

BINGHAM COUNTY PLANNING & ZONING COMMISSION
REASON AND DECISION RE: BOARD OF COUNTY COMMISSIONERS REMAND

APPLICATION OF: Conditional Use Permit for an expansion of an existing Confined Animal Feeding Operation in an “A” Agriculture Zoning District

PROPERTY OWNERS: Cedar Arch Dairies, LLC

Requested Action: The Planning & Zoning Commission held a Remand Public Hearing at the request of the Board of County Commissioners, who, in an open meeting on December 2, 2025, concluded additional fact-finding was necessary to make a decision on four (4) Appeals of the Cedar Arch Dairies, LLC Conditional Use Permit and followed the procedures set forth in Bingham County Code Section 10-10-2(C).

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, as amended

**I. BOARD OF COUNTY COMMISSIONERS REQUEST
FOR ADDITIONAL FACT-FINDING**

On December 2, 2025, the Board of County Commissioners (“Board”) heard four (4) Appeals of the Planning and Zoning Commission’s Reason and 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, ID, and the “North Dairy” located at approx. 777 N 700 E, Firth, ID. 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 requested the following additional fact-finding evidence:

Request No. 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.

Request No. 2. Time limits be placed on the conditions to aid with enforcement.

Request No. 3. Compliance status for the conditions.

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.

II. TESTIMONY RECEIVED BEFORE THE PLANNING & ZONING REMAND PUBLIC HEARING

A. The Applicant provided the following information in response to the request for additional fact-finding evidence:

Request No. 1: Exhibit PZR-7(D)

Request No. 2: No response provided

Request No. 3: No response provided

Request No. 4: Exhibit PZR-7(A): regarding the feasibility of a methane digester

Exhibit PZR-7(B): regarding odor treatment

Exhibit PZR-7(C): regarding odor and fly mitigation

B. Planning and Development Services provided the following information in response to the request for additional fact-finding evidence regarding Request No. 3:

PZR-8: Compliance Verification from Ashley Taylor, Bingham County Planning and Development Services, regarding Planning and Zoning Commission's Reason and Decision approving the CUP, specifically condition number 3.

PZR-9: Compliance Verification from Mike Marvin, Bingham County Code Enforcement Officer, regarding Planning and Zoning Commission's Reason and Decision approving the CUP, specifically condition numbers 4 and 5.

C. The public provided the following written testimony: PZR-10: Darvel Jolley, of 816 E 800 N, Shelley, ID, submitted testimony in opposition, citing concerns with odor and a reduction in property values with the requested land use.

III. PLANNING & ZONING REMAND PUBLIC HEARING

At the Public Hearing, Planning and Development Director Olsen presented the Staff Report. After which, Commissioner Carter asked if the Board of County Commissioners (Board) decides there needs to be two different CAFO Conditional Use Permits applied for, meaning one at each of the dairy locations, if the correct process is to reject the current CUP Application and ask the Applicant to reapply for two different CAFO Conditional Use Permits? Director Olsen responded that this Application was submitted as one for two locations, and if it were to be decided that two Conditional Use Permits were necessary, two separate Applications would then be required. Director Olsen testified that Cedar Arch Dairies has the right to operate based on its 2005 grandfathered status afforded to the Applicant pursuant to the code in place with Bingham County in 2005; that was when the County determined any operating CAFO as of that date was grandfathered without a CUP unless it expanded or underwent a material change. If the subject Cedar Arch Dairies CUP Remand

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**Exhibit
PZR-38**

CUP Application were to be denied, Cedar Arch Dairies would be allowed to continue operations, but under its 2005 status, without a Conditional Use Permit and without any conditions of operation.

With no questions from the Commission, testimony was presented by the Applicants' Representative (PZR-11) Barry Crosby, 2093 Rim View Dr, Santa Clara, UT, who testified to Exhibit PZR-7D, referring to animal unit numbers based on three locations, the Home Dairy, North Facility, and the Robot Dairy. He explained that based on the numbers from the animal unit calculations in 2005 and the animal unit calculations in 2025, although they were calculated differently between those years, there is a difference of 550 animal units.

