

**BINGHAM COUNTY PLANNING & ZONING COMMISSION
REASON AND DECISION**

APPLICATION FOR: Conditional Use Permit for an expansion of an existing Confined Animal Feeding Operation

**PROPERTY OWNERS
& APPLICANT:** Cedar Arch Dairies, LLC

Requested Action: Bingham County enacted an Ordinance on September 28, 2005, that grandfathered all existing Confined Animal Feeding Operations (CAFO) in operation before that date in “as is” condition. Specifically, Section 8.5.4(g) *General Requirements* states, “*A Special Use Permit is required for all new CAFOs or the expansion of an existing CAFO that constitutes a Material Change.*” Property Owner and Applicant, Cedar Arch Dairies, LLC, operates a dairy in two separate locations referred to as the “Home Dairy,” which began operation in 1959, located at approx. 710 E 600 N, Firth, ID, and the “North Dairy” in 1990, located at approx. 777 N 700 E, Firth, ID. Based on the 2005 Ordinance, the Applicant is required to apply for a Conditional Use Permit due to (1) an increase in animal units (“AU”); and (2) an increase in its Animal Waste Management System capacity with the addition of a robotic milking barn on the North Dairy property.

The Applicants are requesting approval to continue existing dairy operations consisting of approx. 3,600 dairy cows following the 2024 Nutrient Management Plan (approved by the Idaho Department of Agriculture) for up to 4,280 AU’s among the two locations.

CAFOs are allowed in an Agriculture “A” Zoning District with an approved Conditional Use Permit in accordance with Bingham County Code Section 10-5-3 *Land Use Chart*, and require compliance with Bingham County Code Section 10-7-10 *Specific Use Performance Standards*.

Property Locations: “Home Dairy” Parcel Nos: RP0538006, RP0537403, RP0537502, RP0537503, RP0537404, RP0537504, & RP0538007, Township 1 South, Range 37 East, Section 32. Approx. 106.44 acres.
“North Dairy” Parcel Nos: RP0532303, RP0532304, RP0532305, & RP0531803, Township 1 South, Range 37 East, Section 29, approx. 121.51 acres

Applicable Regulations: Bingham County Comprehensive Plan dated November 20, 2018
Bingham County Zoning Ordinance 2012-08

I. PUBLIC HEARING MEETING AND INFORMATION

1. The following was reviewed by the Commission:
 - a. Application and materials submitted by the Applicant;
 - b. Staff Report, maps, notice, and other materials.
2. At the Public Hearing, Assistant Director/Lead Planner Addie Jo Jackman presented the Staff Report for the Application. She reviewed the requested action, the history of the Clayson's dairy operation, and the necessity for a Conditional Use Permit Application as the Applicants provided their 2024 Nutrient Management Plan (NMP), which showed an expansion of their operations with a new Animal Waste Management System and increase in animal units. Ms. Jackman also acknowledged that before the Public Hearing, the Commissioners were provided the record of written testimony received, which included:
 - (T-1) Bingham County Surveyor submitted testimony in a neutral position and stated the "Home Dairy" parcels are in the floodplain. A Flood Insurance Rate Map (FIRM), Panel 290 of 750, Community Panel Number 160018 0290 B was attached to the testimony received depicting the flood zone.
 - (T-2) Bingham County Public Works submitted testimony in a neutral position, stating no objections or concerns at this time.
 - (T-2A) Bingham County Public Works submitted testimony on August 4, 2025, in a neutral position and reiterated that they have no objections or concerns.
 - (T-3) Robyn Mitchell, City of Basalt Clerk, and Rex Mitchell, City of Basalt Mayor, submitted testimony in opposition. A summary of the testimony includes concerns relating to an increase in the number of animals, potential water contamination of the City of Basalt's wells, nitrates, public health concerns, and the construction of the robotic milking barn.
 - (T-3A) Robyn Mitchell, City of Basalt Clerk, and Rex Mitchell, City of Basalt Mayor, submitted testimony in opposition to the Application. A summary of the testimony includes the following:
 - Concerns that the current water system is 2 wells, that they pump directly out of the ground without having to add chemicals to the system. With the number of animals that the dairy wants to add, this raises concerns for the groundwater to have that much animal waste go into the ground at such close proximity to the well. It would up the risk of having high nitrate traces in the drinking water and lead to public health concerns.
 - They would like to know the accurate current count of how many livestock they have currently at each location and have it verified.

- If there is an increase in AU's, regulation by the County to have accurate counts is needed, and the sewage should be watched and not allowed to build up in areas close to where people live.

(T-4) The Idaho Department of Environmental Quality (DEQ) submitted testimony in a neutral position stating that CAFOs are regulated by the Idaho State Department of Agriculture (ISDA) under the Rules Governing Dairy Byproduct (IDAPA 02.04.14) and the Rules Governing Environmental and Nutrient Management (IDAPA 02.04.30). DEQ encourages the permittee to contact ISDA for more information regarding the applicable rules for such an operation.

Idaho Pollutant Discharge Elimination System (IPDES) permits are written by DEQ but inspected by ISDA.

A dairy of this size would be classified as a large Concentrated Animal Feeding Operation (CAFO) under IDAPA 02.04.15.010.08. The county may request that a CAFO site advisory team evaluate the location. DEQ strongly encourages the county to contact the ISDA to request a CAFO site advisory team evaluation of all proposed CAFOs prior to approval.

DEQ's general recommendations for land development projects were also attached.

(T-5) Eliot Dye, who formerly resided at 640 E 700 N, Firth, Idaho, with a mailing address of 2132 Colt Drive, Farmington, Utah, submitted testimony which was stricken from the record based on the submitted testimony falling outside of the radius parameter outlined in Idaho Code 67-6529(2) and shall not be considered by the Planning and Zoning Commission.

(T-6) Daniel Gneiting, 694 N 700 E, Firth, ID, submitted testimony in opposition to the Application. A summary of his testimony includes: concerns with truck traffic, noise, road deterioration, and mud/manure on the road.

(T-7) Delane Croft, 614 E 750 N, Firth, ID, submitted testimony in opposition to the Application. A summary of his testimony includes: the community needs fresh air, not more cows. Mr. Croft cited that the air is so rotten, he can't open the windows.

(T-8) Patricia & David Bergeson, 709 E 800 N, Firth, ID, submitted testimony in opposition to the Application. A summary of their testimony includes:

- concerns with air quality, methane emissions, noise pollution, water quality, diminishing groundwater resources, soil degradation, ecosystem degradation, and property values.
- That dairy farming is an industry vital to this area and should be allowed to grow and prosper; however, serious consideration needs to be taken when the dairy operation is next to individual properties and homes or very near existing communities where the operations could harm or endanger people and the environment.

(T-9) Brandon Morrell, provided no address; however, staff located a residential address of 669 E 700 N, Firth, ID, submitted testimony in opposition to the Application. A summary of his testimony includes:

- questions regarding public notification, impact boundaries, water use, water monitoring, waste management, environmental safety, permitting, expansion, and public impacts.
- addresses concerns with quality of life, noise, dust, unsightly silage bags, personal impacts, environmental impacts, commercial truck traffic, and impacts to down-gradient wells causing cancer.
- states that the County has had unethical dealings and requested an investigation from the Governor's Office, the Idaho Department of Water Resources (IDWR), and the Department of Environmental Quality (DEQ). *Staff Comments: Bingham County's Geographic Information System (GIS) shows Mr. Morrell's address is 669 E 700 N, Firth, ID.*

(T-10) Kevin Bolinder, 732 N 700 E, Firth, ID, submitted testimony in opposition to the Application. A summary of his testimony includes the following:

- several questions regarding the AU counts, timeliness of CUP, and policing responsibility
- concerns with groundwater contamination, manure, odors, flies, depreciation of home values, and road safety.
- each dairy has an impact of approx. 1 mile, equaling an 8-mile impact area they have on the neighborhood now. With plans to get bigger, the impact could increase as well.
- Cedar Arch Dairies have not been good stewards of the neighborhood, without some policing of the CAFO rules by the county, and by doubling the cows they want to milk, it can only get worse for all the neighbors.

(T-11) Todd Longhurst, 743 E 700 N, Firth, ID, submitted testimony in opposition to the Application. A summary of his testimony includes the following:

- Lack of compliance with setback distances.
- Liquid waste ponds and composting are too close to residences.
- CAFO located within 1,000 ft of at least three unrelated residences.
- Most serious violation: New CAFO located only 784 yards from the incorporated city of Basalt, within the required 2-mile buffer zone.
- Risk to the aquifer, drinking water contamination, harmful manure gases, health concerns, strong odors, decrease in property values, and severe fly infestations.
- At least two neighbors reportedly diagnosed with cryptosporidiosis —possibly due to sick calves or manure exposure.
- Elevated nitrate levels in the City of Basalt's water and residential wells.

