

BINGHAM COUNTY COMMISSIONERS

Whitney Manwaring, Chairman

Eric Jackson

Drew Jensen



Lindsey Gluch, Commission Clerk

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BINGHAM COUNTY BOARD OF COMMISSIONERS REASON & DECISION

In regard to: Bingham County Code Section 10-10-3, Reconsideration of July 1, 2026, decision made by the Board of County Commissioners, filed by Cedar Arch Dairies, LLC, through Legal Counsel, Theodore R. Larsen and Paul S. Hendrickson of Williams, Meservy & Larsen, LLP

Motion for Reconsideration Meeting Date: August 4, 2026

At the onset of the meeting, Commissioner Jensen declared conflict as he resides close to the subject property and therefore is unable to act as an impartial decision-maker. Chairman Manwaring and Commissioner Jensen were in favor and Commissioner Jensen was recused from decision making on this matter.

Chairman Manwaring stated that the Board will focus on two main issues put forth within the filed Motion for Reconsideration, wherein discussion was held as follows:

Chairman Manwaring referred to Remand Issue 2 and whether the prior decision improperly required the Applicant to provide timelines for compliance with conditions that were, in fact, intended to be set by the Planning & Zoning Commission. Chairman Manwaring stated it is confusing and could be amended to add clarification within the decision. Commissioner Jackson asked for clarification in what the condition actually was, wherein Chairman Manwaring referred to page 3 of the Motion for Reconsideration, specifically CC Reason 1 concerns Remand Issue 2, which states "Time limits be placed on the conditions to aid with enforcement." The 2026 CC (County Commissioner) decision states that Cedar Arch "did not provide a response to" Remand Issue 2. Commissioner Jackson stated that he recalls holding discussion in regard to figuring out the best way for enforcement and to his recollection, that was one of the reasons put in place. Chairman Manwaring stated the time limit conditions were intended to come from the Planning & Zoning Commission, wherein the Planning & Zoning Commission asked that the Applicant how long it would take to take care of the issues and cure the issue. Chairman Manwaring stated in his mind, nothing was set in stone on that matter, and he believes that a cure could have been put in place within 6 months, but he personally would put a limit on for 8-10 months to be sure that curing of the issue is complete. Chairman Manwaring stated he believes that was a misunderstanding and that the Board could justify that this was prejudiced and the substantial rights were affected on this particular matter.

Commissioner Jackson asked if there is a time limit placed, wherein Mr. Rogers stated that the Applicant is talking about in the decision on page 5 at the top, there is a portion that states that the Applicant did not provide timelines. Mr. Rogers stated the timeline was to be placed by Planning & Zoning and not for the Applicant to place the timelines. Mr. Rogers stated that the Board should decide whether misallocation of responsibility prejudiced against the substantial rights of the Applicant and constituted an abuse of discretion or was unsupported by substantial evidence.

Commissioner Jackson stated that he does believe that the substantial rights of the Applicants are prejudiced because the burden was placed onto them that was meant to be that Planning & Zoning Commission placed the timeline. Mr. Rogers stated there was no substantial evidence that showed this requirement was required

by the Applicant to put those timelines in place. Therefore, Mr. Rogers stated, legally, because of the language of the decision, it seems as though the County opened the door in Bingham County Code 10-10-3, so that allows the Board to modify its decision and correct that issue, if the Board decides.

Commissioner Jackson stated that he was confused as well and therefore, he believes that clarification should be made. Chairman Manwaring stated that he concurred and the decision should be modified as it did affect the substantial rights of the Applicant.

Commissioner Jackson stated that based on Bingham County Code 10-10-3, in regard to Requirement #2, the substantial rights of the Applicant were prejudiced, and it was an abuse of discretion to place the timeline burden accidentally on the Applicant rather than the Planning & Zoning Commission, which may result in modification of the previous decision. Chairman Manwaring seconded. Both voted in favor. The motion carried.

Commissioner Jackson moved to amend the decision made on July 1, 2026, to remove the language that the Applicant was required to provide timelines under #2 and instead place verbiage stating that the Planning & Zoning Commission did not provide timelines or conditions based on the lack of information received from the Applicant. Chairman Manwaring seconded. Both voted in favor. The motion carried.

