

BINGHAM COUNTY COMMISSIONERS

Whitney Manwaring, Chairman

Eric Jackson

Drew Jensen



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BINGHAM COUNTY BOARD OF COMMISSIONERS REASON & DECISION

In regard to: Bingham County Code Section 10-10-3, Reconsideration of a Decision by the Board of County Commissioners, the affected person, Chris Jensen, filed a Request for Reconsideration of the Board of County Commissioners' written decision, dated July 1, 2026, denying the Applicant's Conditional Use Permit Application.

Motion for Reconsideration Meeting Date: July 28, 2026

At the onset of the meeting, Commissioner Jensen declared conflict as he is the father of the affected party, Chris Jensen, and therefore 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.

Paul Rogers, County Legal Counsel, stated under Bingham County Code 10-10-3(c), Chris Jensen, requests that the Board amend its decision to add additional reasons into its previously made decision. Bingham County Code states that the Board may affirm, reverse or modify the underlying decision if the following requirements are met:

- 1) The Board finds that the substantial rights of the appellant or affected party has/have been prejudiced;
- 2) The underlying decision is in violation or excess of constitutional or statutory authority; made upon unlawful procedure; not supported by substantial evidence; or arbitrary, capricious, or an abuse of discretion.

Further, Mr. Rogers stated if those requirements have been met, the Board may modify its decision. If both requirements are not met, the Board lacks authority under Bingham County Code 10-10-3 (c) to modify its previous decision.

The Board reviewed the issues raised within the Motion for Reconsideration of Remand Reasons and Decision dated July 1, 2026, wherein discussion was held as follows:

Issue 1: Whether Ordinance 8.5.9.2 was violated. Section 8.5.9.2 clearly requires a Special Use Permit prior to commencing construction of a material change to an existing CAFO or improvements that expand a CAFO. The robotic dairy, new lagoon, and waste management facilities were constructed years before a CUP Application was submitted.

Chairman Manwaring stated that Bingham County Ordinance 8.5.9.2 was not violated as the ordinance is out of service and has been replaced with the now existing Bingham County Code 10-7-10, which the County followed as it has more strict requirements and was adopted in 2012.

Commissioner Jackson stated this issue is moot as the Ordinance is no longer in place and has been superseded.

Issue 2: Whether a CUP filed after construction can cure a violation of Ordinance 8.5.9.2.

Chairman Manwaring stated that issue is moot as Ordinance 8.5.9.2 is no longer in place. Commissioner Jackson stated that he is in agreeance.

Issue 3: Whether the 2021 agricultural exempt building permit remained valid. County staff testified that the agricultural exempt building permit was issued because Cedar Arch represented that there would be no increase in animal units and that existing lagoons would be used. The evidence later showed that additional animal units were added, a new lagoon was constructed, and four catch basins were installed. The Board never determined whether the agricultural exempt permit remained valid after the project was built differently that it had been represented to the County.

Chairman Manwaring stated the 2021 agriculture exempt building permit was not the center of discussion leading to the denial of the Conditional Use Permit. As it stands, given the information throughout the process, there is an investigation into the validity of the agricultural exempt building that was built. Chairman Manwaring stated there was conversation held that the permit was applied for as an agricultural exempt building and that changes with the lagoon and animal unit count triggered a Conditional Use Permit.

Commissioner Jackson asked Legal Counsel to explain this issue further. Mr. Rogers explained that the Movant is asking the Board to make a conclusion as to whether or not the 2021 agricultural exempt permit is valid or invalid.

Ms. Olsen explained that an Agricultural Exempt Permit was issued as a valid permit in 2021 based on the information provided by Mr. Gaylen Clayson and it was not until 2024 when Planning & Development was made aware there was a new lagoon, catch basins and bathroom inside of the structure. Ms. Olsen stated that would not have been allowed in 2021, had Planning & Development been made aware of those facts. Ms. Olsen stated that state code for agricultural exempt buildings in 2021 was strict and required the property be zoned Agriculture and used for certain limited uses. Ms. Olsen stated with the information provided in 2021, it was permitted as such, but a couple of years ago the state code has been changed, and agricultural buildings now allow for more uses than previously. Ms. Olsen referred to Idaho Code 39-4116(5)(a), which includes milking barns. Therefore, if the county were to receive an application today underneath the current law, for an agricultural exempt building for a milking barn, the permit would be issued based on the milking barn but the lagoons and catch basins are a separate component of permitting.

