.3. A report was done on Stateline Road at the Allen Ditch on December 21, 2023, and that nitrate level was 10.7.

Planner Root noted that the analytical laboratory reports are in the staff report identified as Exhibits Y through EE and were provided by Ms. Cardoza. The Board had questions for staff.

Ms. Schiebout testified that the Cardozas are supportive of agricultural and have managed cattle and horse ranches for over 30 years, they are not however, supportive of large-scale agriculture that injures the environment, the residents, and the property surrounding it. She reviewed the FCO's dated December 21, 2023 where the P&Z Commission used the elements stated in County Code to outline their findings, unfortunately many of the findings were misplaced and disregarded evidence brought forward by their constituents and fellow residents. They showed the P&Z Commission that their rights have been violated and they are currently are and will be injured by the expansion of the feedlot. The conditions are not enough to address the concerns. She said the P&Z Commission acknowledges that the proposed use potential to impact water quality as evidenced by the high-risk score in the siting team report. There have been water analysis results read in to the record. The Idaho Depart. of Health and Welfare finds that high levels of nitrate in drinking water are often caused by groundwater contamination from animal waste runoff at dairies and feedlots. At the Cardoza home in August of 2019, the nitrate levels were 1.3, and in January of 2023, the nitrate levels were 6.53 before the feedlot was approved. In March of 2024, only 3 months after the feedlot was approved, the Cardozas' well tested at 13.3 milligrams per liter for nitrates. Even with setbacks and other conditions imposed on AK Feeders, the Cardozas' well has more than doubled in nitrates and is already higher than the safe levels permitted by the EPA and the Idaho Dept. of Health and Welfare. Testing was done in surrounding areas in December of 2023 and water discharge found on Stateline Road and Peckham Road tested at 9.4 for nitrates. The Allen Ditch tested at 10.47 milligrams per liter for nitrates. The P&Z Commission acknowledges that area residents are concerned about an increase in truck traffic to/from the proposed facility. There are several 90-degree or sharp turns on Peckham and Red Top Roads.

They acknowledge this is an agricultural area that is expected to have agricultural traffic, including tractors, harvesting equipment, semitrucks and trailers as well as residential vehicles. The Cardozas' know this is agriculture, but introducing very large trucks and heavy traffic is unsafe. The P&Z did not find evidence supporting the claims of injury including loss of property value or enjoyment of their properties. It is displaced to expect property owners to show evidence of their specific properties' devaluation when the full expansion of the feedlot has not yet begun. Property values will decrease when there is noise, traffic, smell and high nitrates in the drinking water. The property was used to wean calves, it was never indicated to be a feedlot. Mr. Cardoza has COPD and asthma and has had to increase his dose due to the dry scraping. There is a Supreme Court case pending, Docket No. 514652024, which deals with some of the same issues we see here, and it has been in active litigation since 2021. The site committee found that the area is high risk. Ms. Schiebout said this feedlot is contrary to local and state law and the Board must reconsider the findings of the P&Z Commission and ensure it upholds the quality of life of its residents' right to freely use and enjoy their property.

Dee Dee Alderson testified that approving an expansion like this over a highly vulnerable groundwater a stone's throw away from the Snake River would be irresponsible. Industrial-scale agriculture and livestock operations in this area are going to have profound health impacts in the area. Last month groups in Iowa filed an emergency petition with the U.S. EPA to step in to protect the public from nitrate contaminated drinking water. Canyon County should not become the next community to need emergency action just so the residents can drink their own water. The water table is too high which can be seen by the wetlands next to the Cardozas' property. The increase of calf cow numbers will contaminate the wells and the property in question is already deemed high risk.

Deidre Brown has lived in the Treasure Valley her entire life and in 2001 she moved to the area and raised her family there. She is pro-agriculture, but she is not pro-CAFO. She did not move next to a feedlot. The feedlot they are referring to did not exist in the 20 years she has lived in the area. They have fed some cows and they have installed fences in the last couple of years and that's probably why the Cardozas have seen an increased amount of nitrates. In the winter there are large puddles of water due to the amount of moisture out there. She has no faith in how this cattle operation is going to be run; there is no test water site or water testing to confirm whether they will impact the neighbors. She is frustrated by the underhanded things that have gone on and as a taxpayer and citizen she expects the government to enforce the regulations, but she has not seen that occurring.