Commissioner Jolley referred to Exhibit PZR-7(D) and stated that he was confused as to why the animal units from the North Facility and Robot Dairy were separated or not combined, as both are located at the same location, and the Board asked for clarification on the specific numbers of each location, the Home Dairy and the North Dairy, in 2005 and in 2025. Commissioner Jolley then asked Mr. Crosby for the total animal units for the North Dairy in 2005, Mr. Crosby testified that it was seven hundred and sixty-seven (767), and in 2025 it was one thousand eight hundred and seventy-two (1,872), citing that the numbers increased due to the facility at 700 N 800 E, Firth closing. Chairman Adams explained the separation of the animal units at each location by stating that the Home Dairy in 2005 had two thousand and fifty-five (2,055) animal units, and in 2025, there were one thousand five hundred and five (1,505) animal units. The North Dairy in 2005 had seven hundred and sixty-seven (767) animal units, and in 2025, there were one thousand eight hundred and seventy-two (1,872) animal units, which increased the animal units by five hundred and fifty-five (555.)

Mr. Paul Rogers, Bingham County Legal Counsel, asked for clarification regarding the animal unit numbers from the "location half a mile away" and inquired which year they are accredited to and under what authority they may be added to the total number. Mr. Crosby testified that the location referred to was at 700 N 800 E, Firth, and that it was not a dairy but was a feeding pen for young stock and heifers. Mr. Crosby explained that those animal units are not listed in the 2005 column as they were at a separate facility, not owned by Cedar Arch Dairies. The animal units of 643 were the cows that were at the 700 N. 800 E., Firth location, and when it closed, those animals were moved to the North Facility. Mr. Crosby stated the numbers did not exceed the approved numbers in the Nutrient Management Plan (NMP.) In 2005, the North Facility had its own NMP, which allowed those animal units to move to that location and under that NMP. The State then required a new NMP when the Robot Dairy was added in 2024.

Commissioner Carter clarified that until the Robot Dairy was in operation, there were two NMP's, one for the North Facility and one for the Home Dairy, and once the Robot Dairy was in operation, was when the two NMP's were combined into one. Mr. Crosby confirmed that to be accurate. Commissioner Carter then confirmed that currently, there are fewer animal units at the Home Dairy and more animal units at the North Facility. He asked why more animal units were moved to the North Facility and not the Home Dairy, as there were previously more at the Home Dairy. Mr. Crosby testified that it was due to the management of the pens, explaining that the Home Dairy started in 1959, and the pens were older and not as functional. The animals moved from the closed

facility to the available pens at the North Facility due to the milking cows moving into the indoor Robot Dairy.

Mr. Crosby testified that animal units were calculated in 2005 differently and held a smaller animal unit value than they do now, and referred to Exhibit PZR-7D. Mr. Crosby explained that if you use the same animal unit factor for 2005 and 2025, the animal units for 2005 would have been two thousand nine hundred and eighty-five (2,985). In 2025, there were three thousand three hundred and seventy-seven (3,377.)

Chairman Adams referred to Exhibit PZR-7A, and questioned whether the methane digester was a feasible option and asked if an estimate was provided, and if so, by whom it was provided. Mr. Crosby testified that they did not receive an estimate for an actual build on site, but referred to the current information that was provided by universities and companies that build them. He thought there was enough information to determine that one of the big drivers for the methane digesters was government funding and substantial subsidies, and that funding options are no longer in existence.

Chairman Adams referenced fly mitigation and stated that at the last hearing, trees and different biological controls, like wasps, were talked about in depth. He asked about the depth to which those options were researched for this hearing. Mr. Crosby stated they looked at the scientific research and effectiveness, and that there is no solid evidence that it would have an impact on the flies. He explained that the Montana State University study focused on the types of flies, their travel patterns, and what the surrounding areas were like. Mr. Crosby testified that they were unable to confirm that by installing a tree barrier, it would be an effective barrier in these locations due to fly-travel and the other animal operations in the area.

