

BINGHAM COUNTY COMMISSIONERS

Whitney Manwaring, Chairman

Eric Jackson

Drew Jensen



Lindsey Gluch, Commission Clerk

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ORIGINAL

BINGHAM COUNTY BOARD OF COMMISSIONERS REASON & DECISION

In regard to: The Motion for Reconsideration of Remand Reasons and Decisions dated July 1, 2026, filed by Peter M. Wells, Attorney for the Firth/Basalt Concerned Citizens including Gordon Jay Madsen, Jesslyn Speakman, Anna Ruth Kohler, Nollene Jensen, and Kylee Kohler. Said Motion for Reconsideration is pursuant to Idaho Code Section 67-6535 and Bingham County Code 10-10-3, to request that the Board of County Commissioners reconsider and amend its written Remand Reason & Decision signed and entered on July 1, 2026.

Motion for Reconsideration Meeting Date: July 28, 2026

At the onset of the meeting, Commissioner Jensen declared conflict as he is a neighbor to the affected parties 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), the Firth/Basalt Concerned Citizens including Gordon Jay Madsen, Jesslyn Speakman, Anna Ruth Kohler, Nollene Jensen and Kylee Kohler, request 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 A: "The Bingham County Planning & Zoning Commission failed to verify the current animal units for the Confined Animal Feeding Operation". Although this specific appeal concerns seemingly served as a foundation for the Board's denial of the CUP, the final decision fails to clearly delineate this issue or specify the underlying rationale, thereby violating the procedural mandates of Idaho Code Section 67-6535.

Chairman Manwaring stated the original decision relied upon the application regarding the current animal units and found the numbers were inconsistent. Chairman Manwaring stated that Planning & Development is not going to verify numbers but there was conversation in regard to the number of cattle that came from different places. Commissioner Jackson agreed and stated there was not sufficient evidence to obtain the correct verified amount of animal units.

Issue B: “The Confined Animal Feeding Operation provided inflated and unverified numbers”, Although this specific appeal concerns seemingly served as a foundation for the Board’s denial of the CUP, the final decision fails to clearly delineate this issue specify the underlying rationale, thereby violating the procedural mandates of Idaho Code Section 67-6535.

Chairman Manwaring stated the Board remanded back to the Planning & Zoning Commission to have the numbers included from the Home Dairy and the North Dairy. The Board was not able to determine the accurate count on each dairy. Commissioner Jackson agreed and stated that the facts were inconclusive and not sufficient.

Issue C: “A Conditional Use Permit should have been required for the Confined Animal Feeding Operation to build the existing robotic barn as an expansion of the dairy operation”. Although this specific appeal concerns seemingly served as a foundation for the Board’s denial of the CUP, the final decision fails to clearly delineate this issue or specify the underlying rationale, thereby violating the procedural mandates of Idaho Code Section 67-6535.

Chairman Manwaring stated that an expansion of dairies does require a Conditional Use Permit as stated in Bingham County Code 10-7-10(c), however, in 2021 when the robotic barn was initiated the information provided to the County did not warrant a Conditional Use Permit, it was discovered years later that the robotic barn also added a lagoon and other items and therefore is being investigated as a separate issue and triggered a Conditional Use Permit. Chairman Manwaring stated when the first application was submitted to Planning & Development, it came in as an agriculture exempt, which is allowed but there are things that later on triggered a Conditional Use Permit. Chairman Manwaring asked Ms. Olsen to explain further.

Ms. Olsen stated based on the information provided by Applicant in 2021, the decision was made to allow the barn to be constructed with an Agriculture Exempt Permit. It wasn’t until a Nutrient Management Plan was provided in 2024 that the County was made aware that there had been modifications to the lagoon systems and an increase in animal units.

Commissioner Jackson stated that he recalls being told that an Appraiser hired by the County had attempted to go out and conduct an assessment but did not receive a response from the property owner and there were “no trespassing” signs placed.