Rebecca Mathew testified she purchased her property in the area for the views of the Owyhees, the fresh air, and the clean air and the people in the community. Consider the impact of 3,700-head of cattle on 80 acres. A cow will produce approximately 60 pounds of manure of day. 3,700 cows will produce 222,000 pounds of manure in a day. That is 81 million pounds a year. There are great concerns as to the location for the removal of the manure. This feedlot will result in the reduction of air quality and reduce property values and water quality. The Allen Drain runs across

80 acres of the feedlot and it empties into the Snake River on the Oregon side. It is a great concern that the air and water quality regulations are not and will not be enforced. The Cardozas spent their life savings to purchase their property which is located on the boundary of AK Feeders and where the feedlot will exist and at the time of their land purchase, AK Feeders grazed their cattle on the land, no feedlot existed. Moving forward with the feedlot will greatly reduce the quality of life as well as the value of their home and property and all the properties surrounding this area. Ms. Mathew said she would not have purchased her property 29 years ago had the feedlot existed.

Christina Marston testified that her property has been in the Marston Family for over 100 years and she and her husband have owned it since 2005. She was raised by a farm family that operated feedlot and a cow calf operation, and row crops in Iowa. She is pro-agriculture. She has lived across the road from AK Feeders for nearly 20 years and in the last year she has seen changes that have greatly affected her day-to-day life with the addition of the feedlot pens the flies have greatly increased to point her house needs scrubbed of fly waste. The smells have become so bad they are unable to open windows or enjoy their yard, and when it rains it takes your breath away. She is concerned about the loss of property value and quality of life, and the health risks. She runs a business from her property where the equipment gives off so much heat she has to open the garage doors but because of the flies and odor she is unable to do that. Flies poop on the clothes she stores in her shed, ruining them. This did not happen before last summer, and she is concerned if the CAFO goes across the road her business will fail and she will be unable to operate in the building she built for it. Red Top Road is dangerous and there are abnormally dangerous intersections in the area. Stateline Road is crumbling into a drain ditch and it is so narrow a pickup and a semi cannot meet each other. The right-to-farm act does not give a farmer the right to make life-altering changes to their neighbors. AK Feeders has never been listed as a feedlot on previous paperwork.

Derrick Marston agrees with his wife's testimony and believes they will be injured with regards to property values with the possible contamination of their wells, and the enjoyment of property. The December 21, 2023, lab report says the Allen Ditch and Stateline Road area had a nitrate level of 10.7. The E. coli level was at 260 mpn per 100 milliliters which is very high to be draining into the Snake River. It was indicated the Allen Drain would be protected with berms but the water discharge at Stateline Road is obviously going under the road and draining that property which is likely where the wetlands indication is coming from. It's E.coli level was 74 which shows that's surface water that's getting into the drain and making it to the river.

Nicki Shira testified she agrees with the testimony given so far and said the greatest concern other than the tremendous impact it could have on the quality of life, is the water quality. The CAFO presents health concerns regarding groundwater contamination, and it poses a high risk for health and/or for contaminating ground or surface water.

Debbie Cardoza testified that her property shares a fence line with AK Feeders and the additional 3700-head of cattle should not be allowed. The Cardozas purchased their property in 2019 and when her well was tested it had 1.3 nitrate level milligrams per liter. Last year the nitrate level

was 6.4 and in March of 2024 it was at 13.3. It's a high risk area because the soil is sandy loam right next to the Snake River. The Allen Drain is entirely on the DeBenedetti property or properties he leases for his cattle, and it starts underground and goes across Peckham Road and then behind her property, through where the feedlot area is going to be adjacent to, and into the Snake River. The cattle are constantly in the wetland behind her property. The Assessor has devalued properties that are adjacent to the feedlot on Peckham Road and if she tried to sell now it would be difficult. 3,700-head is not a family farm, or a small farm in a rural residential area and it is going to be difficult for the Cardozas to be next door to the operation. They are going to have three lagoons that will be open constantly and it will bring a lot more issues to the area. Mrs. Cardoza also spoke of the dangerous road concerns with cattle trucks.

Commissioner Van Beek had questions for staff and Debbie Cardoza regarding the Cardoza's property appraisal.

Danny Cardoza agrees with his wife's testimony. There is a 2-acre wetland behind his house that AK Feeders have filled with water, and they've had cattle and ducks in it. It's only 30 feet from the fence line and 50 feet from his house.

