

# BINGHAM COUNTY COMMISSIONERS

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Eric Jackson

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## BOARD OF BINGHAM COUNTY COMMISSIONERS REASON & DECISION

In regard to: The Planning & Zoning Commission's remanded decision to deny the request by property owner, Cedar Arch Dairies, LLC, based on the fact that the Commissioners were not able to provide the Board of County Commissioners the facts that were asked for, and the Commissioners believe there should be two separate CAFO locations.

Property Owners: Cedar Arch Dairies, LLC "Cedar Arch"

Board of County Commissioners Remand Meeting Date: June 11, 2026

On December 2, 2025, the Board of County Commissioners ("Board") heard four (4) appeals of the Planning & Zoning Commission's Reason & Decision to conditionally approve Cedar Arch dairies, LLC's Conditional Use Permit to allow the continuance of a Confined Animal Feeding Operation (CAFO) for a dairy in two-separate locations referred to as the "Home Dairy" located at approx. 710 E 600 N, Firth, Idaho. The Board found that additional evidence relating to the validity of the underlying decision is material and meets Bingham County Code Section 10-10-2(C). The Board sought additional fact-finding evidence on:

1. The animal units for the North Dairy and the animal units for the Home Dairy as separate animal units for each location, for the years of 2005 and 2025;
2. Time limits be placed on the conditions to aid with enforcement;
3. Compliance status for the conditions;
4. Options on how to eliminate odor and the feasibility of all options, along with the feasibility of a methane digester to reduce flies.

On April 8, 2026, the Planning & Zoning Commission ("Commission") conducted a Remand Public Hearing pursuant to its Reason & Decision dated December 23, 2025. The Commission found that the Applicant failed to answer the questions requested by the Board on Remand. Accordingly, the Commission unanimously recommended denial of Cedar Arch's Conditional Use Permit Application and included in its motion a recommendation that Cedar Arch's operations be treated as two separate CAFO locations.

At the onset of the Remanded Decision Meeting Commissioner Drew Jensen recused himself pursuant to Idaho Code Section 74-404, Conflict of Interest. Chairman Manwaring and Commissioner Jackson were in favor of recusal.

Tiffany Olsen, Planning & Development Director, presented staff report for the record.

Commissioner Jackson asked how the total units are registered, wherein Ms. Olsen explained that unit numbers are provided by the Applicant on a review of their accounting and bookkeeping systems, as they provided in testimony, they have reviewed those items to verify the figures. Ms. Olsen stated that there has not been a live cattle count done by the county or any independent party.

Chairman Manwaring asked if the Applicant submitted actual milk/cow numbers at the old dairy and the robotic dairy without the yearlings, wherein Ms. Olsen stated animal units can be confusing and in addition to the basics, the way that the county calculated animal units in 2005 was with a certain value. Ms. Olsen stated the way animal units are calculated in 2012, moving forward, is a different value. For instance, milking and a dry cow have an animal unit of 1.4. However, now a milking cow has an animal unit of 1. Ms. Olsen referred to Exhibit PZR-7(D), stated it was requested that the Applicant re-submit the classification of animals to correlate specifically with those animal unit charts. The first exhibit received was not compliant, which means when the county received the information, it was responded as milk cows, dry cows, heifers and calves. Ms. Olsen stated the county chart has an age classification in addition to what function or purpose the cow is serving. Ms. Olsen again referred to Exhibit PZR-7(D), which does directly correlate with the chart. Ms. Olsen referred to information in regard to the North Facility in the robot dairy, there are 755 mature milking cows that have an animal unit of 1,132.5.

Chairman Manwaring asked how many milking cows were at the home dairy, wherein Ms. Olsen referred to Exhibit PZR-7(D) which shows at the home dairy in July of 2025, it was reported to have 741 mature cows, with an animal unit value of 1,111.5 and 149 dry cows, with a value of 223.5 animal units.

Ms. Olsen continued presentation of the staff report for the record.

Commissioner Jackson asked for clarification and that the manure or compost piles were removed but there was no barrier to prevent runoff, wherein Ms. Olsen explained initially there was not a barrier installed but 3-4 stacks of straw have been added to the area to prevent spilling onto the Madson's property of straw. Commissioner Jackson stated that he does not know that the straw would constitute a barrier because water and runoff would go right through. Ms. Olsen stated from the record she believes that the Planning & Zoning Commission shared some of the same concerns. Ms. Olsen stated the Planning & Zoning Commission discussed the desire to see a more permanent cattle resistant barrier that wouldn't deteriorate with weather. Commissioner Jackson asked if the barrier is designed for cattle or runoff, wherein Ms. Olsen stated the barrier is for the cattle pens and the manure area, as well as when the manure is scraped from those pens and it is moved with heavy equipment, it was reported in testimony from the Madson's that there was spillage onto their property.