- Request for Cedar Arch Dairy to provide proof of bentonite lining in lagoons. Recommends involvement of the Idaho Department of Water Resources. Would like to ask Bingham County to enforce their own rules and regulations without exceptions or political influence, and warns of potential legal liability for the county if environmental or health hazards develop from an unpermitted or improperly permitted CAFO.

(T-12) Gordon Jay Madsen, 779 N 700 E, Firth, ID, submitted testimony in opposition to the Application. A summary of his testimony includes the following:

- History of helping build the original dairy on the site in the early 1980s
- Believes Cedar Arch Dairies has failed to comply with county and state regulations, and the county has failed to enforce them.
- Concerns with the proximity of manure to his residence and corral to his well. In 2022, he had to have a new well drilled, and it is located 100 feet from the corral. The new well was tested and is already showing trace levels of nitrates.
- Concerns with north lagoon lining, impacts to the aquifer, manure piles, runoff, lack of compliance with NMP/State regulations, excessive flies, odor, inability of outdoor use, cows getting out, property damage, sick animals, stuck animals, cruel handling, violation of current allowed AUs, and false statements.
- Believes the CUP is a request for forgiveness, not permission.
- Suggest the following:
 1. Remove manure from the east side of his property and move all future storage 300 feet from his well.
 2. Remove the corral located within 100 feet of his well.
 3. Construct a permanent fence between his property and the CAFO.
 4. Enforce odor and pest control best practices per Idaho Department of Agriculture.
 5. Allocate animals to locations based on acreage.
 6. Establish an approved central manure storage location for all corrals.
 7. Create an alternate route to the north lagoon to divert storm runoff away from his well and property.
- Documentation photos of the above concerns were also provided.

(T-13) Brandt Leslie, 685, E 700 N, Firth, submitted testimony in support of the Application. A summary of his testimony includes:

- History of being raised in the immediate area, leaving, moving back, and is still between the 2 dairies and continues to live there today by choice.
- Has not noticed any change in the quality of life. The fly situation has improved this year over prior years, and suspects that is due to the sophisticated new barn.
- Even if he was concerned about the flies, he chose to build 2 homes there and still chooses to live there.

- Claysons are a great family who give back to the community. The dairy is a mainstay and one of the reasons Firth is such a great place to live.

(T-14) Don and Ronda Hansen, (no address provided), however, staff was able to locate a residential address of 743 E 800 N, Firth, and submitted testimony in opposition to the Application. A summary of their testimony includes the following:

- The Applicant has not followed certain standards regarding the distance for the liquid waste, the number of cows in the location of the dairies, and the location of the dairies to homes located within 1 mile or less.
- The air quality and the amount of land required is too close to the homes and people and will affect homes, towns, and a cemetery.
- Was there an environmental survey done to check the location, air quality, water, soil, and location of the dairies before approving the application request?
- Smell of manure, smell of dead animals, skin irritation, Pneumonia, illnesses of neighbors, sick animals, bad air quality, and water quality concerns.
- Is the health and well-being of the approx. 650 people nearby are more important than 2 businesses?

(T-15) Kylee Kohler, 732 E 700 N, Firth, submitted testimony in opposition to the Application. A summary of her testimony includes the following:

- Horrible smells, copious amounts of flies, fly droppings, inability to open windows in the evenings, impacts on free use of the property,
- Kylee fell ill around July 4, 2025, from Shiga toxin-producing E. Coli and cryptosporidium, both of which are associated with cattle.
- They built their home without any knowledge of the plans of the enormous dairy/CAFO/composting operation and huge expansion right next door. feel that it goes against the very rules set in Bingham County Code 10-7-10 regarding distance from incorporated cities/towns, required distance from residences not associated with the CAFO, etc.

(T-16) Jammie Matheson, 729 E 800 N, Firth, submitted testimony in opposition to the Application. A summary of their testimony includes the following:

- well aware of the existing dairy as their family was some of the first to establish the area with family homes in the 1890s.
- Concerns with the inability to use their property as planned, financial loss, loss of property value, loss of income, gases impacting health, neighbors getting sick, and the future of their children building homes in the area.
- Why has Bingham County removed the existing CAFO regulations from the county website regarding distances required from established city wells? Bingham County has removed the word existing from guidelines. Was this a mistake or intentionally removed?

(T-17) Brett and Jeniece Olive, 747 E 800 N, Firth, submitted testimony in opposition to the Application. A summary of their testimony includes the following:

- Concerned with setback distances of operations
- Hazardous gases, Hydrogen Sulfide, Ammonia, Methane, and Carbon Dioxide that burn their nasal passages, causing headaches, asthma, COPD, allergies, eye irritation, nausea, and sinus problems.
- insist that the Idaho Dept. of Water Resources investigate Cedar Arch Dairies' liquid waste containment areas
- flies that bite and/or carry diseases and impacts from fly feces

(T-18) Jessalyn Speakman, 726 E 700 N, Firth, submitted testimony in opposition to the Application. A summary of the testimony includes the following:

- concerns with sickening odors, gross amounts of flies, inability to open windows, rotting manure, heavy truck traffic, traffic safety, animal husbandry, and inability to enjoy outdoor activities.
- Would like to see rules and regulations followed and an operation that keeps peace in the community

(T-19) Anna Ruth Kohler, 735 E 700 N, Firth, submitted testimony in opposition to the Application. A summary of the testimony includes the following:

- Concerns with odors, flies, health impacts, dirt, debris, manure piles, community safety, and water contamination
- Recommends planting 3 or 4 rows of trees around the property. Do all treatments needed for fly control, smell, or compost. Haul manure to the location where there are no residences.

(T-20) Jade Kohler, 732 E 700 N, Firth, submitted testimony in opposition to the Application. A summary of the testimony includes the following:

- Concerns with lack of outdoor enjoyment, odors entering his home with the windows closed, health impacts, noise, sleepless nights, anger, anxiety, decrease in property values, and lighting impacts.

(T-21) Brandon Jolley, Mayor of the City of Firth, submitted government agency testimony in opposition to the Application. A summary of the testimony includes the following:

- Concerns with proximity to incorporated city boundaries, odors, waste management, and water contamination.
- Requests that the Commission deny the expansion request as it does not comply with the required setbacks of the ordinance.

(T-22) Heather Anderson, 690 N 700 E, Firth, submitted testimony in support of the Application. A summary of the testimony includes the following:

- The robotic milking barn is neat, peaceful, and the cows are relaxed, providing production efficiency, and odors and mild.
3. After the Staff Report was presented, Commissioner Carter clarified what guidelines should be followed to govern this Application, as much of the opposition was related to distances and setbacks. Assistant Director/Lead Planner Jackman stated, specific to new CAFO operations, a newly constructed residence not associated with a CAFO shall meet a one thousand (1,000) foot setback distance or provide an acknowledgment of potential CAFO nuisance conflicts. This setback does not apply to existing residences in the area. Commissioner Carter confirmed this is not a new CAFO but an expansion of an existing CAFO. Assistant Director/Lead Planner Jackman agreed and added that Bingham County Code Section 10-7-10 (D) states a new CAFO facility must be two (2) miles from all incorporated cities. As these are existing CAFO facilities, the distance requirement was not applicable. Commissioner Carter asked if the setbacks, lagoons, and composting would need to be brought into compliance with current guidelines or if they hold a grandfathered status and are exempt from current guidelines. Assistant Director/Lead Planner Jackman stated that any new facilities and lagoons would need to meet the current requirements. Any existing facilities, before 2005, would retain their grandfathered status. She also clarified that the new waste management facility would need to be considered for compliance. Commissioner Bingham clarified that the setbacks were provided by the Applicant, and Assistant Director/Lead Planner Jackman confirmed.

Director Olsen approached the Commission and discussed sample motions, which included potential conditions for the Commission to discuss, comprised of items related to the type of land use, testimony received, and how the land use can continue to operate with conditions that may be applied to balance those property rights for those of the Applicant and those in the surrounding one-mile radius. Director Olsen stated that an approved CAFO CUP stays with the land regardless of whether the property owner changes, unless conditions were placed restricting it from transferring to future ownership. Director Olsen provided an overview of the motions for consideration: (1) a motion to deny the Application to modify the existing Conditional Use Permit, which was grandfathered in 2005 for 3587 animal units; (2) a motion to approve with conditions; and (3) a motion to deny.

Staff provided recommendations of conditions for discussion, and based on Bingham County Code Section 10-8-3 *Review of Application*, requesting that the Commissioners shall determine how this Application has or has not met those standards, based on the record.