The Board took a break from 3:26 p.m. to 3:36 p.m.

Testimony in opposition to the appeal/in support of the CAFO expansion was follows:

Matt Wilke offered testimony on behalf of AK Feeders. The proposed site consists of 79.6 acres and they will have a 3,700-cow capacity with an average weight of 750 lbs. The area is predominately agriculture, and they feel the operation will benefit the local ag community by providing jobs onsite and offsite such as laborers, mechanics, truck drivers, veterinarians, equipment sales, and farmers. It will also create a local market for cattle feed and supplies. Studies have shown feedlots and dairies have a positive impact on crop and land values, and that for every dollar generated there is a multiplier effect; for example, beef has the largest output multiplier of \$2.05 meaning every dollar generated for exported beef and additional indirect output of \$1.05 from other industries, local labor, and locally produced hay comes in. After the beef multiplier, the other industries are considerably lower such as medical/health, entertainment, communications, fire personnel services, in nine other sectors between 1 and 1.2, including agriculture and hay. Indicating that most of those entities purchase most of their supplies, labor, and equipment from outside the study areas. Cattle feeding operations are a vital part of the sustainability of local farm producers who produce forage crops such as hay and corn. Manure produced is an excellent fertilizer and is a valuable resource. Manure produced onsite will be utilized on neighboring fields, third-party export. The organic material applied will improve soil structure, aeration, soil moisture, holding capacity and water infiltration. All manure will be contained and stacked in pens and removed from the pens to a third-party export. There is no need for a site to stack compost within the boundaries. Dry manure typically releases its nitrogen over a 5-year or longer period once it's applied to the soil. This slow release is much safer than chemical fertilizers and typically doesn't leach into aquifers and is the fertilizer of choice, especially

in sandy soils where chemical fertilizers can leach the worst. It typically only releases 35% of its available nitrogen into the soil during its first year of application and for these reasons they believe groundwater and surface water pollution is an extremely low risk. The site will have three stormwater retention ponds. No waste water will leave the site. No wastewater currently leaves the site. Design and construction of the lagoons will be in compliance and will meet and exceed engineering requested by the ISDA. They have satisfied all setback requirements. They are west of the nitrate priority area, and they are downgradient of the nitrate priority area so it's interesting to hear the accusations of the operation increasing nitrates in the area when there are much higher nitrates to the east, and he said it could even be coming from the Wilder sewer plant which discharges into the drains. There is no proof the cattle are contaminating the water. This property is not in the floodplain. The Idaho Department of Water Resources has approved the stock water permit for 3,700 head of cattle, and they propose a second well that will help with redundancy. No cisterns will be required due to the ample water supply. The nutrient management plan was approved on March 15, 2023. The Golden Gate Highway District and the Oregon Department of Transportation have reviewed the plans and have no requirement for a traffic impact study due to the traffic generated being below the rule thresholds. They will require a paved approach onto Stateline Road upon approval. Traffic is only anticipated to increase from 13 to 24 average annual daily trips; that is 11 extra trips per day. They received a risk score of 40 from the site evaluation, and that is only 3 points above the cutoff for a moderate score. This score is the starting point to decide how to mitigate risks. The site was evaluated on September 9, 2023, management and mitigation are not factored into this determination; it is a physical characterization of the site only. Many improvements have been engineered into the plan to mitigate the risks. The site has had waste inspections since 2006. Prior to the increase in animals, improvement will take place to prevent waste water from entering surface water bodies or entering groundwater. The risk factors can be easily mitigated. The waste management plan outlines how the applicant will control waste and nuisances, pen management, drainage, and regular manure removal. There will be stormwater pond management if necessary. Pests will be controlled by preventing food sources and habitat. For flies, regular pen scraping, baits, and chemical treatments work very well. The site has been used for cattle since 1907. They received over 155 letters of support from neighbors, businesses, area farmers and ranchers. The applicant will comply with the conditions of approval. Regarding home values, Mr. Wilke said the Cardoza property is at a 125% increase in assessed value in the last 5 years. They bought it for \$270,000 in 2019 and last year the assessed value was \$420,000. Following his testimony, Mr. Wilke responded to questions from the Board.