Ms. Olsen explained that a Building Permit allows Planning & Development access to the property for an inspection. On an Agricultural Exempt Permit, Planning & Development conducts two inspections, one before the structure is placed to verify that it meets setback regulations and the second is once the structure is in place, is to verify the structure was placed where it was supposed to be placed. Ms. Olsen stated there are no construction inspections conducted on those structures pursuant to building code.

Commissioner Jackson stated that he is in agreeance with Chairman Manwaring and that an expansion of dairies does not require a Conditional Use Permit as stated in Bingham County Code 10-7-10 (C), however, in 2021 when the robotic barn was initiated the information provided to the county did not warrant a Conditional Use Permit, it was discovered years later that the robotic barn also added a lagoon and other items and therefore is being investigated as a separate issue.

Issue D: “ The current Nutrient Plan for the Confined Animal Feeding Operation clearly indicates an expansion and not an enhancement to the current operation of the Confined Animal Feeding Operation which should require further study”. No mention of this appeal issue was addressed by the BOCC in its previous decision, and Movants are entitled to a decision on this issue pursuant to 10-10-2-D through “findings and conclusions”.

Chairman Manwaring stated the Movants state they are entitled to a finding and conclusion based on 10-10-2-D about the Confined Animal Feeding Operation being an expansion and not an enhancement, at the time Planning & Development received the Nutrient Management Plan the Applicant was in the process of applying for a Conditional Use Permit, and from the review of that plan it appeared that there was an expansion which required a Conditional Use Permit, which was eventually denied. Commissioner Jackson stated that he is in agreeance.

Issue E: "The Applicants received permission to submit 29 written statements subsequent to the deadline for the written submissions and certain of the statements were submitted from individuals outside of the radius parameter." Any written statements outside of one mile is a violation of Idaho Code Section 67-6529(2).

Chairman Manwaring stated the 29 letters attempted to be submitted by the Applicant as testimony were questioned at the Planning & Zoning Commission stage and it was determined that the letters were not accepted as testimony but rather an exhibit of the cleanliness of the facility during a scheduled tour. Commissioner Jackson stated he is in agreeance and that the letters were classified as exhibit only and not testimony provided.

Issue F: "The Applicants application contained information which was not considered or addressed by the Bingham County Planning & Zoning Commission. i.e. expansion in the form of two (2) robotic dairy barns." Although the Board denied the Conditional Use Permit, the final decision fails to clearly delineate this issue or specify the underlying rational, thereby violating the procedural mandates of Idaho Code 67-6535.

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 and Chairman Manwaring stated that he does not recall a conversation in regard to two robotic barns. Commissioner Jackson stated that he is in agreeance and where the Board did not approve the Conditional Use Permit, it nullifies the statement. Chairman Manwaring stated in the future, if approved, they may want to place another robotic barn but that was not within the original application.

Issue G: "The undersigned was not allowed to reopen the hearing and address concerns that were raised by the Commissioners. The meeting should have been tabled for a later time when all parties could have been present so that the additional questions could be answered and considered by the Commissioners."

Chairman Manwaring stated that it is not clear which hearing is of concern or specific about which request was denied. Commissioner Jackson stated that he is in agreeance.

Issue H: " The Commissioners should have requested a CAFO site advisory team evaluation of the dairy site." Idaho Code 67-6529E grants the ability of the County to seek the expertise of the CAFO site advisory team. This issue may be mute, considering the decision of the County to deny the CUP Application.

Chairman Manwaring stated this issue is moot based on the denial of the Application, and if the Application was approved, conditions could be placed to seek a site advisory team to conduct animal unit counts. Commissioner Jackson stated that he is in agreeance.

Issue I: “The conditions imposed by the Reason & Decision do not contain definite time periods of compliance.” The written decision fails to establish specific, enforceable deadlines for mandated mitigation measures, including dust abatement and the control of flies and predators. Absent a clearly defined timeline for resolving these regulatory concerns, oversight and enforcement are rendered practically impossible. While this issue may be moot in light of the Board’s denial of the CUP, the lack of temporal parameters reflects a procedural deficiency that must be addressed to ensure compliance with County Standards.