Commissioner Carter questioned why two (2) different locations and parcel numbers are being considered as one (1) CAFO. Director Olsen explained that she worked with the Dairy Inspector, who said that he treats both operational locations as one (1) CAFO and relies on the regulations of the Idaho Code. If the CAFO shared a boundary line, a waste

management system, or dispersion of manure, it is to be treated as one (1). This CAFO has one (1) Nutrient Management Plan (NMP) for both properties/operations.

4. With no further questions for the Staff, the Applicant's Representative (T-23) Barry Crosby, 2093 Rim View Drive, Santa Clara, Utah, testified that he has been providing dairy nutrition and management consulting for Cedar Arch Dairies for twenty (20) years and has been in the business for forty-one (41) years. He explained that, based on the historic records of Cedar Arch Dairies and the Clayson family, who are in their fifth generation of farming, a commercial dairy was established at the North Dairy location around 1940-1945, and another at the Home Dairy location around 1945-1950. He stated that in 2005, Bingham County implemented CAFO regulations, and based on how animal units were counted in 2005, he determined there were 3,680 head of cattle. Using the current animal unit factors, he determined there were 4,038 animal units in 2005. He was unsure how the discrepancy in numbers occurred, but he estimated that there were 1,140 heifers and calves under a year old and 300 over a year old; it appeared that Planning Staff may not have included the 300 head in the 2005 total.

Mr. Crosby testified that in 2016, it was determined that the north milking barn was wearing out and would need to be replaced. It was decided at that time to place the cows indoors, out of the harsh environment, because this would be better for the cattle's welfare and the community, and would allow for better control and utilization of the manure nutrients. He explained it took years to proceed with the indoor barn plans as dairies are highly regulated, with several State and Federal agencies being involved. The State Department of Agriculture asked for a new Nutrient Management Plan (NMP) as required by their regulations. With the NMP, he explained that the setup and lining of the lagoons are very advanced compared to waste/nutrient management and that this is a huge benefit to local farms, fields that use this as fertilizer, and reduces the need for additional commercial fertilizers. Mr. Crosby discussed an Exhibit he prepared showing the numbers from November 1st, 2005, the numbers that were submitted by a notarized statement from the Applicant's CPA, actual numbers from July 10th, 2025, provided by Mr. Crosby, and the numbers from the current ISDA-approved NMP. This chart was entered into the record as Exhibit T-23A.

Mr. Crosby testified that the current headcount is at 3,600. Mr. Crosby explained that the conversion to animal units and the new NMP triggered Bingham County to require an updated CAFO. He stated that the Clayson family intends to be good neighbors while producing cattle and food locally, supporting and helping local businesses keep their doors open. Additionally, they regret any worry or concern this Application brought to the community. Further, the Applicants have been here for generations and will do everything feasible to use proven scientific methods to mitigate odor and fly control. He further explained that on July 28, 2025, the Claysons held an open house and invited the public to a tour of the new robotic dairy.

Mr. Crosby testified that from November to May, there are approximately 5,700 cattle in the vicinity of the dairy. Being a rural area, there are also horses, sheep, and chickens. He explained that from June to October, the cattle numbers are typically reduced to 700. Mr. Crosby discussed that they will continue to utilize proven fly mitigation methods, as flies are not good for people or cows. He explained that they avoid the use of feed-through larvicide as flies develop immunity over time. They have changed their composting, prevented standing water, and offered to spray the facilities. Now that construction of the robotic dairy is complete, they will be able to focus on operations and take advantage of things that have been implemented. Mr. Crosby testified that their top priority is animal welfare. They are continually working with and training their employees, making corrections when needed.

Commissioner Jolley asked Mr. Crosby if he thought the current operating status of the North Dairy is much better for the environment and the community when compared to how it was operated in 2005. Mr. Crosby confirmed it was, especially with having cattle indoors. Commissioner Jolley asked if there were any conditions from the list prepared by Staff that were not economically feasible or that he did not think would mitigate the concerns expressed by those who submitted testimony. Mr. Crosby referred to fly and odor mitigation and stated that the timing, frequency, and need can be adjusted based on the situation. He said they would increase fly mitigation and would also look at new products or techniques for composting and treating the lagoon to assist with odor mitigation. Mr. Crosby said those two proposed conditions are feasible and can be done more frequently, noting it could be costly, but committed to applying additional mitigation measures when needed. Commissioner Jolley asked about any proposed conditions that were not feasible, to which Mr. Crosby was concerned about covering the compost piles. He explained that it would be extremely expensive, and covering the compost would prevent the natural process, resulting in a product that is not a valuable fertilizer source for fields. He discussed a potential tree buffer condition, explaining that certain tree types could make a difference. Furthermore, a tree buffer may be possible to achieve, depending on the location. As to what the trees would do, he was uncertain of the economic impact. Lastly, he testified that a visually obscuring fence would not be economically feasible, as it would require a lot of fencing.

Chairman Adams referred to the difference in animal units from 2005 to 2015. He questioned whether the animal unit factoring was different at the time those were calculated in 2005 from the current code. Assistant Director/Lead Planner Jackman explained that there are two reasons for the discrepancy: the first was that Mr. Crosby was using an animal unit conversion factor based on current animal unit values when Staff used the 2005 animal unit factors for the 2005 head count. Ms. Jackman reviewed the animal unit conversion factors. She then explained that the second was that Planning Staff inadvertently missed including 300 head of cattle from the 2005 letter from the Applicant's Accountant in the Staff Report.

Commissioner Bingham confirmed that although the current approved NMP allows for 4,280 animal units, and that number is what the operation is approved up to, that doesn't mean that the animal unit value is required to be met. Mr. Crosby confirmed that this is the maximum limit of animal units they are allowed to have. Commissioner Bingham asked how that number is determined and if it was a number requested by the Applicants. Mr. Crosby testified that animal units are what the facilities (the North Dairy and the Home Dairy) are prepared to handle.

Commissioner Bingham then asked about the best way to manage the concerns of the manure and compost piles spilling onto neighboring properties. Mr. Crosby replied that the main compost area is a good distance from neighbors, and where mostly everything is handled, and that the compost area west of the old milk barn at the Home Dairy will be abandoned. The North Dairy location has calves and replacement heifers, and with adding the robotic barn, the manure is much drier than it was when more cows were there. Mr. Crosby testified that the Applicants plan to get things moved and in proper places as fast as possible to mitigate and remove the neighbors' concerns. Mr. Crosby testified that with robotic dairy construction complete, the Applicants can now step up and have the manpower to manage those things and to make sure they are being good neighbors. Commissioner Bingham asked for Mr. Crosby's suggestion on how that condition should read. Mr. Crosby stated that "the manure is scraped and moved in a timely fashion and stored in the approved areas."

Commissioner Carter questioned whether the pre-existing lagoons have been brought up to current compaction and lining standards. Mr. Crosby stated that the State inspects the lagoons as part of the NMP. They must be meeting those standards, as they have not been informed otherwise after inspections of the Home Dairy lagoon and the smaller lagoon at the North Dairy.

5. With no further questions for the Applicant's Representative, Chairman Adams opened testimony to the public. Testimony in support was given by:

(T-24) Heather Anderson, 690 E 700 N, Firth, ID, testified she grew up in the area and knew all the landmarks, such as the surrounding farms, dairies, and Idaho Supreme. She decided to move back to the area and purchase a home. She explained the dairy odor as being mild. She testified that she was in support of the dairy and that it is a local family business. She also supports the community, farms, and other local businesses. Ms. Anderson believed that with the upgrades in technology and moving the cows inside, the smell has improved, and it is a more humane environment for the cows.

(T-25) Donna Clayson, 710 E, 600 N, Firth ID, testified that she is married to Gaylen Clayson. She explained that they had an open house at the new robotic dairy on July 28th, 2025, to educate the public as to where their food comes from. Mrs. Clayson testified that children grow up not knowing where their hamburger from McDonald's or cheese from

Chipotle comes from. When their Home Dairy was built in 1988, they had busloads of children from the elementary school visit and learn how the dairy operation worked. With the new robotic dairy, she wanted the community to see and understand that the cows are in a quiet and calm environment. Additionally, how the robots clean up the manure and push feed.