Todd Lakey testified he is representing AK Feeders and he thanked Planner Deb Root for her excellent analysis and recommendation of approval in her staff report. This property and all the property in the area is zoned agriculture. The comprehensive plan designates the property as agriculture and it states the land use designation is the base designation throughout the County and contains areas of productive irrigated croplands, grazing lands, feedlots, dairies, seed production and ground of lesser agricultural value. The agricultural zone and designation are where agricultural uses like feedlots exist and where they are supposed to be located. This

property is not near any city, impact area, or any platted subdivision. There are a few residences in the area, but this is an agricultural area, not a residential area. Residences may require some mitigation through conditions of approval, but those residential uses should not be allowed to interfere, stop, or exclude agricultural uses. The siting team noted that the risks associated with the physical site are easily mitigated through the operational best management practices, compliance with applicable regulations, and the conditions of approval that are included on this application. This property has been a feedlot based on Mr. Bishop's letter whose family bought the property in the 1950's and it has been raising up to 1,500 head of cattle. There are also similar uses and large-scale agriculture in this area. This use does not change the agricultural character of the area and as conditioned will not negatively impact that agricultural character. Traffic will only increase by 11 additional daily trips. There are numerous goals and policies in the comprehensive plan that support the application, and there are 155 letters of support that show the multi-layered impact of this proposal.

Matt Thompson testified he is a professional engineer who works with agricultural professionals, and he was hired by AK Feeders to help with their permit application and in designing the site to meet county and state requirements. They developed the waste management plan, nutrient management plan, and submitted an engineering response to the appeal. The siting team's assessment is a physical assessment of the site, it doesn't take any consideration of the design or proposed management of the site, it's simply an evaluation to highlight the characteristics of the site and draw attention to the things we should be paying attention to. The best management practices can address the issues identified. This feedlot is proposing to put the grading on the site up front and they propose to establish a 2% slope inside those pens to encourage the drainage out of the pens to prevent nitrogen from leaching into the groundwater. The drainage and pen maintenance program will prevent bugs and flies from laying eggs and encourage the manure to dry out. They propose a harrow that doesn't dig into the soil so they can maintain the integrity of the soil. Following his testimony, Mr. Thompson responded to questions from the Board.

Thomas Haren is the owner of Ag Professionals and they put together some of the application materials for this case. They are advocates of animal agriculture, CAFO's, and help develop dairies around the country and he believes this project has been vetted very well. They are going from a grandfathered animal feeding operation to a concentrated animal feeding operation. He said *concentrated* gets confused with *confined*. The regulatory one is concentrated animal feeding operations which under state regulations and the Clean Water Act is a 1,000-head or above which is the highest standard. There has been a lot of work to improve the operation, the function, the nuisance management. This facility will have the latest and greatest requirements from an engineering and EPA regulatory standpoint but also the 25 conditions of approval that are proposed to be placed on this facility and all of that makes for a better project and better outcome for the community because if this does not prevail you will have an older facility with less stringent requirements that would-even with the expansion of the new facility-be better in operation and nuisance management environmental controls than even the existing facility. Following his testimony, Mr. Haren responded to questions from the Board.



Alan Mills testified that he served on the committee that developed the CAFO ordinance and the intent was not to prohibit CAFO's but to reasonably place, site, and regulate them correctly. Regarding the effects of nitrates and illnesses, he previously looked into it could not find one case related to nitrate illnesses in hospital records. The information could be different today, and perhaps it should be checked into whether there are problems with nitrate-related illnesses.

Chalyse Edgar lives adjacent to the subject property and testified that she and David DeBenedetti are the current owners and operators of AK Feeders, and she presented their combined thoughts. The DeBenedetti Family has had a footprint in Idaho since 1943 starting with Idaho Meat Packers in Caldwell, and Idaho Meat and Provision in Boise. Their children have graduated from Parma, Vallivue, Boise State University, and Colorado State University and have owned and operated their own businesses, and two are managing the current operation of AK Feeders. They operate ranches in Idaho and Oregon and are seeking to expand the ranch that already has an existing feedlot that has been fully regulated and inspected on an annual basis by the ISDA. When they originally proposed to have an expansion of 6,000 head they had a neighborhood meeting and recognized the neighbors' concerns and they reduce the request to 3,700 animals after working with consultants and looking at the regulations and specifications. All feed is purchased locally, and goods, services, and maintenance are fulfilled by local suppliers. They have owned properties locally, as well as in Oregon and California. Ms. Edgar said her property has not suffered from property devaluation. As to why the Case Family placed concrete blocks in front of their fence on a corner, she said that has nothing to do with AK Feeders existing operation or future operations. There are a lot of issues, but it cannot be blamed or said to be increased by something AK Feeders is doing or proposing.