Chairman Manwaring stated the Board agrees that there were definite time periods of compliance, which was the basis of the remand to gather more information and define those timelines, which the Applicant failed to provide, which in turn, led to the denial of the Application. Commissioner Jackson stated that he is in agreeance.

After reviewing the filed Motion for Reconsideration and deliberation, the Board finds the following:

1. Substantial Rights of the Affected Party
 - a. Commissioner Jackson stated that both sides were heard, had time to submit their concerns and he believed there was no prejudice or bias in the Board’s process.
 - b. Chairman Manwaring stated that opinions could vary on this matter and some could agree or disagree that there was prejudice or bias in the Board’s process.
 - c. The Board finds that the filers and affected parties had ample opportunity to present testimony, evidence and written comments.
 - d. The Board concludes that the Substantial rights of the affected party have not been prejudiced within the meaning of Bingham County Code 10-10-3(c).
2. Support by Substantial Evidence
 - a. The Board’s prior decision to deny the Conditional Use Permit was based on:
 - i. Inconsistent and insufficient evidence on animal unit counts;
 - ii. Later-discovered lagoon modifications and nutrient management changes;
 - iii. The Applicant’s failure to supply the requested clarifying information upon remand, including enforceable timelines and mitigation details.
 - b. Commissioner Jackson affirmed that the Board had the evidence needed to make a supported decision and that the written denial has a sufficient foundation.
 - c. Although Chairman Manwaring acknowledged that more evidence might have changed the outcome, the denial itself was based on the lack of adequate supporting evidence from the Applicant, which is a valid basis for denial.
 - d. The Board concludes that its underlying decision is supported by substantial evidence in the record and is not arbitrary, capricious, or an abuse of discretion.

Legal Counsel confirmed that the Board finds the substantial rights of the affected party were not prejudiced and the underlying decision is supported by substantial evidence. The Board cannot check either of the

required boxes in favor of the moving party under Bingham County Code 10-10-3(c). Therefore, the Board lacks authority under the code to amend, reverse, or otherwise modify its prior decision.

DECISION

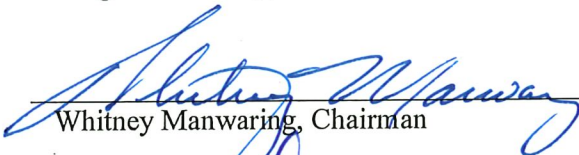
Commissioner Jackson moved that according to Bingham County Code 10-10-3(c) the substantial rights of the affected party were not prejudiced and therefore, the Board will not modify its decision. Chairman Manwaring seconded. Both voted in favor. The motion carried.

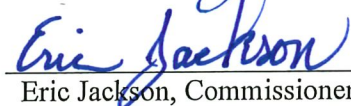
Commissioner Jackson moved to deny the Motion for Reconsideration and uphold the previous decision to deny the Conditional Use Permit for Cedar Arch Dairies, LLC. Chairman Manwaring seconded. Both voted in favor. The motion carried.

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 12 day of August 2026.

Board of Bingham County Commissioners
Bingham County, Idaho


Whitney Manwaring, Chairman


Eric Jackson, Commissioner

Recused
Drew Jensen, Commissioner

AMENDED CERTIFICATE OF SERVICE

I certify that on the 12 day of August 2026, I served a true and correct copy of the Reason & Decision for the Motion for Reconsideration filed by Firth & Basalt Concerned Citizens through Legal Counsel, Peter M. Wells, upon the following person(s) in the manner(s) indicated:

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

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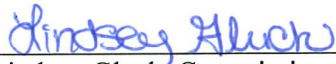
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Theodore Larsen
Attorney for Cedar Arch Dairies, LLC



Lindsey Gluch, Commission Clerk