

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

In regards to: The meeting to hear the Request for Reconsideration of the Board of County Commissioners Reason & Decision dated January 9, 2026, filed by John Hepton, pertaining to the Pingree I Trust and Pingree II Trust Conditional Use Permit for an expansion of an existing Confined Animal Feeding Operation.

Board of County Commissioners Meeting Date: February 11, 2026

At the onset of the meeting introductions were held for the record and Chairman Manwaring stated that the original Conditional Use Permit application was heard by the Planning & Zoning Commission on August 13, 2025, there was an appeal filed and an Appeal Meeting was held before the Board of County Commissioners on December 18, 2025. The formal Reason & Decision was approved and signed by the Board of County Commissioners on January 9, 2026.

Pursuant to Bingham County Code Section 10-10-3 *Reconsideration of a Decision by the Board of County Commissioners*, Applicants and Property Owners, Pingree I Trust and Pingree II Trust, filed a Request for Reconsideration of the Board of County Commissioners' written decision, conditionally approving the Applicant's Conditional Use Permit Application, which was received by Lindsey Gluch, Commission Clerk, on January 23, 2026.

Paul Rogers, County Legal Counsel, confirmed that the Appeal was filed in a timely manner and therefore meets the first burden of coming before the Board of County Commissioners. Mr. Rogers stated that the Board of County Commissioners is now bound by the authority of Bingham County Code 10-10-3 and the Board shall do one (1) of the three (3) options, which are as follows:

- 1) Affirm the previous decision made.
- 2) Modify (only if the criteria below are met)
 - a. The substantial rights of the Appellant or affected party have been prejudiced
 - b. The underlying decision is:
 - i. In violation of constitution or statutory authority.
 - ii. Made by unlawful procedure.
 - iii. Not supported by substantial evidence
 - iv. Arbitrary, capricious, or an abuse of discretion.

Mr. Rogers explained that if the above criteria is met, the Board has the ability to modify the decision.

- 3) Reverse (only if the criteria below are met)
 - a. The substantial rights of the Appellant or affected party have been prejudiced
 - b. The underlying decision is:
 - i. In violation of constitution or statutory authority.
 - ii. Made by unlawful procedure.
 - iii. Not supported by substantial evidence
 - iv. Arbitrary, capricious, or an abuse of discretion.

Reason & Decision- Pingree I & II Trust - CUP
Motion for Reconsideration

Mr. Rogers explained that if the above criteria are met, the Board has the ability to reverse and overturn the decision with the reasoning being placed on the record.

Mr. Rogers reviewed the process and reasoning for a Motion for Reconsideration being filed. After a decision is made today by the Board of County Commissioners, individuals have the right to Appeal to Judicial Review.

Chairman Manwaring stated when the decision was made on December 18, 2025, there were seven (7) conditions placed on the Application. From those conditions, there were two in which John Hepton, Pingree I Trust and Pingree II Trust, asked for reconsideration. Chairman Manwaring read from the Reconsideration, which read as follows:

"I would like to propose the following reconsideration of the CAFO modifications dated January 9, 2026. Of the 7 modifications there are two we would like partial reconsideration, numbers 3 and 6.

We interviewed several arborists and paid for certified arborist Eric Kerr to come to the feedlot and consult for use on site. He has vast knowledge of the area and tree berms. He's good with your stipulation of 4 ft berm and 6 feet wide tree cover arrangement. However, he stressed the importance of the right kind of trees and spacing to ensure a solid long term effective cover; he also stressed it's hard to keep tree breaks upright considering the wind in our area. He states that regardless of the kind of trees we plant it will take 10 years for them to fill in completely. If we plant too close together then the roots will not be strong enough to avoid blow down. He mentioned that he worked with the Snake River Cemetery after their trees blew down. We would like to put that tree berm on the east side of the property and wrap around to the north as indicated on the map provided. We believe this will look good aesthetically but really won't provide great dust protection. We would like to add a 14-foot straw berm on the south, east and most of the north side of the feedlot (outlined on the map). We have already implemented this as a partial test on most of the east side of the feedlot and it is a formidable barrier and looks good. It is taller than most tree berms, is a complete barrier to dust and shields the feedlot visually for its surroundings. We would keep this berm up permanently and the only time it would be in flux is when we change out the bales every 2-3 years to keep good appearance and integrity of the wall. Therefore, we would have this massive barrier on the south, east and most of the north side of the feedlot and additionally the tree berm requested on the east side and partial northside of the feedlot which is visual to the neighbors and with the prevailing wind. (Pictures of the barrier and map provided; yellow line shows complete straw barrier and green line tree berm).

On modification number 6, we agree and can comply with everything except that end guns will not be placed in or at the ends of the corrals for the following reasons. The topography and lava rock are prohibitive to add those. Also, the water truck with cannon is more effective for reaching and covering more complete areas within the pens for dust control".

Chairman Manwaring stated that he feels the proposed reconsideration of conditions 3 and 6 are great ideas, especially with the concern that he had with how long it would take for trees to grow.

