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June 26, 2019

Millard County Commission
c/o Marki Rowley, Recorder
71 South 200 West
PO Box 854
Delta, Utah 84624

Millard County Planning and Zoning Commission
c/o Angi Meinhardt, Secretary
71 South 200 West
PO Box 854
Delta, Utah 84624

***RE: Comments to Proposed Ordinance relating to Concentrated
Animal Feeding Operations***

To Whom It May Concern,

We, the Mayor and City Council of Delta City, desire this letter to serve as a public comment of the governing body of Delta City regarding the proposed Animal Feeding Operations ordinance being considered by Millard County.

Agriculture is a very important part of our county and we certainly do not want to deter people from wanting to come here and run a successful animal operation. As elected officials of the biggest city within that County, we respect, honor, and appreciate our agricultural roots, and the importance agriculture plays in the economy of the County and Delta City. While we hold deep respect and appreciation for agriculture, we believe it is important to carefully balance the competing interests of all contributors to our collective economy. This is often easier said than done, and we acknowledge the difficulty of balancing multiple competing interests. Know that your efforts and service are appreciated.

We have significant concerns regarding the draft Concentrated Animal Feeding Operations Ordinance (the "Ordinance"). Some of these concerns include:

I. Providing no Distinction Regarding Type of Animal

The draft contains no distinction regarding the type of animal that will be housed in a feeding operation. We believe that the ordinance can and should treat different types of animals differently. As just one example, noxious odors and other unappealing byproducts of a cattle operation could potentially be vastly different than a swine operation. Thus, a separation area or “buffer zone” for one species could and should be different than another.

We believe the draft may attempt to address this issue by including the definition of “**Confined Concentrated Animal Feeding Operation**” assuming the probability that a swine operation would, by necessity, fit the definition of confined. Our concerns with this regulatory tactic are multiple. First, if the County has concerns that a pig operation would have greater adverse effects upon surrounding areas, the County should squarely regulate that use, *i.e.* call a pig a pig, and address the issue directly and not leave open the possibility that a creative applicant could utilize the definition of “confined” to create a use and result that the County wants to avoid.

Second, for animal feeding operations of any magnitude, it is impossible to keep all components of the operation contained behind confined doors. Smells emanate. Manure must be removed, and so on. Relying on operations being confined is not enough to alleviate the negative effects of such operations on surrounding areas.

II. Buffer Areas Generally

The elephant in the room on this issue is the distance such operations be from more densely populated areas of the County. We understand that the answer to this question is not as simple as just stating a distance, and that being the end of discussion. The further away the Ordinance requires these operations be placed, the greater the cost of development, and the less likelihood they will ever be built. On the other hand, the closer they are, the greater the adverse effects will be felt by residential populous and the greater possibility others may be deterred from relocating or investing into Delta City. For example, the adverse effects of an animal feeding operation placed too close to Delta City could deter business from considering Delta as a cite for relocation and utilizing, for example, utilizing two large retail buildings recently vacated in the City. This is a complex balancing act.

We believe that the Ordinance as currently drafted allows for feeding operations to be located close enough to Delta City that it would negatively affect our City and deter our continued growth.

As we understand the Ordinance, there is ZERO buffer area for Level 1 AFOs and under. Depending on the size of the Level 2 and Level 3 AFO, such operations could be a mere one-half mile from Delta City Limits. Then, for a Level 3, the maximum buffer zone would only be 1.5 miles. Respectfully, we feel these distances currently contained in the Ordinance are insufficient to protect the citizens from the possible adverse effects of these feeding operations, particularly swine/pig operations.

a. Animal Type

As discussed above, we believe that any requirement of “buffer zone” for the location of an animal feeding operation should consider and apply as a relevant factor the type of animal to be housed and produced.

b. Prevailing Wind

We also believe that prevailing wind should be a factored consideration as to any buffer zone. For example, an operation on the South side of Delta should be further than on the North end. The possible buffer zone could be more oblong, as opposed to a circle, drawing into consideration the prevailing winds of a proposed location.

c. Annexation Plans

As currently written, buffer zones are a distance from “the property or boundary line of the nearest incorporated town, school, church, public park, or platted residential subdivision.” First, we suggest that “town” be changed to “municipality” to resolve any ambiguities that both towns and cities under Utah Code Ann. § 10-2-301, *et seq.* are included.

Next, we suggest that included to this list of any buffer zone limits include not just the boundary of existing municipalities, but also the any and all possible *expansion areas* of a municipality contained in an Annexation Policy Plan adopted pursuant to Utah Code Ann. § 10-2-401.5.

d. Water quality considerations

Available water is always a concern for all development in Millard County, and, Delta City has an increased concern regarding water quality. Accompanying this letter is a Hydrogeologic/Well Impact Study that Delta City commissioned in 2016. To summarize that study, the ground water aquifers in and near Delta City contain levels of arsenic that exceed levels allowed by the Utah Division of Drinking

Water for a public drinking water system such as the one operated by Delta City. To combat this issue, the City's Ridge Top Well Project (the well and storage tank near the Delta City Airport) allows for the importation of water to allow Delta City to deliver drinking water that complies with contaminant regulations.