While hosting the tour, Mrs. Clayson asked the community to leave written comments about what they learned. Director Olsen referred to Mr. Paul Rogers, Bingham County Civil Attorney, as he had a few questions for Mrs. Clayson related to the letters submitted at the tour, which included approximately 200 individuals. Mr. Rogers clarified that these written comments were about the tour, the facilities, and personal experiences. He asked if the individuals who left comments knew that their individual letters or comments would be submitted to the County as testimony. Mrs. Clayson testified that she did not ask individuals to write a letter in support of the CUP Application. Rather, she asked if they would like to comment on the tour, what they saw, and how they felt. At that time, she did not know if she would be submitting the letters with the CUP Application. Mr. Rogers then asked what it was that Mrs. Clayson wanted the Commission to consider or to gain from having the letters submitted into evidence. Mrs. Clayson testified that she wanted the Commission to know that their facilities were clean and organized, and the cows were in better physical condition. Mr. Rogers questioned out of the two hundred (200) attendees, how many letters were turned in, and if any letters were kept out that had a negative review or comment? Mrs. Clayson testified that she received approximately 30 letters, and nothing was left out of her submission.

With this information and Mrs. Clayson's testimony, Mr. Rogers determined that it would be best for the Commission to accept the letters into the record, as documentation that they are running a clean facility, as opposed to testimony in support of the CUP Application. Mr. Rogers requested that the testimony submitted be exhibited as produced by the Applicant and not as individual testimonials to the CUP Application. 29 letters, including a cover letter written by Mrs. Clayson, were entered into the Exhibit as A-55.

(T-27) Brady Makoviak, 656 N 700 E Firth, ID, testified that he lives between and grew up a mile west of the two dairies. He explained that he is in support of the Application but has concerns related to traffic and smell. He did not think closing the dairies would alleviate the concerns expressed by the public, but that providing restrictions would be beneficial for everyone. Commissioner Bingham asked for Mr. Makoviak's opinion on the fly and odor problems because he testified that he lives very close. Mr. Makoviak testified that he has had a lot of flies on his back porch, adding that the flies have decreased in the last two years. Mr. Makoviak testified that he can smell the dairy, although the severity of it changes depending on the wind and season, but he did not find it intolerable. Commissioner Carter asked how long he had been at his current house, to which he responded, 15 years. Commissioner Jolley referred to the proximity of the City of Basalt's wastewater treatment lagoons west of the dairy and asked if Mr. Makoviak could smell

those; he replied that he could and also smelled operations from the nearby Idaho Supreme plant. Commission Jolley confirmed there were a number of contributing factors to the odor in the area and wanted to know what percentage of the smell could be attributed to the lagoons versus the dairy. Mr. Makoviak testified that he did not know if he could respond to that question, that they are very distinct smells, but that he could smell the dairy more frequently than he smelled the lagoons.

(T-27) Brandt Leslie, 680 E 700 N. Firth, ID, testified that he submitted written testimony prior to the Public Hearing and wanted to add that he agreed with Heather Anderson and also Brady Makoviak. Mr. Leslie testified that his family moved to the area in 1986, and he has built two homes close to the dairies. He chose to live here, and the dairy has never been a concern of his or his family. Concerning land values, he doesn't believe there is an issue with diminishing value in the area due to the Applicants' dairies. Mr. Leslie testified that he attended Clayson's open house and that the robot barn was impressive. Mr. Leslie stated that, in his opinion, there was a higher concern over regular traffic than the dairy traffic. He added that he frequently smells the sewer lagoons, but that if he were to provide a percentage, he smells the dairy sixty percent (60%) of the time.

(T-28) Scott Wiklund, 790 N. 800 E, Shelley, ID, testified that he has heard concerns about flies and that there are flies everywhere. He stated he has transported cattle throughout the country, and out of all the dairies he has seen for the last seven (7) years, Cedar Arch Dairies' cattle are at the top of being taken care of. Mr. Wiklund testified that he can smell the dairy at most, once a week. Commissioner Bingham confirmed with Mr. Wiklund that his home is in the direction of the prevailing winds, which are in the direct path of the dairy.

6. With no testimony in a neutral position, testimony in opposition was received by:

(T-29) Scott Heathcott, 643 N 700 E, Firth, ID, testified that he lives directly north of the Home Dairy operation and was concerned about the smell as he is downwind from the operations. Adding more cattle will create more odor that he can handle. He explained that he has had to shut his windows on many occasions. Mr. Heathcott stated that although the dairy had been there since 1959, the operations and conditions should be updated to current regulations. Mr. Heathcott explained that he did not know much about the North Dairy, but at the Home Dairy, there is constantly waste almost to the road and manure down the road. Mr. Heathcott testified that there was around one hundred (100) pounds of manure dumped in his driveway, and they called to make a police report. Mr. Heathcott testified that he has been in the construction and law enforcement fields his whole life, and he thought that the facility was not currently being operated in a healthy manner. Adding more cattle would add more waste and traffic. He explained that there are trucks running at 4:30-5:00 in the morning, that the manure is very pungent when applied to the fields, and that it can be smelled for several days. Mr. Heathcott testified he was also concerned about higher nitrate levels and flies. In response to potential conditions, Mr.

Heathcott said he has seen the covering of waste done at other facilities. He confirmed he attended the open house and said it was a clean facility, but thought it was purposely cleaned for the tour, and did not show the true conditions of their operations.

(T-30) Jade Kohler, 732 E 700 N, Firth ID, testified that he built his house in 2020 with no knowledge of the robotic dairy being built. Mr. Kohler stated he was aware of the two dairies as he grew up across the street. He explained that the smell and flies have never been this bad. Mr. Kohler testified that his pregnant wife was recently diagnosed with Cryptosporidium and E coli, which is heavily associated with a CAFO. He played a video of the flies at their home, which was previously provided in the record before the Public Hearing and was marked as Exhibit T-20A. Mr. Kohler testified that a fly trap is full within a week, is a huge nuisance, and thought the Applicants should be required to heavily mitigate flies. He stated he smells the dairy every day, especially at night. Mr. Kohler thought their composting pile should be moved as it is approximately six hundred (600) feet from his back door.

Commissioner Winder asked Mr. Kohler if he was on a private well and, if so, if he had tested it. Mr. Kohler testified that he had tested it, and it tested just fine. Commissioner Winder questioned with Mr. Kohler's wife getting sick, if it was an assumption that the CAFO was at fault. Mr. Kohler stated he let common sense rule and believed it was from a huge wind gust about a month ago, which kicked a couple of trees over, and when they went to look at that, they could see manure dust coming off the composting piles in their direction. Mr. Kohler testified that it was a couple of days later that they both got sick and connected the dots. Mr. Kohler testified that he was aware that another neighbor had been sick with cryptosporidium. Mr. Kohler stated the expansion plans of the robotic dairy should have triggered a CUP Application a few years ago. The barn is huge, and everyone knew the cattle numbers would be increased. Commissioner Winder asked if the CUP Application was to be approved, what conditions Mr. Kohler would like to see in place. Mr. Kohler testified that there would need to be heavy conditions because the pungent smell leaks into their home even when the windows are closed. Commissioner Winder asked if he would rather see a denial in which there cannot be any conditions placed, and the cattle operations would stay where they are at or an approval with conditions. Mr. Kohler responded that he thought it depended on the conditions that were placed and who would regulate them. Mr. Kohler said his major concern is odor, which is regulated by the Department of Agriculture.

Chairman Adams referred to Mr. Kohler's testimony that he and his family were sick, and asked that in the five years they have lived there, how many times conditions have been like he described. Mr. Kohler responded that while the robotic dairy building was going up, there were no problems, but that it was only after there were cows there and with more composting, that the conditions with odor and flies changed.

Commissioner Carter asked for clarification, as he thought that cows had always been there. Mr. Kohler clarified that he meant to say, before the robotic dairy barn was constructed and the cows were moved to the indoor facility, the cows were at the Home Dairy, which is more than 1,200 feet from his home.

(T-31) Chris Jensen, 750 E 800 N, Firth, ID, testified that he lives approx. half a mile north of the dairy. Mr. Jensen explained he is not completely against the dairy, but he wanted to see conditions placed on the Application. He has known the Claysons for a long time and did not want to see them shut down, but was curious about headcounts and the NMP. Mr. Jensen said that in 2005, the Claysons operated the North Dairy, Home Dairy, and a location they operated until about 2013 in Pingree, which is no longer in existence. He testified that he would like to see the headcounts separated into the three (3) specific locations. He understood they are covered under one NMP, but where they are not conjoined, that could mean one location may be shut down, and it would allow the Applicants to build another milking barn next to the existing one, and nothing could be done about that if they were under the total animal units in the NMP. Mr. Jensen testified that he had talked to property owner Jeremy Clayson, who stated that they have approximately 750 milking cows and 800 dry stock calves, which is a heavy expansion from how the dairy operated in 2005 at that location. Mr. Jensen said that he wished this meeting had happened in 2021 when the dairy barn building permit was applied for, that he understood there were rules and procedures, but for some reason, in his opinion, some of those were not followed. He cited that Bingham County regulations state that a CUP is required when there is an expansion of an existing CAFO that constitutes a material change, which he thought would have been the new milking barn. According to the new Application, the animal units have increased substantially, and he would like to see limits placed on the CUP. He suggested that if their Application was approved, a condition should be placed on the limit of cattle, preventing them from expanding beyond that number. Mr. Jensen explained that he attended the open house and that the robotic barn was clean, that the Claysons do a good job, and that with the moving fans, there were not many flies in the building. However, he commented that flies accumulate outside the dairy quite often and that he has experienced more flies at his home than ever before. Mr. Jensen testified that in talking with Jeremy Clayson, it seemed the Claysons are more than willing to help mitigate those issues, but would want a third party committed to making sure that is being done because it does affect a lot of people around.

