

MEMORANDUM OF UNDERSTANDING
BETWEEN JEROME COUNTY AND THE CAFO SITE ADVISORY TEAM
RELATIVE TO CAFO SITINGS

THIS AGREEMENT entered into between Jerome County (“County”) and the Confined Animal Feeding Operation (“CAFO”) Site Advisory Team (“Team”), comprised of representatives from the Idaho State Department of Agriculture (ISDA), Idaho Department of Environmental Quality (IDEQ) and Idaho Department of Water Resources (IDWR) is relative to CAFO Sitings. The Team coordinator shall be Patrick Takasugi, Director of the ISDA.

WHEREAS, in the spring of 1999, the Idaho Association of Counties (IAC) Legislative Committee formed an ad hoc subcommittee to study the county role in regulating confined animal feed operations CAFOs; and

WHEREAS, the subcommittee decided to convene a task force of interested parties to gather input on the issues; and

WHEREAS, the task force recommended the formation of a CAFO Site Advisory Team; and

WHEREAS, the Team as defined above may invite representatives of the State Universities of Idaho and the following federal agencies; U.S. Environmental Protection Agency (EPA), U.S. Natural Resources Conservation Service (NRCS), U.S. Geological Survey (USGS), and the United States Department (USDA) Agricultural Research Service, to participate as advisors/consultants to the Team; and

WHEREAS, the Team is expected to utilize existing resources on this CAFO siting program for FY 2001; and because of funding and staff limitations, the signatory parties may prioritize which applications to review. The IAC and the Team will review the Team program as needed during the first year of the program’s operation and will prepare recommendations for its improvement, including operation and funding.

THEREFORE, in consideration of the following mutual promises, obligations, and conditions, the parties do hereby agree as follows:

COUNTY RESPONSIBILITIES:

The County shall submit the following information from CAFO applications to the Team for evaluation by the Team:

1. Legal description and address of the proposed facility; and
2. The one-time animal unit capacity of the proposed facility; and

3. The type of animals to be confined at the proposed facility; and
4. Evidence that a valid water right exists to supply adequate water for the proposed facility or a copy of either an application for permit to appropriate water or an application to change the point of diversion, place, period and nature of use of an existing water right that has been filed with IDWR, which if approved, will supply adequate water for the proposed facility.
5. Vicinity map with the proposed site location. If available, a detailed sketch of the site location on an aerial photograph with the following:
 - A. Building locations; and
 - B. Waste storage facilities, and/or general areas for land application (including a narrative description of the waste system); and
 - C. FEMA flood zones or other appropriate flood data for the facility site and land application sites owned or leased by the applicant; and
 - D. Private and community domestic water wells, irrigation wells, and existing monitoring wells, existing injection wells as documented by the IDWR; irrigation canals and laterals, rivers, designated wetlands, streams, springs, and reservoirs which are within a one (1) mile radius of the proposed facility.
6. A characterization of the proposed facility and any land application site(s) owned or operated by the applicant, that, if available, includes the following information:
 - A. Annual precipitation as contained in the Idaho Waste Management Guidelines; and
 - B. Soil Characteristics from NRCS.
 - C. Hydrogeological factors from IDWR, ISDA, IDEQ, and USGS including:
 - i. Depth to first water-yielding zone and first encountered water; and
 - ii. Direction of ground-water movement and gradient; and
 - iii. Sources and estimates of recharge; and
 - iv. Seasonal variations in water level and recharge characteristics; and
 - v. Susceptibility to contamination; and

- vi. Ground water/surface water relationships.
- D. Water quality data from IDEQ, ISDA, IDWR, and USGS, including:
 - i. Microorganisms (bacteria or single-cell); and
 - ii. Nutrients; and
 - iii. Pharmaceuticals and organic compounds.

TEAM RESPONSIBILITIES:

The Team shall evaluate CAFO applications submitted by the County to the Team for review as follows:

1. Once the CAFO application is complete and submitted to the Team, the Team (or their designee(s)) shall conduct an on-site evaluation. Unless specifically waived in writing, the applicant and/or owners and/or county officials (or their designees) shall always be present during evaluations of the Team.
2. The completed CAFO application shall be reviewed and a Suitability Determination shall be submitted to the County's Planning and Zoning Commission by the Team coordinator within thirty (30) days of the Team's receipt of the application. The Suitability Determination shall:
 - A. Identify which of the following environmental risk categories a proposed CAFO site falls into: 1-high risk, 2—moderate risk, 3—low risk or 4—insufficient information to make a determination.
 - B. Describe which technical factors contribute to high, moderate and low, or insufficient risk categories. Along with designation of a risk category, the Suitability Determination shall indicate whether or not mitigation of risk is possible based on available technology, BMP's, etc. The Suitability Determination shall be signed by the Team members or their designees.

MISCELLANEOUS:

1. Nothing in this MOU prohibits the applicant from submitting further information to the County subsequent to the release of the Suitability Determination.
2. The County is not prohibited from requiring information in addition to that required by this MOU and is not required to follow the recommendations of the Team.
3. Modification. No change, modification, or waiver of any term of this MOU shall be valid unless it is in writing and signed by all parties.
4. Term. This MOU term shall begin on the date of the last signature and shall remain in force until terminated. Any party may terminate the MOU any time by giving sixty (60) days' written notice to the other.

5. Agencies' authorities. This MOU shall not enlarge or diminish or otherwise affect any authorities of the parties, including those agencies that are members of the Team. This MOU and the Suitability Determination shall not prevent or be determinative of any actions allowed or required by state agencies under existing authorities, including without limitation, or any permitting authorities.

6. The Suitability Determination may be offered as evidence, or otherwise submitted, before ISDA, IDEQ, IDWR or other agency of the State of Idaho in any proceeding relating to the CAFO, provided however, that the Suitability Determination shall not be deemed determinative of issues required by statute or rule to be determined by the state agency.

DATED this 24 day of July, 2000.

JEROME COUNTY
BOARD OF COMMISSIONERS

IDAHO STATE DEPARTMENT OF
AGRICULTURE

/s/ July 24 2000
Roy Prescott, Chairman Date

/s/ 7-12-00
Date

/s/
John M. Toolson, Jr., Commissioner

IDAHO DEPARTMENT OF
ENVIRONMENTAL QUALITY
/s/ 07 12 00

/s/
Alvin R. Chojmacky, Commissioner

IDAHO DEPARTMENT OF WATER
RESOURCES

/s/ July 12, 2000

Attest:

/s/ 7-24-2000
Cheryl Watts, Clerk Date