Chairman Adams asked what the proposed plan of action was with the use of Pit King, such as the volume, frequency, and how it would be used. Mr. Crosby stated it was a commercial product with a lot of good scientific research on its effectiveness in manure holding facilities. Pit King has trained professional advisors who perform site inspections and advise how much to use and when to use it. Commissioner Winder asked if this would be used in lieu of a methane digester. Mr. Crosby testified that it would help with odor reduction and the breakdown of solids. He explained that methane digesters have a lot of purposes and are typically used to gather methane and sell it on the market for an additional source of revenue. Commissioner Winder asked Mr. Crosby if he was aware of other local dairies of similar sizes that have methane digesters, and Mr. Crosby said he was not.

Commissioner Thomson asked what was currently being done to mitigate flies. Mr. Crosby stated that parasitic wasps and chemical controls like residual sprays and bait were being used depending on the season, as were provided in the Application. Chairman Adams questioned whether this information should have been provided because the Board of County Commissioners is looking for compliance with the conditions that were previously set. Mr. Crosby stated they could provide imagery and the recommendations that were given by the Pit King team. Chairman Adams asked if it was feasible for him to try to find those facts now. Mr. Crosby stated that fly control is seasonal, and April is when they typically reach out to the Pit King professionals. At that time, Pit King will start monitoring the temperatures and then provide their recommendation for parasitic wasps, the

placement of traps and spraying. Commissioner Thomson asked for historical information on this treatment from last year to support how the condition has been complied with. Mr. Crosby testified that they could look at their records from last year and possibly provide that information and Pit King's current recommendations. Commissioner Thomson asked if there was additional information about feed additives that could be provided. Mr. Crosby stated that feed-through was an option, but over time, the flies can become immune to them, and the feed-through needs to be modified to be effective, noting that with the predator wasps, the population becomes established and is more effective. Chairman Adams and Commissioner Thomson agreed they were asking these questions, trying to determine if Cedar Arch Dairies had been compliant with the previous conditions set, and were looking to see what had been done to mitigate flies.

Mr. Rogers directed the Commissioners to discuss and determine if the Applicant came prepared with a feasibility cost to eliminate odor. Mr. Crosby testified that there is no way to fully eliminate odor. Mr. Rogers asked if there was any documentation about what the cost of Pit King is or would be. Mr. Crosby testified that Cedar Arch Dairies did not submit any costs for the use of Pit King, but that is something that could be submitted. Mr. Rogers responded that this information should have been received before the Public hearing because that is the reason for the Public Hearing - to gather the information the Board requested. Mr. Crosby testified that there was some confusion about that, as they stated Cedar Arch Dairies would be using Pit King and not something they would look into the feasibility of using. Mr. Rogers referred to Exhibit PZR-7A and asked for clarification of those cost estimates. Mr. Crosby stated those estimates were not specific to Cedar Arch Dairies but any Idaho dairy consisting of 2,500 cows. Mr. Rogers questioned whether an estimate specific to Cedar Arch Dairies would be more reasonable to produce than comparing to any Idaho dairy. Mr. Crosby testified that methane digesters are multi-million-dollar projects and was not sure of what the costs of the estimate would be for the Cedar Arch Dairies specifically, but they could investigate that cost. Mr. Rogers asked if it would have been valuable to have received a more accurate estimate. Mr. Crosby stated that if it were financially feasible to do so and required, they would have done that. He testified that it was accurate, and if there were federal subsidies that covered 90% of that cost, that would be different. Mr. Crosby mentioned that Cedar Arch Dairies is under a reorganizational bankruptcy, and due to this, their funds are managed through the bankruptcy court. Mr. Rogers stated the estimates provided show eight point eight (8.8) million dollars to construct and one point one (1.1) million dollars to maintain; it was not financially feasible.