Commissioner Jackson stated that he is in agreeance with Chairman Manwaring.

Issue 4: Whether the robotic dairy is legally a new CAFO, an expanded CAFO, or a material change. Throughout the hearings, different terms have been used, including “enhancement”, “Expansion,” and “new dairy”. The Board never determined how the robotic dairy should be classified under Ordinance 8.5. That legal determination is important because different Ordinance provisions apply depending upon how the project is classified.

Chairman Manwaring stated the reconsideration states that the Board never determined how the robotic dairy should be classified under Ordinance 8.5. However, 8.5 is not the current Ordinance that the County operates under, and they were not adding to the decision to define it under expired terms.

Commissioner Jackson stated that he is in agreeance with Chairman Manwaring and the issue is moot.

Issue 5: Whether Cedar Arch had already exceeded its grandfathered rights. The appeal explained that Cedar Arch materially expanded the North Dairy years before filing its CUP Application. Although the Board requested additional animal unit information, it never determined whether Cedar Arch had already exceeded or lost its grandfathered status before filing the application.

Commissioner Jackson asked if the North Dairy is the new dairy, which Chairman Manwaring confirmed.

Chairman Manwaring stated to amend the decision by adding that Cedar Arch exceeded its grandfathered rights as it expanded its numbers sometime before filing for its Conditional Use Permit and acted as an act first and as permission later type of situation.

Commissioner Jackson asked if it was the Board discretion as to determine what the dairy should be classified as, wherein Chairman Manwaring stated the numbers were not determined and if the application was approved, conditions could be placed to have the part time Code Enforcement Officer and the State to conduct animal unit count.

Chairman Manwaring referred to the grandfathered status and that the old dairy can still operate so long as it remains under the number requirement but if there are any increases, a Conditional Use Permit is required.

Commissioner Jackson stated that he is in agreeance with Chairman Manwaring.

Issue 6: Whether animal units from separate dairies may legally be combined. A major issue was Cedar Arch's attempt to combine animal units from separate dairy locations, including locations that no longer existed or operated independently. The Board requested additional information but never determined how Ordinance 8.5 allows grandfathered animal units to be transferred between separate CAFO locations.

Chairman Manwaring stated the conclusion in the discussion was that it needed to be treated as two separate CAFOs, which to clarify the decision, is interpreted as the separate dairies may not be combined.

Commissioner Jackson stated that he has no input and was in agreeance with Chairman Manwaring.

Chairman Manwaring asked Ms. Olsen if the Nutrient Management Plan combined the two dairies into one but as far as the dairy and the Conditional Use Permit, they are two separate dairies. Ms. Olsen explained that a Nutrient Management Plan treats them as one dairy, as they share the same waste management system as far as the fields that they apply their waste to. Ms. Olsen stated before the Conditional Use Permit was filed by the Applicant, she contacted the Local State Representative for guidance on if they are treated as one or two separate locations, wherein she was informed that they were to be treated as one CAFO, which is why Planning & Development proceeded with one application but through the Public Hearing process, the county found that the home dairy is compliant with its 2005 inherited status and therefore, only one CAFO application is required for the north dairy.

Issue 7: Whether the Home Dairy and North Dairy are legally separate CAFOs.

This issue was addressed above with issue 6.

Issue 8: Whether construction of the new lagoon independently triggered the requirement for a CUP. Ordinance 8.5 defines an expanded CAFO as one that increases the capacity of its animal waste management system. The new lagoon and associated waste management facilities appear to meet the definition. The Board acknowledged these improvements but never determined whether they independently required a CUP before construction.