Commissioner Jolley confirmed that Mr. Jensen would like to see the Claysons operate within the parameters of the 2005 numbers. Mr. Jensen responded that the 2005 numbers included a dairy location that is no longer in existence, citing that the Applicant's 2005 numbers would be inaccurate to use as a baseline with the current Application based on Mr. Jensen's knowledge of the Claysons' operations. Mr. Jensen testified that he was concerned the numbers may be skewed a little bit, but he wasn't sure. He wanted the Claysons to go on record that they have no intention to add a second robotic barn to the property. He said that a second robotic milking barn could be constructed on the North

Dairy, doubling the size of cattle, as his understanding is that the CUP Application is for a blanket NMP.

Commissioner Jolley asked what his concern was or what impact he foresaw from an increase in cattle. Specifically, what impact would an increase of 300 animal units, 500 animal units, or 1,000 animal units have? Mr. Jensen responded that before the new milking barn existed, he rarely smelled its operations. In speaking with Jeremy Clayson, he understood they are using odor and fly control methods and encouraged the Commission to have a third-party monitor those methods. In response to potential conditions, Mr. Jensen testified that he did not see how a fence would make a difference, but adding a line of trees might be beneficial. He believes that there is a way for everyone to exist, and for the Claysons to remain in operation. He concluded his testimony by saying he is more in a neutral position than against, but felt that there is a need for some restrictions on the Applicant's operations.

Commissioner Carter asked Mr. Jensen how long they had been in their current residence, to which Mr. Jensen replied that he had lived in the area his whole life, bought his property in 2008, and built his home in 2014.

Commissioner Winder asked if conditions had gotten worse since 2014. Mr. Jensen responded that the robotic dairy building is big and confined, which comes with pros and cons to that type of facility. He commented that it is an impressive facility, but that the cattle operation at that location has increased substantially, noting that he understands why they did it to run their business, but that Jeremy Clayson or the Claysons could speak to when they started to apply odor control techniques. With the wind or on a still night, the odor affects his ability to be increased, which has affected his ability to enjoy being outside.

(T-32) Jay Madsen, of 779 N 700 E, Firth, ID, testified he was concerned and opposed to the expansion of the CAFO in an effort to safeguard the health, environment, and the community's future. Mr. Madsen informed the Commission that the CAFO begins seventy-five (75) feet from his home and is approximately one hundred (100) feet from his potable well, while Bingham County Code Section 10-7-10(5)(d) requires a setback of three hundred (300) feet to his potable well. He stated that twelve (12) new calf pens are seventy-five (75) feet from his home, although the Application states the operation is a distance of 1,580 feet. Mr. Madsen testified that he built this subject dairy with his father in 1980, and provided a photo of the dairy from September 1990, and then a photo of the dairy as it exists today, showing how they are extremely different. Those photos were entered into the record as Exhibits T-32A & T-32B. Mr. Madsen said that in talking with Planning & Development, he learned that since he built the original dairy, the setback distance requirements did not apply to his residence as it existed before the 2012 code update. To that, he disagreed as the original dairy did not resemble how the dairy exists today. Mr. Madsen testified that 75 feet is an unacceptable distance when you consider

that the facility houses thousands of cattle, and cattle waste is not treated the same as human waste. The CAFO generates as much raw sewage as the city and has a number of cow manure piles and a lagoon around his property. He explained that the lagoon on the North Dairy is 350 feet from his home, but the entrance to that lagoon is three hundred fifty (350) feet long, ten (10) feet deep, and twenty (20) feet wide, and he did not think it was lined as loaders go in and out of there.

Mr. Madsen testified that since the cows have been moved, the amount of water has been greatly reduced. He had previously farmed this land and knew that you can't dig far without hitting gravel. From farming the ground for years, Mr. Madsen said he knew that the manure storage piles sitting directly on gravel would allow leaching into the aquifer and violate Idaho Code Section 37-605, as the dairy storage and containment facilities are to be engineered. Mr. Madsen said he had professionally tested his new well recently, and it did show traces of nitrates at 80 feet; the results were half of the legal limit.

Mr. Madsen referred to an incident where the Applicants discharged manure twelve (12) feet into the entire one hundred (100) foot length of his property, and it took the Claysons several months to clean it up, only after he was on them to clean it up. He testified that the manure piles used to be three hundred (300) feet behind the barn in an engineered concrete bunker, but are now stored next to his home.

To complete Mr. Madsen's testimony beyond the allotted five (5) minutes, his wife, Delores Madsen, of 779 N 700 E, ID, provided him with her five (5) minutes of testimony time following Bingham County Code Section 1-6-5(A)(2)(f).

The CAFO pollutants can cause cancers, other serious illnesses, and be fatal to babies and the elderly. Mr. Madsen mentioned that two neighbors of his were recently diagnosed with cryptosporidium and are currently under investigation by the County Health Department.

Mr. Madsen continued to explain that the expansion of the CAFO near residential wells not only jeopardizes drinking water but also health and the environment. Mr. Madsen testified he believed it would negatively impact property values, potentially dropping them between twenty-six percent (26%) to eighty-eight percent (88%) of their value.

Mr. Madsen stated that this Application is asking for an increase in animals for a barn that is already in place. He thought there should have been a CUP Application before now, and this is asking forgiveness rather than permission. This expansion represents an unacceptable risk to the families in the community and the environment. The health and well-being of community residents should not be overlooked, and the financial gain of the Applicant should not be prioritized.

Commissioner Jolley clarified the location of Mr. Madsen's home and asked how much the NMP standards have changed in the last 45 years. Mr. Madsen referred to the location

of his home, with an address of 779 N 700 E, Firth, and then stated that the regulations are stricter now. He explained that there are some opportunities for new measures, such as Fly Predators, that were never available when the dairy started, and that they used to spray as a method of fly control. Mr. Madsen gave an overview of how the addition of the robotic dairy has changed the aesthetics of his property, being the closest neighbor to the operation. Mr. Madsen testified that he is concerned about the manure next to his house, which should have been moved a long time ago, and is still there. The manure directly to the east of his house should never have been allowed. He had manure piles 300 feet away in a concrete bunker when he operated his dairy.

Commissioner Jolley asked if he would rather see a denial in which there cannot be any conditions placed, and the cattle operations would stay where they are at or rather an approval with conditions. Mr. Madsen responded that he wanted to see an approval with conditions; cattle have been his life, and he did not mind them being there, but his concern is with the stacks of manure all over the place, next to his property line, and potentially affecting their water. Commissioner Jolley specified that Mr. Madsen would like to see conditions specific to the location of the manure and compost piles. Mr. Madsen agreed and added that there needs to be requirements related to the control of leaching.

Commissioner Winder asked Mr. Madsen about his experience in California and exposure to cattle death rates, and if he thought the death rate was higher in Idaho due to the climate. Mr. Madsen discussed potential bacteria in the soils and reasons there may be a higher death rate, but did not know about how the Claysons were vaccinating their calves.

Chairman Adams asked Mr. Madsen if there was a well in the same location before the new well was added, to which Mr. Madsen replied that the previous well was fifty (50) feet across the driveway and closer to the CAFO. He explained that the new well was placed in 2022, and put it as far from the CAFO as possible; he would have liked it to be three hundred (300) feet away, but that was not a possibility. Speaking to the depth of the well, Mr. Madsen said the old well was sixty-nine (69) feet deep, and his new well is one hundred and twenty (120) feet deep, pulling water at eighty (80) feet. Chairman Adams asked who completed the nitrate testing on his well water, to which Mr. Madsen testified that it was Teton Laboratories in Idaho Falls.

Commissioner Carter questioned the raw manure storage being near Mr. Madsen's home and whether his concerns would be alleviated if that storage area were to be relocated. Mr. Madsen responded that it would and that he had submitted testimony which suggested that all manure be moved to an approved central holding facility instead of in the pens, up against the pens, and all over the place. Mr. Madsen said he has spoken to the Applicants before about the manure piles, but the response has always been "that is the way we have always done it". Mr. Madsen encouraged the County to step in and require conditions for their operation for the benefit of the community.