Mr. Rogers referred back to the animal units on Exhibit PZR-7D, and questioned whether adding the animal units from the other location in 2025 would have taken the numbers out of compliance with the grandfathered status? Mr. Crosby stated the location was within half a mile and in the same NMP, and did not believe it did. Mr. Rogers then questioned why a new Conditional Use Permit was applied for. Mr. Crosby stated that the state required them to build a new nutrient management system. Bingham County then evaluated and determined that a substantial change had occurred, which required a new Conditional Use Permit to be applied for. Mr. Rogers asked if Cedar Arch Dairies were non-compliant with their animal units, and Mr. Crosby stated they were not and still under the state's approved animal units. Mr. Rogers explained there were two different approvals, the state and then local compliance. Director Olsen explained that Cedar Arch Dairies was grandfathered in 2005 with 2,822 animal units. At some point from 2005 to 2025, there was

an increase of over 150 animal units, and an updated Conditional Use Permit had not been applied for, and Mr. Crosby agreed that was correct.

Commissioner Winder questioned how many gallons of manure are produced and would need to be treated with Pit King. Mr. Crosby was not aware of that amount but stated that it could be provided. Mr. Crosby added that not only is manure processed in the new nutrient management system, but the water is also used to clean and wash the dairy tanks and cows. Mr. Crosby explained that there is a manure separator which improves that system. Commissioner Winder referred to PZR-7B, which explains how much Pit King is used per gallon of manure, and wanted to determine an estimated cost. Mr. Crosby was unable to provide this information.

Commissioner Thomson asked Mr. Crosby who regulates odor and fly mitigation. Mr. Crosby stated it was the same department of the state that approves the NMP. The Department of Agriculture performs inspections to check odor and investigate any complaints received about the property. Commissioner Thomson asked if they were in compliance with the state. Mr. Crosby stated they were and have been the whole time and that the state determines this compliance.

Commissioner Jolley suggested reading the conditions from the last approval to determine compliance as requested by the Board. Chairman Adams read through the conditions.

1. *Total Animal Units shall not exceed 4,280 AU as specified in the approved NMP.*

Chairman Adams confirmed that Exhibit PZR-7D shows this has not been exceeded.

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.*

Commissioner Jolley confirmed with Director Olsen that the most recent NMP was the one provided with the Application.

3. *Abandon the compost area located to the northwest of the North Dairy, as stated by the Applicant.*

Chairman Adams confirmed with Director Olsen that this condition had been met.

4. *Maintain a 300-foot setback from any non-CAFO associated well from manure/compost stacking, rows, and scraping areas.*

Mr. Rogers referred to Exhibit PZR-9, which was a letter dated March 19, 2026, prepared for the Commission by Mike Marvin, Code Enforcement Officer. In this letter, it stated that Director, Tiffany Olsen, sent a letter to Cedar Arch Dairies dated November 18th, 2025, and provided seven (7) days to comply with condition 4 & thirty (30) days to comply with condition 5. He questioned whether there was a compliance issue with these conditions. Mr. Crosby was not sure why this was out of compliance, but it was worked on diligently to ensure those setback distances were handled properly and within a short period of time. He was aware of the code enforcement check, and it was completed properly.

5. *Install a barrier to sufficiently ensure manure doesn't spill onto the property located at 779 N 700 E, Firth, ID.*