At completion of staff report presentation, Chairman Manwaring stated the Board had questions the first time that the appeal was heard, which was the reasoning for remand to the Planning & Zoning Commission. Chairman Manwaring referred to conditions 6 and 7 in regard to flies and dust, he does not believe that the Applicant provided the information that was needed and that he would like to see more information. Chairman Manwaring stated in regard to the digester, which is one of the items that the Board requested additional information, he would like to see several companies who could provide cost for the specific facility.

Commissioner Jackson agreed and stated there was reference to the approximate amount of several million dollars to treat an average size dairy but did not relate specifically to the subject dairy and there was no alternative method provided for mitigation.

Chairman Manwaring stated it was mentioned that there will be a water truck to cut down the dust, but Commissioner Tominaga suggested the use of mag chloride, but the Applicant did not address that either. Chairman Manwaring stated that he has an issue with a dairy being formed and after the fact, applying for the Conditional Use Permit, and operating on a temporary basis. Chairman Manwaring stated with the old

dairy and being grandfathered in, he asked Ms. Olsen for confirmation that the Applicant could still function on a temporary basis. Ms. Olsen stated based on the information that is provided by the Applicant, it does appear that the old dairy, also referred to as the home dairy, has fewer animal units in 2025 than it had in 2005 and there has not been an application received indicating that the lagoons or anything treatment wise has changed at the home dairy. Therefore, Ms. Olsen stated it would be found that it has not received or incurred a substantial or material change and would continue operating under the 2005 grandfathered status, up to the 2005 animal unit number.

Chairman Manwaring stated that he believes that each dairy should have its own Conditional Use Permit and the Nutrient Management Plan would cover both permits. Chairman Manwaring stated if this permit was denied and the Board would like to see each dairy have its own Conditional Use Permit, what is the timeframe required and what would need to occur to continue operating on a temporary basis and how would the Department of Agriculture be involved. Ms. Olsen explained that the Planning & Zoning Commission agreed that they should be treated as two separate CAFO locations. The home dairy would continue to operate under the grandfathered status in the ordinance 2005. However, Ms. Olsen stated that she has communicated via email with the Department of Agriculture Inspector that operations at the north dairy, which include the robot dairy, could continue throughout the application of a Conditional Use Permit. If the Conditional Use Permit were not approved, the county would advise the Department of Agriculture that Cedar Arch Dairies is not compliant with Bingham County Code for continued operation. Ms. Olsen stated that it would be the discretion of the county to allow the dairy to function or not, under Title 10 Chapter 10, under Code Enforcement, the county has the opportunity to allow an applicant or property owner the opportunity to cure a violation within a reasonable amount of time, which is what was done when operations were allowed to continue while Cedar Arch Dairies was applying for the Conditional Use Permit. Ms. Olsen stated that could be an option extended from the county, they could continue operations while they re-apply for just the north dairy or the county could let the Department of Agriculture know that the county is unwilling to extend that opportunity to cure.

Ms. Olsen stated in looking at the conditions imposed by the Planning & Zoning Commission, on page 6, the State Department of Agriculture requires and oversees the first two conditions that the Cedar Arch Dairies do not exceed 4,280 animal units and that they abide by the current terms and regulations. Ms. Olsen reiterated that the compost area has been removed, that the setback from the wells had been met and the remaining items are conditions that she cannot say from the record are even being met as she does not know from the information that has been provided, if the application were to be denied, she would hope that the applicants listen to testimony and discussion by both the Planning & Zoning Commission and the Board, that these things are important for them to continue operating and implement in the best management practices.

Paul Rogers, County Legal Counsel, stated if the Conditional Use Permit is denied, it is hard to put conditions as the county does not have the jurisdiction. If there is a denial, the burden should be on the applicant to come to the county and ask for permission to continue operating on a temporary basis.

Ms. Olsen stated that Chairman Manwaring had mentioned two Conditional Use Permits, but that she does not believe there is enough information to show that there has been a change at the home dairy. Therefore, the home dairy would not need a Conditional Use Permit at this time, but the north dairy does need a Conditional Use Permit to operate. Ms. Olsen stated if the home dairy does exceed the 2005 number of animal units, it would also need a Conditional Use Permit.