(T-33) Jason Berg, 699 N 700 East, Firth ID, testified that he has lived between the two dairies for forty-three (43) years, and the smell has never been this bad. He said at night he has to get up and close all the windows. The traffic from the dairy is horrific and constant, from 5:00 am to 11:00 pm. Mr. Berg testified that he attended a community get-together with approximately 100 people to talk about the CUP Application, and he thought that ninety-nine percent (99%) were against it. Mr. Berg testified that by adding more cows, there will be more odor, and he did not think that putting the robotic dairy barn up around so many homes was the right thing to do.

(T-34) Nollene Jensen, 724 E 800 N, Firth ID, testified she has lived there for thirty-six (36) years and can see the new barn from her front porch. Ms. Jensen stated she has always known there was a dairy there, but explained this expansion is incredibly strong, and they are not able to open their windows at night. She was worried that if they were to want to sell their home, they would not have a buyer, regardless of what was testified earlier from Mr. Leslie. She attested to the Claysons being a great family and did not want to see them shut down, but she has serious concerns about flies. In the years they have lived there, they have never had so many. She also expressed concerns with the multiple notices they received for the Application, and that the information varied on each notice. Ms. Jensen testified she understood the dairy was of a grandfathered status and deemed ag-exempt. She expressed concerns with a late submittal of a notarized statement from the Applicant's Accountant documenting the animal unit counts from 2005. She wasn't trying to question anyone's integrity at the meeting, but she explained she and her husband have been in the agriculture business for 40 years, and their Accountant has never set foot on their property and counted numbers; rather, the Accountant uses the numbers they personally provide. Ms. Jensen added that their banker had been to their property and that might be important to note for the Commission. In relation to other sources of verifying animal units or headcounts, Ms. Jensen testified that she thought Cedar Arch Dairies received grant money from the USDA and that the USDA may be able to provide animal numbers for the Application. Ms. Jensen also questioned how many dairy locations were included in the 2005 animal unit number total because it was known that one of the dairies, specifically the Pingree Dairy, is no longer in existence. Ms. Jensen concluded by testifying that she believed the request of 4,280 animal units was too high a number for being so close to residences and the city. Ms. Jensen requested that the Commission consider the validity of the numbers provided by the Applicant and that they should take some time to look into that.

7. With no further testimony presented from the public, Mr. Crosby provided rebuttal testimony. Mr. Crosby testified that less manure and stormwater are contributing to the manure in the lagoon by having cows inside versus outside. Mr. Crosby represented that the Claysons will continue to focus on and double their efforts in training employees in their loading and hauling of manure to ensure there are no spills from the facilities.

He spoke to the possibility of a methane digester to help mitigate flies, and that they would be a benefit to everyone. Mr. Crosby testified that he would look into that method of mitigation and determine if it would be economically feasible and effective. He explained that there are many facilities and cattle in the area that could contribute to the fly infestation, or it could be a bad year, and they don't always know where the flies are coming from. He committed that the Claysons will do everything in their power to use proven methods, such as Pit King, and treat more often to mitigate and reduce the flies. Mr. Crosby mentioned the State came to the property and did an inspection on odor, and everything was within range for their levels.

Mr. Crosby referred to the smell from the nearby potato processing plant, the city wastewater sewage lagoon, and the prevailing winds by stating that they are currently practicing efforts with composting and their investment in a manure separator, which should greatly reduce odor. The Claysons can increase the frequency of the treatment on the lagoons if necessary. He confirmed that the State Inspector was at the dairy locations last month and everything was in accordance with their inspection levels.

Mr. Crosby testified that the North Dairy pens have few calves and growing heifers there, which will greatly reduce the manure in that area, which is close to the neighbor. Mr. Crosby said that the Claysons will re-double their efforts to keep things clean and follow all proper guidelines to make sure that the manure is moved out quickly and into the proper storage locations.

Mr. Crosby testified that the numbers from last month (July 2025) were much lower than in 2005; moving cattle indoors takes up more space, but reduces odor. He stated there is no plan to expand further or do anything different than what is going on now, and clarified that the focus is to reduce flies and odor concerns.

Commissioner Jolley asked how often an NMP audit occurs and when the last one was completed. Mr. Crosby said it can happen every couple of years, but that they do not always know when they are coming. Mr. Crosby said the last inspection was last month. Commissioner Jolley asked if the inspector completed a headcount or animal unit count. Mr. Crosby said she did not. Commissioner Jolley asked if there was anyone verifying these numbers, to which Mr. Crosby said he did not believe so. Commissioner Carter asked if there was a report that would validate that their inspection was within ISDA-approved parameters. Mr. Crosby said he had asked for a report, but that the State does not issue a report after a call-in inspection and only provided a verbal confirmation of inspection. He added that often when an inspector goes out to look at the lagoons odors, and such, if there is a corrective action, it's a written action given to the operator which tells when what to fix and how soon it needs to be done; these are typically very strict, paying attention to airflow through the doors or if there is any exposed gravel. Commissioner Carter questioned about lagoons and manure storage facilities in multiple locations and asked if the NMP considers the capacity of all these locations as one and

provides an animal unit based on that capacity. Mr. Crosby responded that it was correct. Commissioner Carter asked if they were to move more cattle to this property (the North Dairy), if an additional lagoon or manure storage would be required, and if so, would that addition require a new NMP. Mr. Crosby affirmed and added that the State Department of Agriculture required that the previous two NMPs be combined as one for all operation locations.

Commissioner Carter asked if the dairy in Pingree, which no longer existed, was part of the 2005 headcount provided by the Applicant's Accountant. Mr. Crosby testified that he was not sure the exact dates of when the Pingree dairy location closed, but he believed that there were 300-400 milking cows at that property, with no replacement or dry cows. Mr. Crosby surmised it was around 2013. Commissioner Carter asked if the other two locations were also included in the 2005 headcount. Mr. Crosby responded that there would be some calves at the heifer facility, which is half a mile to the east of the current facility, which is also no longer in use. When Chairman Adams asked if the Pingree facility was part of the 2005 NMP, Mr. Crosby testified that he did not know if it was a part of the NMP, but it was a part of the grandfathered CAFO.

Commissioner Carter expressed his concern that headcounts were included from locations that were not close enough to be even considered part of the manure handling facilities. He summarized the headcounts from the Pingree location and stated that cattle from four (4) locations were being consolidated to two (2) locations. He did not believe that it was an accurate representation of operations.

Mr. Crosby responded that the North Dairy used to be full of milking cows and is now the location of young stock calves and replacement stock, which accounts for fewer animal units and manure creation. He explained that this is the reason for the new NMP. Commissioner Carter asked how many lactating cows were at the North Dairy before the new robotic barn, to which Mr. Crosby testified he thought the average was around 700. Mr. Crosby explained the numbers can vary from 600 to 750, depending on the calving season, and could have been lower. Commissioner Carter confirmed it was mostly lactating cows and not heifers, and Mr. Crosby agreed it was between ninety to ninety-six percent (90-96%), with maybe one bin of heifers. Commissioner Carter then asked how many lactating cows are in the new robotic barn, to which Mr. Crosby testified was around seven hundred 700 on July 10th, 2025.

Commissioner Carter asked how many growing animals there are in the North Dairy and milking cows at the Home Dairy. To which Mr. Crosby testified on July 10th, 2025, there were 134 up to six (6) months of age, 392 seven to twelve (7-12) months of age, and just under 500 heifers. At the Home Dairy, there are just over 700 cows, 130 calves, and approx. 600 heifers around a year old.

Commissioner Carter asked what the capacity of the Home Dairy for lactating cows is, to which Mr. Crosby stated that when the pens are at capacity, that would be if the pens were full, 1,840 mature milking cows at both facilities, which is very close to the NMP. He added that there are currently 1,500 cows there as well. Commissioner Carter then asked how they would be split between the two facilities and if the robotic milking barn is at full capacity. Mr. Crosby responded that there would be 800 to 840 in the robotic milking barn and around 1,000 at the Home Dairy, noting that the robotic milking barn is close to capacity, and reviewed how the cows come into the facility to be milked. Commissioner Carter then asked what remedies Mr. Crosby was aware of to treat lagoon water or other moist places to prevent fly breeding. He stated that they stay focused on and control any pooling of water to keep the mosquitoes and flies from breeding. Additionally, treatments are utilized in the lagoon for odor control.

Chairman Adams asked for clarification on whether the CAFO's animal unit factor in 2005 included all facilities on the four (4) separate properties, but really is focused on the numbers from the North Dairy and the Home Dairy. Mr. Crosby understood that it was everything combined into one CAFO. Chairman Adams confirmed that the operation has not increased in numbers but that the animals have been relocated. Mr. Crosby agreed and added that there were some milking cows in the Pingree location, but that the animal units and head counts were very close to what existed in 2005, and were spread out over a few different locations. He added that the dairy to the east of the North Dairy was small in size.

