

**BEFORE THE BOARD OF BINGHAM COUNTY COMMISSIONERS
REASON & DECISION**

In regards to: The meeting to hear Appeals filed by Kevin Bolinder, Gordon Jay Madsen, Jesslyn Speakman, Anna Ruth Kohler, Kylee Kohler, Nollene Jensen, Todd Longhurst and Chris Jensen, in regards to the Conditional Use Permit for an expansion of an existing Confined Animal Feeding Operation for Cedar Arch Dairies, LLC.

Board of County Commissioners Meeting Date: December 2, 2025

Commissioner Jensen recused himself due to his wife, Nollene Jensen, and son, Chris Jensen, being a part of the Appellant process, as well as being a neighbor to the subject property. Chairman Manwaring and Commissioner Jackson both agreed with the recusal and Commissioner Jensen stepped down at that time.

At the onset of the meeting Ms. Olsen explained that the Planning & Zoning Commission heard the Application on August 14, 2025 and four (4) Appeals were timely filed pursuant to Bingham County Code 10-10-2.

Chairman Manwaring stated in review of the Appeal and concerns that he has found regarding the 2005 Cedar Arch Dairy unit numbers and operations, wherein there are four (4) locations with a potential 300 cows that were not accounted for. This can be confusing and asked if an individual could use their total count throughout the county for multiple locations. It was noted an accountant supplied the animal count based on information from the owner. Commissioner Jackson asked Ms. Olsen who conducts the animal count, to which Ms. Olsen stated that county staff does not go on-site and verify headcounts on Confined Animal Feeding Operations, as that is not a facet of enforcement but it could be if so requested by the Board. Ms. Olsen stated the county relies on the Applicant to provide accurate information.

Commissioner Jackson stated that he read in regards to a Nutrient Management Plan and asked if said plan is administered by the state and how that plan is considered. Ms. Olsen stated the Nutrient Management Plan is approved by the State Department of Agriculture and all of the terms and conditions within said plan are only enforced or regulated by the Department of Agriculture as the county does not have the authority to do so. Ms. Olsen stated the animal units listed in a Nutrient Management Plan are the maximum number of animal units that the operation can have within its operational facets for feeding, manure management and containment. Ms. Olsen stated for the subject Application, the Applicants are requesting up to 4,280 animal units, wherein the unit rate varies depending on the age of the cow, size of the cow, among other characteristics.

Commissioner Jackson asked if the numbers within the Nutrient Management Plan could be used or would the county rely on the numbers in which the Applicant provided. Ms. Olsen stated the numbers are treated separately and that the Nutrient Management Plan is what the Applicant can get up to, regulated by the state, and the county has its set of numbers that can be up to a number less than or more but cannot exceed that number with the state. Ms. Olsen reiterated that just because the Nutrient Management Plan states up to a specific number, does not mean that number has to correlate with the county's regulations.

Chairman Manwaring stated a concern that he found was that a Conditional Use Permit should have been required when the dairy was constructed and asked Ms. Olsen if she had input on this matter. Ms. Olsen stated that Planning & Development had consulted with Gaylen Claysen as he was looking to apply for a Building Permit for the structure and it was represented that there would be no change in the headcounts and the animal units on the subject property but that he would be essentially moving cows from an outdoor area to an indoor robotic facility, using the existing lagoons. Acting on said information from the Applicant, said permit was issued.

Chairman Manwaring asked if when an individual came in to complete an application but at the time did not know how many animal units there would be and if that would interfere with a Conditional Use Permit for a Confined Animal Feeding Operation. Ms. Olsen stated it could potentially interfere if there was going to be an increase in units, depending on what the approved number of animals was. Ms. Olsen stated in this case, the operations were for dairies prior to Bingham County regulations, which is that 2005 year, which is why that year is so important, is that in 2005 Bingham County created regulations for Confined Animal Feeding Operations. There were parameters within said ordinance that could trigger the need for a Conditional Use Permit for anyone that had been operating prior to 2005.

Ms. Olsen stated that she found that last year, there was an increase in some of the information that was provided by the Applicants which included a 2015 and 2017 Nutrient Management Plan, along with their most current Nutrient Management Plan from 2024. Upon review of said documents, Ms. Olsen found there was an increase in their animal units and found that they had added a new lagoon and four (4) catch basins in their waste management system, which then required the current process of a Conditional Use Permit.

Commissioner Jackson asked if the new lagoon services one or both dairies, wherein Ms. Olsen stated the lagoon that was recently constructed serves only the robotic barn. Paul Rogers stated to provide additional clarification in regards to which specific dairy, wherein Ms. Olsen stated it would be the north dairy (robotic barn) and the home dairy. Commissioner Jackson asked how the animal units are divided and how many cows are at the home dairy versus the north robotic dairy. Ms. Olsen referred to Exhibit S-1, Page 5, which shows the animal counts for year 2025 but would need to look at the staff report for confirmation as to how many are at each dairy.