Commissioner Winder stated he was concerned that this was one of the easier conditions placed and questioned why it was the first condition to be out of compliance. Mr. Crosby testified he did not have any additional information to provide other than they were working on barriers and were unsure if it was employee confusion. Commissioner Tominaga stated he saw that straw hay bales were used and asked what a traditional or what a better barrier would look like. Mr. Crosby testified that hay bales are common and used as a wind and noise break. He was not sure if a high fence or a solid barrier would be preferred. Mr. Crosby testified that Cedar Arch Dairies strives to comply with all state and county inspections and regulations, and they desire to handle things properly, promising that there is no operation that is perfect, but they will do their best to fix or correct anything that needs to be done. Commissioner Thomson asked Mr. Crosby what he thought were appropriate time limits to comply. Mr. Crosby stated that due to weather conditions, there can be issues moving or placing a barrier. Depending on the weather, a barrier being moved fifty (50) feet to one hundred (100) feet can be taken care of within a week. Chairman Adams referred to PZR-9, in which it states that when Mr. Marvin performed a site visit on January 29, 2026, he found that condition number four (4) had been satisfied. In that same exhibit, it was found that on March 18, 2026, Mr. Marvin determined that condition number 5 had been satisfied.

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.*

Chairman Adams testified that Exhibit PZR-7B referenced a table of use for the Pit King product. Commissioner Jolley asked Mr. Crosby about the use frequency of the Pit King or anything used for mitigation, and any documentation of the use between August and October of 2025. Mr. Crosby testified that at the first public hearing, on August 14, 2025, it was near the end of fly season and that there should be records of sprays used to finish the season out. The Pit King representatives visit frequently and provide recommendations of use and times of use but he did not have those records, but testified they have been using it per the representatives' recommendations. Commissioner Jolley asked if those records could be provided, and Mr. Crosby agreed they could be produced.

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.*

When Commissioner Jolley asked what had been done for dust mitigation, Mr. Crosby did not have any records to provide, but said Cedar Arch Dairies would be willing to comply with what was required with water if that was sufficient, and if chemicals were needed, they would move in that direction.

Commissioner Jolley testified that conditions 1-5 have been complied with, and conditions 6-7 have no data to support those conditions being met. Commissioner Thomson asked Mr. Crosby if he and Cedar Arch Dairies received notification of the specific items of information the Board of County Commissioners requested, to which Mr. Crosby agreed they had received it and had submitted the information to the County.

There was no testimony provided in a position of support or in a neutral position. Before hearing testimony in opposition, Chairman Adams reminded those in attendance that the Commission wants to ensure that all testimony is heard, that it is beneficial to stay within the scope for the purpose of fact-finding, as requested by the Board of County Commissioners.

Testimony in opposition was received by:

(PZR-12) Amy Dye, of 750 E 700 N, Firth, ID, who played a portion of audio, minutes 7:43 to 12:08, from an Appeal meeting where the Commission discussed the concerns they had with the verification of numbers and the animal units approved with the Nutrient Management Plan. Ms. Dye concluded by asking the Commissioners to please deny the Application. Mr. Rogers confirmed the date of the hearing to be December 2, 2025, and clarified that Commissioner Manwaring, Commissioner Jackson, and Director Olsen were speaking.

(PZR-13) Gordon Jay Madsen, 779 N 700 E, Firth, ID, who provided a chart that displayed animal units from 2005 and 2025, which was entered into the record as Exhibit PZR-13A. Mr. Madsen discussed the conditions that were imposed by the Planning and Zoning Commission on August 14, 2025. He testified that neither the Planning & Zoning Commissioners nor the Board of County Commissioners provided clear direction, time limits, compliance measures, or penalties to ensure the conditions were met. He testified that most of the manure on the east side of his property has been removed, but there are runoff piles that have been created due to the trucks that are accumulating and not being cleaned up. Mr. Madsen believed this violated the three-hundred-foot (300) setback from his well. He testified that the current straw barrier to eliminate manure spillage on his property is unacceptable, as it is not a permanent solution, it creates fire hazards, attracts rodents, and leaves remnants of straw that have been blown into their yard. The barrier, being approx. two hundred (200) feet long, leaving significant areas of their shared fence line of four hundred feet, without any barrier. These unprotected areas are along the south fence line and the east fence line, where the new calf pens are located. He suggested that the Commission require the placement of a six (6) foot vinyl fence between the existing concrete barrier and his existing fence along the east and southern property line, and then extending to a concrete wall or metal fence where the calf pens are located, and be repaired when damaged. Mr. Madsen testified that at the August 15, 2025, meeting, Mr. Crosby testified that the Claysons want to be good neighbors, and he believed that good neighbors would want to remove that barrier. It is rodent-infested, being destroyed, and is not a permanent barrier. Mr. Madsen spoke to the heifer pens in need of repair, which results in heifers commonly being in their yard, leaving manure and damaging fences. Mr. Madsen testified that at the December Appeal meeting, Commissioners Manwaring and Jackson questioned why the Home Dairy and North Facility were not being treated as two separate CAFO's because they do not share a common boundary line nor the same manure treatment facility, and referenced Idaho Code Section 67-6529C. Mr. Rogers asked how this was related to the Board of County Commissioner fact finding remand. Mr. Madsen stated that it related to the current