Ms. Olsen referred to Exhibit PZR-7(D), which shows animal unit count and a portion of the 2005 Bingham County Ordinance. Ms. Olsen stated when there is a substantial change in animal waste management systems or an increase in animal units by greater than 25% or 150 head. Ms. Olsen stated there are a few triggers as the north dairy facility was reported by the Applicant, the addition of the robotic dairy was not going to change in head count and there was no change to the lagoon system. Ms. Olsen stated at a later date, upon request for additional information and working with the Department of Agriculture, it was found that there were a change and implementation of a new lagoon system and that the animal units had increased from 2005 status, which necessitated a Conditional Use Permit.

Discussion was held in regard to what would occur if the application was denied, wherein Ms. Olsen explained that the home dairy would be able to continue operation without increasing numbers and not making a change to their animal waste management system. Ms. Olsen stated the north dairy is out of compliance because they have amended the animal waste management system and increased their animal units. Notification would be provided that they are out of compliance with code and to gain compliance they would need to re-apply for a Conditional Use Permit.

Ms. Olsen stated if the Applicant requests permission to temporarily function while submitting for a second Conditional Use Permit, it will be at the discretion of the county to approve or disapprove. Mr. Rogers stated if the Board makes the decision to allow them to continue operating on a temporary basis, he suggests that the Applicant be required to provide the Board with information as to what has changed now and why the county should allow the variance.

Chairman Manwaring reiterated that the current application included the old dairy and the robotic dairy, wherein he stated that he believes that each should have its own Conditional Use Permit. If the decision made today ends up being a denial, the applicant can submit a new application for the robotic dairy to proceed and if the animal unit numbers increase on the old dairy, that will need a Conditional Use Permit.

Chairman Manwaring stated that he does not feel that sufficient answers were provided to the answers within the remand sent back to the Planning & Zoning Commission. Chairman Manwaring stated that each application should be submitted with several options to cure issues that are presented. Commissioner Jackson stated that he was in agreement.

Chairman Manwaring referred to conditions from the last approval, wherein the total animal units and Nutrient Management Plan are both controlled by the Department of Agriculture and therefore there was no concern. Chairman Manwaring referred to condition 3 in regard to the compost area, wherein the Bingham County Code Enforcement Officer confirmed had been in compliance. The 300 foot setback and the installment of barrier, wherein if straw is used, it will need to be switched out every couple of years because it deteriorates and sluffing off and the straw would only be temporary while the trees are growing.

Chairman Manwaring stated that the Planning & Zoning Commission found that the first five conditions were met and there was not sufficient information provided by the Applicant in regard to conditions 6 and 7, regarding fly and dust mitigation. Commissioner Jackson agreed.

Chairman Manwaring stated the current Conditional Use Permit application included both the home and the robotic dairy, but the Board believes that there should be two separate permits.

## DECISION

Commissioner Jackson moved to affirm the denial of the Planning & Zoning Commission in regard to the Boards request for additional information for fact finding that the applicant did not provide a response to Request No. 2 (Time Limits be placed on the conditions to aid with enforcement) and Request No. 3 (Compliance status for conditions) , and that the information provided for Request No. 4 (Options on how to eliminate odor and the feasibility of all options, along with the feasibility of a methane digester to reduce flies), and dust mitigation to be administered by applying water, via a water spray tanker trailer or sprinkler, on all gravel or dirt roads as needed, was insufficient. Chairman Manwaring added that both dairies were included in one CUP application and the north (robotic) dairy should be its own CUP application. If the old (home) dairy exceeds its grandfathered limit in cattle, it should be its own CUP application. Chairman Manwaring seconded. Both voted in favor. The motion carried.

**Request for Reconsideration/Judicial Review:** Upon denial or approval of a zone change, with adverse conditions, pursuant to Idaho Code Section 67-6535(2)(b), the Applicant or affected person seeking Judicial Review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought.

**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 1<sup>st</sup> day of July 2026.

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

  
Whitney Manwaring, Chairman

  
Eric Jackson, Commissioner

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Drew Jensen, Commissioner

**CERTIFICATE OF SERVICE**

I certify that on the 1<sup>st</sup> day of July 2026, I served a true and correct copy of the Reason & Decision for the Cedar Arch Dairies BOCC Remand upon the following person(s) in the manner(s) indicated:

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