Commissioner Jackson asked if the dairies should be considered one dairy or two separate dairies, wherein Ms. Olsen stated in researching how to classify the operation, she took guidance from the local Dairy Inspector with the Department of Agriculture, who advised that the state treats them as one operation at two different locations. However, that is subject to the Boards discussion and stated that state code indicates that dairies can be referred to as one. If in the event, the dairies share a boundary or property line or a waste management system and, in this case, they do not share boundary or lagoons/waste management treatment. There are fields that manure is taken to from both dairies but it is not on-site.

Chairman Manwaring referred to the concern and that Commissioner Bingham should have recused himself from the Public Hearing due to being to the subject location prior to the Public Hearing and that testimony is required to be read into the record during the Public Hearing, per

state code and asked county staff to address said concerns. Mr. Rogers stated that he is not aware of any code that requires testimony to be read into the record during the Public Hearing.

Chairman Manwaring stated there were also concerns in regards to if the Applicant was allowed to submit written testimony from individuals that reside outside of the 1-mile radius and asked county staff to address that concern and why the testimony was allowed. Mr. Rogers stated at the Public Hearing, Mrs. Claysen stated there were dairy tours held and at the end of the tour, all participants were asked to write down positive comments, if they had any, and Mr. Rogers stated that he wanted to know why those were being submitted and it seemed as though they were being submitted as testimony in favor of the Conditional Use Permit. Mr. Rogers stated that he asked several questions of Mrs. Claysen about the intent of submitting the comments that came from the tour, which filtered out to be that Mrs. Claysen wanted to submit them to show that people had a positive experience and were not testimony in support of the Conditional Use Permit.

Commissioner Jackson confirmed that a number of those comments were outside of the 1-mile radius as well, wherein Mr. Rogers stated there were many comments that came in but again were only to the experience of the tour and nothing else.

Chairman Manwaring stated after review of the submitted appeals, it was confusing as to why the north dairy and home dairy are treated as one if they don't share boundary lines or lagoons. Chairman Manwaring stated that he understands the state treats them as one for their management plans, but the county could treat them as two separate CAFOs. Commissioner Jackson stated that he also would like additional information on this item as well.

Chairman Manwaring stated another concern he found was the inconsistencies within the animal counts and that it was mentioned in 2005 there were 3,680 head of cattle but that the conversion to animal units was not right, depending on the size of the cow. Chairman Manwaring stated that Mr. Crosby stated there were four (4) separate dairy locations included within the 2005 head counts but that he couldn't tell what the accurate numbers are for the north dairy and the home dairy, because the Pingree dairy cannot be included and the other dairy is no longer in operation.

Chairman Manwaring stated overall, he believes that more information is needed to verify the actual animal units in 2005 at the north dairy and the home dairy to determine the 2005 grandfathered status. Therefore, it may be useful to have a county designated individual or the owner has an independent individual to conduct an accurate count. Commissioner Jackson concurred.

Chairman Manwaring stated another concern was with the smell and flies but with livestock there is going to be a smell and flies.

Chairman Manwaring stated that the conditions placed on the Conditional Use Permit were vague and therefore, could make it challenging to enforce. Chairman Manwaring stated there were seven (7) conditions listed in the approval by the Planning & Zoning Commission. However, conditions 3, 4, and 5 do not have a time frame or deadline in which those conditions are to be completed and he feels there should be a deadline.

Chairman Manwaring asked county staff if there were discussions held in regards to timelines, to which Ms. Olsen stated there were no timeframes for compliance discussed pertaining to the conditions.

Commissioner Jackson asked if there have been any communications stating that those conditions had been met since the Planning & Zoning Commission Public Hearing, to which Ms. Olsen stated that she had provided notification to Cedar Arch Dairies that a complaint had been received in regards to condition 4, maintaining a 300-foot setback from any non-CAFO associated well from manure/compost stacking, rows and scraping areas, as well as condition 5, to install a barrier to sufficiently ensure manure doesn't spill onto the property located at 779 N 700 E, Firth. Ms. Olsen stated the complaint was that those items had not been taken care of yet and provided notification to Cedar Arch Dairies for Notice of Violation and Non-Compliance, which was served upon Mr. Claysen on November 21, 2025. Ms. Olsen provided seven (7) days to move the manure to that 300-foot setback and thirty (30) days to install a barrier. Ms. Olsen stated that she had inspected the property yesterday and found that some manure has been moved but that there is still manure well within 100 feet of the property line and it does not appear that there has been a barrier construction performed. Ms. Olsen stated she did find that the condition 3, to abandon the compost area located to the northwest of the North Dairy, wherein a lot of the manure is gone. Ms. Olsen stated that she has not received a request for extension of the deadline and therefore, she would agree that a timeframe designated with the conditions would assist with enforcement.