Chairman Adams referred to the individuals who had gotten sick and that it was unfortunate, but asked Mr. Crosby if any of the employees or people on site had been sick or had shown symptoms of sickness. Mr. Crosby responded that none of the workers, family members, or young kids who help on the farm had gotten sick.

Commissioner Jolley stated the animal unit count from 2005 that was represented in Mr. Crosby's testimony was 3,287 and appeared now to have been from four (4) different locations. Commissioner Jolley asked how many would be subtracted from that total if it were only accounting for the North Dairy and the Home Dairy. Mr. Crosby testified he thought approximately 300 milking cows from the Pingree location and approximately 200 animal units from the calf facility to the east.

Commissioner Jolley asked if the Application was essentially asking for a 900-animal unit increase? Mr. Crosby thought that was correct and asked if that was using the animal unit factors in 2005, to which Commissioner Jolley agreed. Mr. Crosby asked if the current factors were used, it would be a 600-700 increase, but he believed two different standards were being compared. Director Olsen commented that the 2005 animal unit conversion is the correct way to attribute an animal unit to the grandfathered cattle numbers and that the objective of the conversation is to try to determine how many animal units were in the Home Dairy and the North Dairy. Commissioner Jolley applied that logic and believed

that would be around 3,500 animal units. Assistant Director/Lead Planner Jackman stated by using the 2005 animal unit calculation of 3,796.8, there would be a difference of 483.2 animal units from their maximum approved in their NMP to what the 2005 animal unit conversion would have been. Commissioner Carter used the 2005 conversion rate and came up with 3,307.

Commissioner Bingham commented that testimony received referred to how and when the lagoons were constructed and if the pre-existing lagoons were lined. Mr. Crosby stated that the lagoons' requirement to be lined comes from the State. Commissioner Bingham clarified how often the State completes their inspections and asked how comprehensive those inspections are. Mr. Crosby testified that the dairy inspector is there every two (2) months and looks inside the milking parlor, inside the tank, looks at the equipment, and the cleanliness of the operation. The Department of Agriculture does not have a normal schedule and will come out if there is a complaint, issue, or change to the NMP, and their inspections are unannounced. Commissioner Bingham confirmed that the inspectors look at the manure stacking during their inspection and asked if they also look at setback requirements. Mr. Crosby did not believe they looked at setbacks, but did not comment on the manure stacks. Commissioner Bingham asked if there were any outstanding items from the last inspection; Mr. Crosby said he was not aware of any. Commissioner Bingham asked if they probe into the groundwater or test for nitrates in the groundwater. Mr. Crosby said he did not know all the things the State checked, nor their testing methods or procedures. Commissioner Bingham questioned whether those things were being looked at by anyone.

Commissioner Winder referred to the potential conditions that could be put in place to help alleviate the smell with the placement of trees, berms, or a fence, and that Mr. Crosby stated they could do that if it was economically feasible. While Commissioner Winder understood all options cost money, he referred to the expense of putting in the new building, and that it sounded like the Applicants were more concerned with the cattle than with their neighbors. Mr. Crosby stated that putting the cows indoors and having a new handling facility is not just for animal welfare, but it can also reduce the manure and improve the area for the people. Commissioner Winder said there was testimony about the North Dairy, the lagoons, and the amount of animal waste being spilled on the neighbor's property. Mr. Crosby said that it should never have happened and that it occurred when they were milking cows at the property, resulting in more liquid manure. Mr. Crosby stated there are calves and young heifers there now, and the manure production has been reduced to a quarter ($\frac{1}{4}$) of what would have been produced with milking cows.

With no further questions for Mr. Crosby, Chairman Adams closed the Public Hearing.

II. REASON

The Commissioners reviewed the Application, and the evidence in support, in neutral, and opposition to said Application in the context of Bingham County Code Section 10-8-3 *Conditional Use Permit, Review of Application*, and made the following findings and determinations:

1. the Application met the requirements of Bingham County Code Section 10-8-2 as the Application was complete; and
2. Regarding whether the facts and circumstances provide adequate evidence to show that the conditional use of the proposed location will: “Constitute a conditional use as established on the official schedule of zoning regulations or as determined by the commission to be a conditional use for the zone involved.” The Commission found that CAFOs are permitted in the “A” Agriculture Zone upon approval of a Conditional Use Permit pursuant to Bingham County Code Sections 10-5-3 and 10-7-10. The existing Home Dairy has been operating since approx. 1959, and it is believed the Claysons took over operations of the North Dairy in approx. 1990, which is before the County’s adoption of CAFO regulations in 2005 (these dates are approximate due to discrepancies in dates provided in the Application materials and testimony received). Due to increased animal units and modifications to the Animal Waste Management System for the dairy, County Code requires a CUP pursuant to Section 8.5.4(g) of the 2005 Ordinance. Testimony from Planning Staff confirmed that the CUP process is the appropriate mechanism for reviewing this Application. The Commission found that adequate evidence had been presented to show that the use of the land would meet this standard by requiring a CUP Application.
3. Regarding whether the facts and circumstances provide adequate evidence to show that the conditional use of the proposed locations will: “Be in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or this title.” The Commission deliberated the conditional use of the land in the context of the following stated purposes of Bingham County’s Comprehensive Plan:
 - (a) To protect property rights and the use of the property while not adversely impacting neighboring property values more than is necessary. The Commission found that the Applicants have a long-established dairy operation in the county, with some facilities that have been in existence since 1959. The Commission acknowledged the property owners' rights to continue operation, as well as the economic role the dairy plays in the region.

Significant testimony was received from surrounding property owners regarding adverse impacts on neighboring property enjoyment and potential property values. Residents testified to persistent and worsening odors, fly infestations, manure piles stored near property lines/homes, and manure tracking on local roads. Several neighbors testified about quality-of-life impacts, inability to open windows, and health concerns. The Commission discussed potential mitigation measures related to these

concerns and found that relocating manure storage areas, buffers, and imposing enhanced odor and fly control requirements would balance the neighboring properties' concerns with property values and the Applicants' property rights. Collectively, the Commission found that adequate evidence had been presented to show that the land use would meet this standard.

- (b) To ensure that adequate public facilities and services are provided to the people at a reasonable cost. The Commission found that the dairy facilities utilize existing private wells for culinary use and have waste management systems in accordance with a state-regulated Nutrient Management Plan.

With regard to county road use as a public facility, the Commission heard testimony about the impacts of heavy truck traffic, deterioration of road surfaces, and manure tracking on public roads associated with the use of the dairy. In response, the Applicant's Representative testified that the Claysons will continue to focus on and double their efforts in training employees in their loading and hauling of manure to ensure there are no spills from the facilities. Ultimately, the Commission found that adequate evidence had been presented to show that the land use would meet this standard.

- (c) To ensure that the economy of the county is protected and enhanced. The Commission recognized that Cedar Arch Dairies contributes to the local agricultural economy and keeps agricultural lands in productive use. Testimony from Mr. Crosby detailed the dairy's long history, the Clayson family's multigenerational presence, and the economic benefits of operating and modernizing a large dairy in Bingham County. The Commission found that adequate evidence had been presented to show that the land use would meet this standard.

- (d) To ensure that the important environmental features of the county are protected and enhanced. The Commission found that multiple neighbors raised concerns regarding manure storage, lagoon lining, groundwater contamination, nitrate infiltration, and runoff.

During the Commission discussion, the Commission questioned Mr. Crosby and staff regarding the lagoon lining, state inspection procedures, and Nutrient Management Plan compliance. In response, Mr. Crosby confirmed that unannounced state inspections occur, but may not include groundwater probing. The Commission noted that environmental protection depends on effective manure management, lagoon integrity, and ongoing regulatory oversight which is regulated by the State Department of Agriculture. The Commission found that adequate evidence had been presented to show that the land use would meet this standard.

- (e) To encourage the protection of prime agricultural, forestry and mining lands for production of food, fiber and minerals. The Commission found the dairy is located on lands zoned "A" Agriculture and represents a long-standing, productive use of

agricultural land. The Commission found that adequate evidence had been presented to show that the land use would meet this standard.