Dan Weitz testified the applicants have spent a lot of money hiring people to make sure this operation is going to work, and the ISDA, DEQ, EPA, and engineers are making sure it is compliant. As a large landowner Mr. Weitz said they appreciate the County's efforts to follow the comprehensive plan and enforce the right-to-farm law. This is a small operation in the right place. He said people move to rural areas to get their piece of paradise and bring their beliefs of what land use laws should be. Agriculture has been displaced in the areas of impact and the County is holding the line on subdivisions outside of the area of impact and he appreciates that, but he takes exception to people moving to the area to try to control agriculture to drive it out. Regarding nitrates, it is generally a cultural practice in a local area on a domestic well that is shallow versus a deeper irrigation well.

Rebuttal testimony was offered by Allie Schiebout who said what needs to be considered is the substantial rights of the surrounding citizens and their properties and this is the exact reason there is litigation in front of the Idaho Supreme Court. Mrs. Cardoza informed her the new plan on slide 3 of the presentation was never brought up at a neighborhood meeting and she has not seen proof of the meeting, so she doesn't believe the noticing requirements have been met. The dates/times when traffic will occur are substantial and suggest the heaviest traffic will be in the morning from 7:00 to 9:00 a.m. and in the evening from 3:00 to 5:00 p.m., during commute times. The livestock

facility reports were discussed and when requested from the ISDA they were told that from 2006-2023, seven of the reports are missing and the ones they do have indicate it was not a feedlot. The Assessor has shown a property value increase in the last five years, but that's not an indication that property values will not decline. The 2019 appraisal was brought in to show there was no indication of a feedlot in 2019 when the Cardozas' property was appraised. Mrs. Cardoza informed her that that P&Z Commission had told AK Feeders to move the pens to account for a 50-foot setback, but that has not occurred and is another example of a condition that is not being followed. When it comes to water and nitrates, it's not whether we are fearful of it, it's whether it could occur and if it did is that a violation of the Cardozas' rights, and Ms. Schiebout thinks it is. There is a difference between getting approval for a feedlot and examining and determining the property rights granted by the US, Idaho, and Canyon County laws. She asked the Board to remember its mission statement which is in part to promote values that ensure quality of life for present and future generations of Canyon County residents.

Commissioner Holton asked staff to describe the neighborhood meeting process. Planner Root said the neighborhood meeting concerns came up from multiple citizens indicating the site plan presented at the neighborhood meeting was not the site plan being presented at the hearings. The County's legal counsel discussed that at the underlying hearing and indicated this is a typical issue with neighborhood meetings which are conducted prior to application and for the benefit of the applicant and property owners to show what they are proposing and what the concerns are and frequently those site plans are modified either after discussions with staff or as a result of the feedback from neighbors. In this case, the plan was modified and it reduced the number of cattle proposed and it moved the site facility from north of the drain and took one property out of the request for approval which would have allowed for that CAFO facility to be located closer to many of these property owners and so if the site plan or application had changed, such as if it had been increased or the acreage had been increased staff would have required that the applicant reconduct the neighborhood meeting to show that increase. Because it was a decrease and a relocation on properties that were part of the neighborhood meeting, there was not a need to reconduct the meeting because it was in response to feedback. The neighborhood meeting was conducted, people were aware, the application was posted online, and the additional documents were posted online when the site plan changed so legal counsel and staff believe the meeting requirements have been met. Ms. Root further noted that there were no additional exhibits, and the Board did not accept the late exhibits that were proposed today. Upon the motion of Commissioner Van Beek and the second by Commissioner Brooks, the Board voted unanimously to close public testimony. Commissioner Brooks said it would be unfair if the Board were to try to hurry through deliberations considering the staff report is 1,000 pages. Commissioner Holton agreed and said it's almost 5:00 p.m. at which time the courthouse will close so he thinks it's best to continue the hearing to another date. He then made a motion to continue the hearing to Monday, June 17, 2024, at 1:30 p.m. for Board deliberation. Public testimony has been closed. The motion was seconded by Commissioner Brooks and carried unanimously. The hearing concluded at 4:42 p.m. An audio recording is on file in the Commissioners' Office.