Chairman Manwaring stated over the last few months and that the Applicant had not met the conditions that were placed by the Planning and Zoning Commission, he would like to place a timeframe for conditions to be met. Commissioner Jackson concurred.

Chairman Manwaring asked Ms. Olsen when conditions are placed with time limits, if the Code Enforcement Officer would conduct an inspection to be sure conditions are being met, to which Ms. Olsen confirmed.

Ms. Olsen stated pursuant to Bingham County Code 10-13, Code Enforcement Complaints, which states how code enforcement complaints are administered and managed. It specifically indicates that the county provides notification to the property owner that there may be a violation, the violation is described, the ways that violation could be cured and a timeline for that cure to be completed. There are a couple of ways in which said notice could be provided, which is by certified mail or via law enforcement and upon that person receiving the notice, if Ms. Olsen finds there is some compliance or working towards compliance but they may need additional time, she can afford an extension of not to exceed 180 days.

Chairman Manwaring stated that he believes there are a lot of unanswered questions and at this time he would be in favor of remanding back to the Planning & Zoning Commission for conditions on the application and the applicant could consider the conditions and timeframes placed on the conditions. There is a lot of concerns on eliminating odors and the feasibility of all options. Mr. Crosby spoke to the possibility of a methane digester to help mitigate flies, and by adding this, it would be a benefit to everyone. He said he would look into that method of mitigation and determine if it would be economically feasible and effective, wherein he would also like to see what feasibility of the digester is.

Commissioner Jackson concurred and stated that additional information would be beneficial.

Mr. Rogers confirmed that the Board felt that the new evidence would be material and relates to validity of the underline decision, which is why additional information is being sought. Both Chairman Manwaring and Commissioner Jackson concurred.

Decision: Based on the questions and concerns brought up with the missing information, Commissioner Jackson moved to remand the Application, pursuant to Bingham County Code Section 10-10-2(c) and 10-10-4, to gather evidence for the animal units for the North Dairy and the animal units for the Home Dairy as separate animal units. Also, to clarify the inconsistencies of the animal units, the county needs the head count by size and by age in both the north dairy and the home dairy. There should be time limits to be placed on the conditions that have been set or evidence of how the conditions will become enforceable and whether the conditions have been complied with so far. Chairman Manwaring seconded.

Mr. Rogers stated there was discussion regarding the elimination of odor and use of methane digester to reduce flies, which should be added.

Commissioner Jackson amended the motion to add that the Applicant should provide options on how to eliminate odor and the feasibility of all options, along with the feasibility of a methane digester to reduce flies. Chairman Manwaring seconded.

Ms. Olsen asked for clarification as the necessity for remain was for two time periods that the county will need to know a head count for 2005 and for 2025, for both the north dairy and the home dairy.

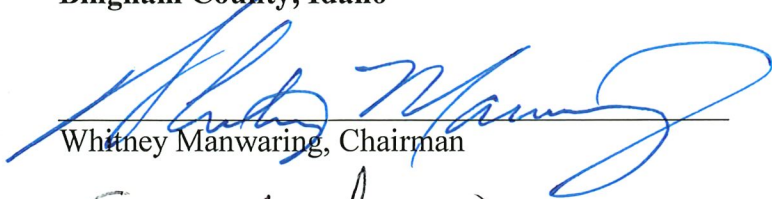
Commissioner Jackson amended the motion to add that there should be a more accurate cattle head count for two separate dairies for both 2005 and 2025. Chairman Manwaring seconded. Both voted in favor. The motion carried.

Regulatory Takings: Additionally, the Applicant may request a regulatory takings analysis as per Idaho Code Section 67-8003. An affected person aggrieved by a final decision concerning matters identified in Section 67-6521(1)(a), Idaho Code may within twenty-eight (28) days after all remedies have been exhausted under local ordinance, seek Judicial Review as provided by Chapter 52, Title 67, Idaho Code.

Dated this 23 day of December, 2025.

**Board of Bingham County Commissioners
Bingham County, Idaho**




Whitney Manwaring, Chairman


Eric Jackson, Commissioner

Drew Jensen, Commissioner

CERTIFICATE OF SERVICE

I certify that on the 27 day of December 2025, I served a true and correct copy of the Reason & Decision for the Cedar Arch Dairies CUP Appeal Meeting upon the following person(s) in the manner(s) indicated:

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- ☐ Hand Delivered
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~~Lindsey Gluch, Commission Clerk~~
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