- (f) To encourage urban and urban-type development within or near incorporated cities. The Commission found the dairy is located near the incorporated Cities of Basalt and Firth and is a CAFO that existed prior to 2005. Additionally, the requested land use is not associated with urban-type development. The Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.
- (g) To avoid undue concentrations of population and overcrowding of land. The Commission found that the land use does not involve residential development or an increase in population, but rather an increase in animal units from the animal units reported in 2005. The Commission focused on animal unit counts, animal unit capacity following the approved Nutrient Management Plan, and the consolidation of animals from several other historically operated sites onto the two subject locations of CAFO operations in their deliberations. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.
- (h) To ensure that the development on land is commensurate with the physical characteristics of the land. The Commission found that neighbors testified about shallow groundwater and gravelly soils in the area, which increase vulnerability to groundwater contamination.

The Commission discussed the importance of lagoon lining, manure pile locations, and adherence to the NMP to ensure that the use aligns with the site's environmental characteristics. The Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard. The Commission did not identify concerns regarding this section.

- (i) To protect life and property in areas subject to natural hazards and disasters. The Commission found portions of the Home Dairy lie within a designated floodplain area. The Commission relied on adherence with design standards of regulatory oversight agencies such as the Idaho Department of Agriculture and the Department of Environmental Quality, which impose operational conditions to minimize risk to neighboring properties and potable wells. Commissioners recognized the need for strict compliance with environmental regulations to protect groundwater quality. Ultimately, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.
- (j) To protect fish, wildlife and recreation resources. The Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.
- (k) To avoid undue water and air pollution. The Commission reviewed adherence to the ISDA-approved NMP (including lagoon capacity and solids separation), dust

mitigation, the Applicant's initiation of relocation/abandonment of the northwest compost area, and setbacks from non-CAFO potable wells to minimize undue water and air pollution.

The Commission acknowledged Mr. Crosby's testimony about existing odor and fly mitigation measures, including frequent lagoon treatments, composting improvements, and manure separators.

Ultimately, the Commissioners found it may be necessary to impose conditions to require more frequent lagoon treatment and relocation of manure storage to reduce odor and air quality impacts to meet this standard.

- (1) Allow local school districts to participate in community planning and development to address school needs and impacts. The Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard and acknowledged that the record did not include testimony from the School Districts.

After discussing the above items, the Commission collectively found that the Applicant had shown that the conditional use of the land would be in accordance with the general objectives or any specific objection to the Comprehensive Plan and/or this Title pursuant to Bingham County Code Section 10-8-3(A)(2).

4. Be designed, constructed, operated and maintained to be appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area as far as is possible. The Commission found that the dairy operations existed in the two subject locations for decades and that the CUP is required with the Applicant's addition of a robotic milking barn, which features a new Animal Waste Management System. The Commission heard testimony from Mr. Crosby that the robotic barn consolidates milking operations indoors, improving housekeeping and containment, and is appropriate with the existing character of the area

To help buffer the operation and to maintain the essential character of the area, as far as possible, the Commission discussed the potential for additional landscaping (tree planting) and conditions related to manure management. Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

5. Not be unduly hazardous or disturbing to existing or future neighboring uses; nor involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to persons, property or the general welfare of the public by reason of excessive production of traffic, noise, smoke, fumes, odors or other pollutants. The Commission discussed Mr. Kohler's video, which showed an excessive number of flies and several individuals' testimonies that there were concerns with an increase in vehicles on the road, with approx. 1,860 vehicles a week entering/exiting the properties based on the trips per day. Chairman Adams reiterated to the Commission that the Application is to determine if this CAFO was unduly hazardous at the two locations before the additional animal units and waste management system were added. Given that consideration and that

the Bingham County Public Works Director had no concerns regarding traffic, the Commission found the increase in traffic attributed from 2005 to date is not excessive for the rural area and is not unduly hazardous or disturbing to existing or future neighboring uses.

While testimony identified concerns regarding odors, manure management, potential groundwater contamination, and dust, the Commission found these items can be mitigated to undue levels through imposed conditions such as integrated pest management with monthly minimum treatments during peak months, dust mitigation, manure handling setbacks, abandonment of the northwest compost area, and a spill-prevention barrier to an adjacent residence.

Collectively, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard if conditions were imposed for continued operation.

6. Not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the County. The Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.
7. Be served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such services. The Commission found that essential services are provided privately by the operator in accordance with State regulations and the NMP and that the record does not include testimony from any reviewing agencies concerning the use of public facilities and services. The Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.
8. Have legal access to the subject property for the development. Have vehicular approaches to the property that are designed to eliminate a traffic hazard on adjacent public thoroughfares. The Commission found testimony received from the Bingham County Public Works Director had no objections or concerns. Therefore, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.
9. Not result in the destruction, loss or damage to a scenic or historic feature of major importance. The Commission found no scenic or historic features of major importance were identified in the record and therefore found that adequate evidence had been presented to show that the proposed use of the land would meet this standard. The Commission did not find concerns with this section.
10. If applicable, have adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and have utility systems provided to accommodate said use. The Commission found that the ISDA-approved NMP addresses storage capacity and nutrient management for the dairy operation and that adequate water, irrigation, sewer, drainage, and stormwater

systems serve the parcels. Therefore, the Commission found that adequate evidence had been presented to show that the proposed use of the land would meet this standard.

11. The Application met the notice requirements of Idaho Code Title 67, Chapter 65, and Bingham County Code Section 10-3-6 *Public Hearings*.
12. In accordance with Bingham County Code Section 10-8-7(B) *Action By Commission*, The Commission considered potential conditions (if approved) regarding the NMP, an unaffiliated qualified third-party annual head count and animal unit verification, covering of manures stacking piles/rows, manure digestant application to lagoons, abandonment of the manure/compost area located to the northwest of the North Dairy, setbacks, tree windbreak/visual barrier, fencing, odor management, fly abatement, dust mitigation, weed control, and dead animal disposal.

III. FINDINGS

In consideration and with reference to the Reasons set forth above, the Planning and Zoning Commission made the following findings:

1. The proposed use complies with Bingham County Code Section 10-8-3(A) in that it:
 - a. “Constitute[s] a conditional use as established on the official schedule of zoning regulations or as determined by the commission to be a conditional use for the zone involved;”
 - b. Is “in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or this title;”
 - c. Is “designed, constructed, operated and maintained to be appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area as far as is possible;”
 - d. Is not “unduly hazardous or disturbing to existing or future neighboring uses; nor involve uses activities, processes, materials, equipment and conditions of operation that will be detrimental to persons, property or the general welfare of the public by reason of excessive production of traffic noise, smoke, fumes, odors or other pollutants;”
 - e. Does not “create excessive additional requirements at public cost for public facilities and services will not be detrimental to the economic welfare of the County;”
 - f. Is “served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such services;”
 - g. There is “legal access to the subject property for the development,” and the property has “vehicular approaches to the property that are designed to eliminate a traffic hazard on adjacent public thoroughfares;”
 - h. Will not “result in the destruction, loss or damage to a scenic or historic feature of major importance;” and,
 - i. To the extent it is applicable, it has “adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and will have utility systems provided to accommodate said use.”

2. The Commission found that sufficient information had been provided with the Application and there was no need to request additional studies relating to social, economic, fiscal, or environmental effects of the proposed CUP before making a decision; and
3. The Commission found that supplementary conditions for the requested land use are appropriate in accordance with Idaho Code Section 67-6212 and Bingham County Code Section 10-8-8.

IV. DECISION

Based on the record, Commissioner Jolley moved to approve the request by property owner Cedar Arch Dairies, LLC to operate a Confined Animal Feeding Operation (CAFO) located at approx. 710 E 600 N, Firth, Idaho, known as the "Home Dairy," and 777 N 700 E, Firth, Idaho, known as the "North Dairy" for a total of 4,280 animal units on a total of approx. 227.95 acres of land, zoned "A" Agriculture as proposed with the following conditions:

1. Total Animal Units shall not exceed 4,280 AU as specified in the approved NMP.
2. Abide by the current Nutrient Management Plan (NMP) approved by the State of Idaho Department of Agriculture. The Applicant shall provide a copy of any updated or modified NMP when received from the Department.
3. Abandon the compost area located to the northwest of the North Dairy, as stated by the Applicant.
4. Maintain a 300-foot setback from any non-CAFO associated well from manure/compost stacking, rows, and scraping areas.
5. Install a barrier to sufficiently ensure manure doesn't spill onto the property located at 779 N 700 E, Firth, ID.
6. Administer fly predator or similar insect treatment to manure and compost locations monthly or more frequently as necessary, from May to October, as part of an integrated pest management plan.
7. Dust mitigation shall be administered by applying water, via a water spray tanker trailer or sprinkler, on all gravel or dirt roads 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 and Development Services.

Commissioner Johns seconded the motion. Commissioners Jolley, Johns, Bingham, Carter, and Winder voted in favor. The motion passed.



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Confined Animal Feeding Operation (CAFO) CUP
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Exhibit
S-26

Stephen Adams, Chairman
Bingham County Planning and Zoning Commission

Date