The Board asked the Applicants to meet with an Arborist in order to figure out the best type of tree to plant.

Commissioner Jackson stated that he also believes that tree barriers would act as a wind barrier in light of taking several years for the young trees to grow up and then if a year is missed of watering, the applicant will have to start over with the trees, wherein it could be twenty (20) years or more to get an established tree barrier that would be the same effect as a straw barrier. Commissioner Jackson stated that he has seen some straw walls, after they sit for one (1) year, almost disintegrate depending on the weather and he is not sure how the cleanup would be as far as trying to clean up the straw. Commissioner Jackson stated that he is impressed by the picture that was submitted of the straw barrier and that it may look good now, but he is concerned about what it would look like in two (2) years.

Commissioner Jensen stated the straw barrier would break the wind and not put so much stress on the young trees.

Commissioner Jackson stated he believed that the Applicants wanted to do the straw barrier instead of the trees, wherein it was corrected that the Applicants are going to plant the trees, but the straw barrier would be there until the trees are developed.

Ms. Olsen referred to the map submitted with the Motion for Reconsideration (Exhibit CCR-3 picture 1), wherein the straw barrier is shown in yellow, and the placement of trees is shown in green. Ms. Olsen stated there will be areas without trees and areas with straw barriers and trees.

Chairman Manwaring stated his concern was the need for changing out the straw barrier after so many years, because they start collapsing but the new straw looks good and holds up.

Next, Chairman Manwaring referred to condition 6 and stated the point is to keep the dust down and the Applicants have a water truck that could be used to cover more areas. Chairman Manwaring stated with the lava rocks in some areas, it would be hard to put a line through the area.

Chairman Manwaring reiterated that he would agree with the proposed amendments to be made to conditions 3 and 6, which were previously placed on the application.

Commissioner Jensen referred to condition 6 and stated that it is not that they are introducing something new and that they asked to spray with the water truck versus the end guns because that is a part of the stipulation of condition 6 is to spray with water truck or with end gun. Therefore, the Applicant is simply asking not to use the end gun and use the water truck.

Commissioner Jackson stated the end result is the same and the ability to wet down the ground so that dirt does not blow in the wind. Therefore, he is in agreement and stated it would be a good measure. Commissioner Jackson stated that trying to run pipelines through the lava rocks and rough terrain does not work well or could be expensive. Therefore, the use of a water truck would be a good compromise.

Chairman Manwaring stated this winter is a good example and that there was moisture a few months ago, but it turned frozen and dry. Chairman Manwaring stated there could be frost but there may still be dust and a water truck could be used in those instances even during this time of year.

Chairman Manwaring stated after the Board has held its discussion and after review of the Motion for Reconsideration, he feels that the criteria has been met to modify the decision that was previously made. Commissioner Jensen and Commissioner Jackson both concurred.

Paul Rogers referred to the water issue and the statement from the Applicant, wherein they state that end guns will not be placed in or at the end of the corrals as the topography and lava rock are prohibitive to add them. Mr. Rogers stated that the county is requiring the Applicants to do something that they cannot fulfill and therefore, their rights are prejudiced. Next, Mr. Rogers asked if the Boards decision to make the Applicants install end guns supported by substantial evidence, to which it is as the Board did not know at the time the decision was made, that there are lava rock and the topography prohibits end guns. Mr. Rogers stated the Board now has better evidence, the criteria have been met, and the Board can proceed with modifying the conditions if they so choose.

Chairman Manwaring stated that discussion was held in regards to the straw barrier and he is glad that the Applicants stated they will change the straw every 2-3 years. Chairman Manwaring stated that could also be placed within the conditions and the County Code Enforcement Officer could check to be sure that conditions is being upheld.

Mr. Rogers stated after the discussion held, he would like to reiterate that requiring the Applicant to put trees up and get a barrier, given the statement that the Applicant has made, they have already done a lot of the homework that the Board has asked and met the conditions of meeting with an arborist (Eric Kerr). That expert opinion is that planting too many trees as required, trees will fail and time is needed for them to grow. Mr. Rogers stated where the substantial rights were violated by making the Applicants do something that might be impossible, the criteria is met and the Board can proceed if they choose.

Chairman Manwaring stated that he feels the proposed modifications for conditions 3 and 6, both meet the criteria and that they should be modified.

Commissioner Jackson asked for clarification and asked if the trees will be planted still or if the plan is to only use straw bales. Ms. Olsen referred to the Motion for Reconsideration and stated that it reads that the straw barriers would be kept permanently and only be taken down when the bales are changed out. Ms. Olsen reiterated that the tree berm would be in addition to the straw berm and referred to the map stating that the condition was for the area in yellow (shown on exhibit CCR-3 picture 1) to be trees. Ms. Olsen stated that Mr. Hepton is proposing straw be placed in the yellow areas and trees in the areas in green to enhance the visual aesthetics where the neighbors can see but leave the straw permanently because that will help with dust and odor mitigation.

Mr. Rogers stated given what the arborist stated in regard to planting trees too closely and that they will fail, he took that as spacing out the trees further, that may be a discussion for the Board to hold.