Chairman Manwaring stated that was determined, as that is what triggered the Applicant to apply for the Conditional Use Permit, as there was a new lagoon. Chairman Manwaring stated that it has been discussed several times that when the new lagoon was placed, that was an improvement and initiated the process for Conditional Use Permit. The decision needs to be amended to include that any expansion to a CAFO needs to follow Bingham County Code 10-7-10(c)(1) and seek a Conditional Use Permit.

Commissioner Jackson stated that the process occurred backwards and the Applicant should have filed for and obtained a Conditional Use Permit prior to construction began.

Ms. Olsen stated if the County had received information that led them to believe there was an increase in cattle or a new lagoon constructed, a Conditional Use Permit would have been required.

Issue 9: Whether future expansion shown in the Nutrient Management Plan should be considered. The Nutrient Management Plan submitted to the County depicts additional robotic barns beyond the one currently constructed. This issue was raised during the hearings, yet the Board never addressed whether approval of this CUP would effectively authorize future expansion or whether additional barns would require separate review.

Chairman Manwaring stated the reconsideration states that the Board never addressed whether approval of this Conditional Use Permit would effectively authorize future expansion or whether additional barns would require separate review. This point is moot as the Board did not approve the Conditional Use Permit.

Commissioner Jackson stated that he is in agreeance with Chairman Manwaring.

Issue 10: Whether previous material changes should have been considered. The appeal also raised concerns regarding earlier dairy improvements, including construction of a feed facility that may have constituted a material change under Ordinance 8.5. The Board never addressed whether those earlier improvements affected Cedar Arch's grandfathered status.

Chairman Manwaring stated there was not much discussion in regard to a feed facility, but it was more about the robotic dairy and animal units, along with the issues of the digester and other nuisance issues. Chairman Manwaring stated that the decision should be amended to include that all prior material changes should have been considered such as feed facilities and lagoon as those improvements were outside of Cedar Arch's grandfathered allowance.

Commissioner Jackson stated if the dairy is in operation, depending on what the material change is, they should have applied for the Conditional Use Permit prior to the change occurring but that did not occur.

The Board agreed that there is not sufficient information in order to come to a conclusion with regard to issue 10. Chairman Manwaring reiterated that there was not enough discussion, if any, in regard to a feed facility.

Issue 11: Whether adequate protections were provided for neighboring property owners. Although odor and fly control were discussed, the appeal also raised concerns regarding traffic, dust, noise, groundwater protection, future expansion, and the loss of use and enjoyment of neighboring properties.

Chairman Manwaring stated the findings need to be amended to include that the Conditional Use Permit was denied because adequate protections for the neighboring properties were significantly inadequate, and more than just odor and fly control needed to be proposed by the applicant. If the Application was approved, there would be a lot more of the issues raised and addressed, but it was denied. There was no traffic study done and no nuisance ordinance but, in the past, there have been applications that have conditions put in place to cure the concerns.

Mr. Rogers stated the application was remanded to the Planning & Zoning Commission to gather additional information in regard to some of the concerns and gather information, but the requested information was not provided and that is why the application was brought to the board as a proposed denial, due to inadequate information.

Chairman Manwaring stated where the Conditional Use Permit was denied, this is a moot point because there would not be conditions placed on a denial.

Issue 12: Whether Cedar Arch could lawfully continue operating during the remand process. The appeal alleges that the robotic dairy had been constructed without first obtaining the required Conditional Use Permit, the Board should have determined whether Cedar Arch was legally authorized to continue operating while these issues remained unresolved.