Next, discussion was held in regard to Remand Issue 6 and 7, pertaining to flies, odor and dust, wherein Chairman Manwaring stated on remand, the Applicant provided information concerning the possible use of a digester and its economic feasibility, referencing to cost estimates in the millions of dollars, the Applicant's bankruptcy and limited funds. Chairman Manwaring stated that he would rather have several quotes from different companies pertaining to the specific property and onsite bids or provide other options, which was not provided. Commissioner Jackson stated it appeared that the information provided was general in nature and that a dairy of this size would not be economically feasible. Commissioner Jackson stated that he does not believe that there was information specific to Cedar Arch Dairies or a potential other solution.

Chairman Manwaring stated it was mentioned that due to the cost of services and feasibility, it was mentioned that Cedar Arch Dairies is within the process of bankruptcy, which makes funds limited but that is not pertinent with the application. Chairman Manwaring stated whether funds are available or not, that is not the Board's decision but as to whether or not the issue will be cured and how. Chairman Manwaring stated that there was not sufficient information and other options provided to cure the issue.

Chairman Manwaring mentioned issues with flies and stated that a potential tree barrier was brought up within the Planning & Zoning Commission meeting stated that there have been other CAFO's and he has conducted research, wherein there are studies in regard to tree barriers assisting with odors and reduce smell from the wind blowing but the Applicant did not provide sufficient options, alternatives, or site-specific proposals addressing these issues. Both Commissioners agreed that a tree barrier would not assist with fly mitigation but are more of dust and odor mitigation.

Chairman Manwaring stated that it would have been beneficial to have a Conditional Use Permit in place but that this was originally an Ag Exempt Permit and until there were issues with the lagoon and increase in animal units, a Conditional Use Permit was not required. Chairman Manwaring stated he understands that the State Department of Agriculture treats the two dairies as one with the Nutrient Plan, but the County recognizes these as two separate CAFOs. The home dairy is grandfathered as an agricultural use and is not presently required to obtain a CAFO Conditional Use Permit unless its numbers change beyond grandfathered thresholds.

Chairman Manwaring stated that the Applicant mentioned that due to the timing if the application being in October, there was no flies or dust. Chairman Manwaring stated that the Application should be for the entire year and just because they could apply during the winter when there are no flies or smell is irrelevant because the application is for the entire year and that will affect conditions that may occur throughout the year for dust control, fly control and odor control, which is why the Application was remanded back to the Planning & Zoning Commission for further information. After which, Planning & Zoning Commission did not feel that they received sufficient information and denied it. Chairman Manwaring reiterated that due to the denial and lack of information provided, the Board of County Commissioners could not change its decision.

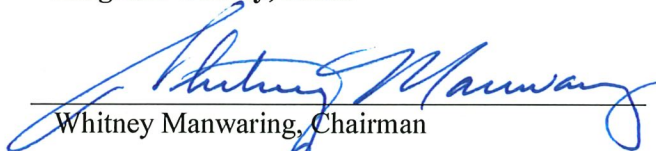
DECISION

Commissioner Jackson moved to affirm the original decision dated July 1, 2026, for denial based on clarification language now added via motion, which is with regard to Remand Issue No. 2 and pursuant to Bingham County Code 10-10-3. 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 19 day of August 2026.

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


Whitney Manwaring, Chairman


Eric Jackson, Commissioner

Recused
Drew Jensen, Commissioner

CERTIFICATE OF SERVICE

I certify that on the 19 day of August 2026, I served a true and correct copy of the Reason & Decision for the Motion for Reconsideration filed by Cedar Arch Dairies, LLC upon the following person(s) in the manner(s) indicated:

- ☒ Mail
- ☐ Email:
- ☐ Hand Delivered
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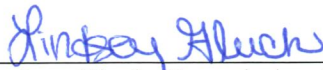
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Theodore R. Larsen & Paul S. Hendrickson
Attorney for Cedar Arch Dairies, LLC



Lindsey Gluch, Commission Clerk