Ms. Olsen again reiterated that the tree breaks were placed on the north, east and south boundaries of the feedlot, which is shown in Exhibit CCR-3 picture 1, but would implement the straw barrier in all other areas except the west.

Chairman Manwaring referred to the Motion for Reconsideration and the massive barrier on the south, east and most of the north side of the feedlot and additionally the tree berm request on the east side and partial northside, which means they are still going to address the tree berm. Chairman Manwaring stated the county just needs to be sure that there are trees planted with the help of the arborist.

DECISION

Commissioner Jensen moved to modify the conditions previously placed for Pingree I and II Trust, as the Board of County Commissioners finds that the substantial rights of the Appellant have been prejudiced and the underlying decision was not supported by substantial evidence, being that it would take 10-20 years for the trees to grow to make a substantial windbreak and due to the lava rock making it hard to provide the usage of end gun in the corrals. Commissioner Jensen stated the following conditions would be modified as follows:

Modified Condition 3: Allow addition of a 14-foot straw barrier, on the south, east and most of the north side as depicted on the map via yellow line (CCR-3 picture 1) and the bales will be changed out every 2-3 years or as necessary. The trees will be planted according to the recommendation of the Arborist, as depicted on the map via green line on the map (CCR-3 picture 1) on the east and north side.

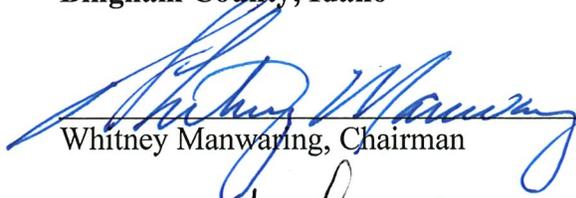
Modified Condition 6: For dust mitigation, to be administered via a water truck, on all gravel or dirt roads and corral areas as needed to mitigate dust. If water application is insufficient, the Applicant shall apply a dust suppressant chemical. Verification of the chemical application may be requested by Planning & Development Services. Commissioner Jackson seconded.

Commissioner Jensen amended the motion to state that the Board of County Commissioners has the authority to hear the Motion for Reconsideration and to modify the conditions pursuant to Bingham County Code 10-10-3. Commissioner Jackson seconded. All 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 4 day of March 2026.

**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 4 day of March, 2026, I served a true and correct copy of the Reason & Decision for the Motion for Reconsideration regarding the Pingree I Trust and Pingree II Trust CUP Appeal Meeting upon the following person(s) in the manner(s) indicated:

<input checked="" type="checkbox"/> Mail	Melanie Ipsen
<input type="checkbox"/> Email:	1538 W. 200 S.
<input type="checkbox"/> Hand Delivered	Pingree, ID 83262
<input type="checkbox"/> Designated Courthouse Box	

<input type="checkbox"/> Mail	Tiffany Olsen
<input checked="" type="checkbox"/> Email: tolsen@binghamid.gov	Planning & Development Director
<input type="checkbox"/> Hand Delivered	
<input type="checkbox"/> Designated Courthouse Box	

<input checked="" type="checkbox"/> Mail	Jeffrey & Ruby K. Balls
<input type="checkbox"/> Email:	383 S. 1500 W.
<input type="checkbox"/> Hand Delivered	Pingree, ID 83262
<input type="checkbox"/> Designated Courthouse Box	

<input checked="" type="checkbox"/> Mail	Cheryl W. Olsen
<input type="checkbox"/> Email:	351 S. 1500 W.
<input type="checkbox"/> Hand Delivered	Pingree, ID 83262
<input type="checkbox"/> Designated Courthouse Box	

<input checked="" type="checkbox"/> Mail	Steton & Taio Johnson
<input type="checkbox"/> Email:	1528 W. 350 S.
<input type="checkbox"/> Hand Delivered	Pingree, ID 83262
<input type="checkbox"/> Designated Courthouse Box	

<input checked="" type="checkbox"/> Mail	Vernon & Priscilla Hoskin
<input type="checkbox"/> Email:	353 S. 1500 W.
<input type="checkbox"/> Hand Delivered	Pingree, ID 83262
<input type="checkbox"/> Designated Courthouse Box	

- Mail
- Email:
- Hand Delivered
- Designated Courthouse Box

Mary Ann Hansen
1456 W. 200 S.
Pingree, ID 83262

- Mail
- Email:
- Hand Delivered
- Designated Courthouse Box

Earl L. Huff Jr.
387 S. 1500 W.
Pingree, ID 83262

- Mail
- Email:
- Hand Delivered
- Designated Courthouse Box

Randy & Karen Reed
1462 W. 200 S.
Pingree, ID 83262

- Mail
- Email:
- Hand Delivered
- Designated Courthouse Box

Drue H. Kofoed
1485 W. 300 S.
Pingree, ID 83262

- Mail
- Email:
- Hand Delivered
- Designated Courthouse Box

Pingree I & II Trust
PO Box 220
Start, ID 83669



Lindsey Gluch, Commission Clerk