Ms. Olsen explained when the County identified that Cedar Arch needed a Conditional Use Permit, Title 10 Chapter 13, *Code Enforcement*, provides that when the Director finds that a party is non-compliant with a section of Bingham County Code, in Title 10, there is notification provided to that party and an opportunity to cure the violation. Mr. Olsen stated that code provides that she may grant leeway for up to 180 days in that process for the party to make progressive steps towards compliance. In this particular incident, it was that the party needed to apply for a Conditional Use Permit and that was done within the 180 day timeframe. Ms. Olsen stated that a Temporary Operating Permit was granted through the Conditional Use Permit process until the County found that the Board denied the Conditional Use Permit. Ms. Olsen stated on July 2, 2026, a letter was sent to Cedar Arch Dairies, LLC, that they have since received, stating that they are not in compliance with County Code and as a result of the Boards denial. The two items that triggered this matter are the animal units, wherein Ms. Olsen asked that they not increase the number of animal units at the home dairy and the north dairy beyond their reported 2005 animal unit inventory. Ms. Olsen stated the second trigger was the lagoon system and that they cannot operate or use any structure or waste water lagoon established after 2005 that was intended to support an expansion beyond the grandfathered animal unit inventory. Ms. Olsen stated that would specifically include the robotic dairy barn, its associated wastewater lagoons and any unpermitted lagoon. Ms. Olsen stated as a part of those two requirements, there is follow up giving Cedar Arch Dairies a reasonable timeframe to make that cure. Ms. Olsen stated that she would expect that the County hears from Cedar Arch Dairies on or before August 19, 2026, to have an update on how they are in compliance with the current codes, as well as an independent third party to verify head counts at each of the dairies. Ms. Olsen stated that as of today, she has not received a request for temporary permit to allow them to continue operations.

Chairman Manwaring asked if Cedar Arch can continue operating, wherein Ms. Olsen stated she is not able to verify if Cedar Arch Dairies is still operating as she has not performed an onsite inspection. Ms. Olsen referred to issue 12, which states “during the remand process” and to her that is in the past as they have been allowed to operate through the remand process to what the Boards decision was and they were granted

continual operations by Planning & Development until there was a decision reached by the Board. Ms. Olsen stated when the Board denied the Conditional Use Permit Application, she served a letter upon Cedar Arch Dairies letting them know that now that the permit is denied, they need to comply with current code which states that they need to revert to their 2005 grandfathered operating status for all points in the future. If they chose to come to the Board and ask for a Temporary Operating Permit to continue operations while they apply for a new Conditional Use Permit, that would be a separate discussion, but she has not received that request as of the current date. Ms. Olsen stated it would be her understanding that Cedar Arch Dairies would not be in an operating status but would be working towards curing compliance to notify Planning & Development on or before August 19, 2026, for an onsite inspection to verify that compliance. Chairman Manwaring verified with Ms. Olsen that Cedar Arch Dairies could still operate at the home dairy, to which Ms. Olsen stated was correct and under the 2005 grandfathered operating status.

Mr. Rogers asked the Board if the substantial rights of the affected parties have been prejudiced, wherein Commissioner Jackson stated he does not feel their substantial rights were prejudiced. Chairman Manwaring agreed with Commissioner Jackson and stated that he feels that all issues were covered, the Application was remanded back to the Planning & Zoning Commission for additional information, but sufficient information was not provided to answer the concerns and therefore, the Application was denied.

Although the first requirement was not met and the Board will not proceed, Mr. Rogers stated the second requirement to be met is if the Board believes the underlying decision is in violation or in excess of constitutional or statutory authority made upon lawful procedure, not supported by substantial evidence or arbitrary, capricious, or abusive discretion. Commissioner Jackson and Chairman Manwaring both concurred that requirement was not met either, as there was not enough information provided and a sound decision was made to deny the Application.

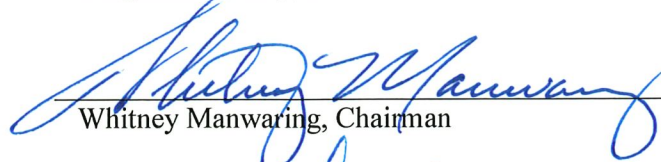
DECISION

Commissioner Jackson moved to deny the Motion for Reconsideration filed by Chris Jensen on the grounds that the substantial rights of the affected party were not prejudiced and the underlying decision is supported by substantial evidence. Chairman Manwaring 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 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 Chris Jensen, upon the following person(s) in the manner(s) indicated:

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