The concern is that the cumulative effect of wells drawing in arsenic-ridden water will cause the contamination of Delta City wells (including the Ridge Top Well). If this happens, Delta City's only option to deliver drinking water will be treatment of high arsenic-concentration water. This would cost Delta City water users millions of dollars.

While we acknowledge that the Ordinance provides that an applicant must show adequate water supply, we humbly ask that the County give due consideration to not just the available quantity of water, but also the effects that possible draw of water and the adverse effects that draw may have on the quality of water Delta City relies on, particularly given Delta City's establish protest zone, and the flow of ground water per the attached Hydrologic Study.

e. No-Modification of Separation Areas

As we understand the Ordinance, the County Planning and Zoning Commission may modify the minimum separation distances (the "buffer zone") if the applicant can present adequate mitigating circumstance. Respectfully, we firmly believe that any buffer zone established by the ordinance should NOT be modified, under any circumstances. First, the proposed language of the Ordinance leaves itself open to subjective interpretation, and therefore, political pressure from special interest, public clamor, and other forces that should not be allowed to be factors once an application is before the County for consideration.

We believe that issues of this importance should not be subject to such political pressures, the force of which cannot be fully known and felt until a specific application is before the County. Determinations regarding the placement of such operations should be decided in a way that it can never be said that an applicant is enjoying unequal enforcement of the laws. Simply drawing clear lines at this juncture (absent considerations of a specific application) should ensure fair treatment of all interests involved. Accordingly, the Ordinance should be drafted to remove, as much as possible, discretionary judgment calls placed upon County officials, specifically including any possible reduction of separation distances.

Along these same lines, we believe that reduction of separation zones presents untenable enforcement issues. For example, in the case of an applicant that presents satisfactory mitigation practices and procedures that justify the

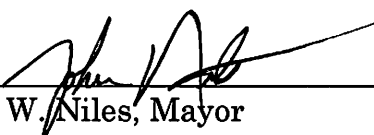
reduction of the separation issues. As time goes on, what happens when those mitigating practices and procedures are not properly followed or invested in? The County is then placed in the difficult position of attempting to shut down a multi-million-dollar operation, with a property owner that is financially invested in opposing such County efforts by whatever means reasonably possible, including political pressure, litigation, and so on. We suggest the County avoid this situation entirely, and instead establish an appropriate separation zone that accounts for the worst-case scenarios and enforce that buffer zone. By having clear, defined rules and regulations that do not leave areas open for misinterpretation or misunderstanding, we feel as though we can find a balance between CAFO's and our communities.

f. Compound Effects of Multiple Operations

We believe it is reasonable for the County to consider the cumulative effects of multiple Animal Feeding Operations. For example, are the effects of two large Level 1 AFO near one another not equal to the same effects as one Level 2 operation? We believe that, in the right place within the County, it would be beneficial to the County and the operations to be near one another. The adverse effects of those operations would have minimal impact, and yet the County would get to enjoy the benefits of those operations. Thus, we believe the County should consider, instead of simple separation areas, designating areas that allow for increased density of these operations. In other words, the County should consider the mapping (zoning) of area within the County where animal feeding operations are not only allowed, but encouraged. We believe this would have a natural effect of increasing the density (cumulative effects) of these types of operations to these zones, and reduce the competing uses of land within those zones.

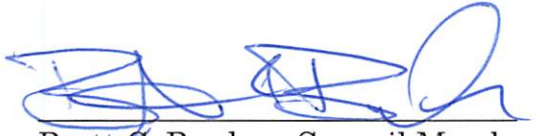
III. Conclusion

Again, we fully acknowledge the difficulty of this issue, and it is apparent that any decision made is going to be perceived as hurting one segment of our County and helping another. We do not envy your position. Our only intent with this letter is to provide considerations of Delta City, and from us, its governing body, elected to further the interests of the City as a whole, and not any specific individual. We hope our comments will be considered as County elected and appointed representatives grapple with this difficult and important issue.



John W. Niles, Mayor

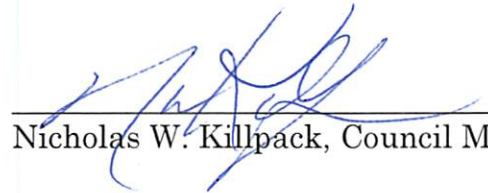
Robert W. Banks, Council Member



Brett C. Bunker, Council Member



Kiley J. Chase, Council Member



Nicholas W. Killpack, Council Member



Betty Jo Western, Council Member