conditions imposed. Mr. Madsen testified that the state may view multiple facilities under the NMP, which manages the total tracking of waste production; however, it does not override Bingham County's zoning responsibilities to manage the site-specific impacts, setbacks, and neighbor protection. Mr. Madsen concluded his testimony by stating that Bingham County has the authority and obligation to treat these two locations as separate CAFOs and that this Application should be denied and two separate applications should be filed.

Commissioner Thomson asked Mr. Madsen if he lives in a county recognized Herd District or an open range area? Mr. Madsen stated he lived in a Herd District. Commissioner Thomson asked Mr. Madsen, as a good neighbor, if he was willing to share the cost of the fence. Mr. Madsen stated that he should not have to; he currently has a fence and is not the one dumping manure along that fence. He stated the barrier was a request from the Commissioners to prevent the manure from Cedar Arch Daires from spilling onto his property.

Commissioner Jolley asked if condition five, *install a barrier to sufficiently ensure manure doesn't spill onto the property*, regardless of the other concerns, would stop the manure from spilling over. Mr. Madsen testified that it did in the areas where it was installed, but not in the areas where there is no barrier. Commissioner Thomson asked if there was manure spilling onto his property, where there was no barrier. Mr. Madsen testified that there was a barrier on the south side, and the barrier that was installed was fifteen (15) feet from his shop and created a fire hazard.

Commissioner Carter asked what the distance of the barrier was to this home in relation to the fire hazard. Mr. Madsen testified that the distance from the barrier on the east side to the home was approx. seventy-five (75) feet and fifteen (15) feet behind his shop. Mr. Madsen said the Fire Code requires a minimum of twenty-five (25) feet. This has now been removed, and there is no barrier there now or on the east side of the calf pens. Commissioner Carter asked about the north side. Mr. Madsen stated they are not related to the North side of the CAFO.

After Mr. Madsen's testimony, Mr. Rogers and Chairman Adams reminded those in attendance to provide testimony only related to the fact-finding remand information that was requested by the Board of County Commissioners.

(PZR-14) Crystal Fisher, of 776 N 700 E, Firth, ID, testified that she lives directly across from Mr. Madsen. She asked the Commission to deny this Application and donated her remaining time to Mr. Jay Madsen per Bingham County Code Section 1-6-5 *Oral Testimony*.

Gordon Jay Madsen, of 779 N 700 E, Firth, ID, provided photos showing the straw barriers and runoff piles; the photos were entered into the record as Exhibit PZR-14A. Mr. Madsen stated that he believed they are two separate CAFOs and asked that they be recognized as such, and that this Application be denied with two separate Applications to follow. Due to the violations of the grandfathered status, he requested that this status be terminated. Mr. Madsen testified that the original footprint of the grandfathered CAFO has been massively altered with the abandonment of the original barn, addition of animal units at the North Facility, new robotic farm, new sewer and lagoon system, the destruction of two cow corals to add twelve new calf pens. Chairman Adams stated that testimony should be related to the Board of County Commissioner fact finding remand and not add additional information and facts. Mr. Madsen understood and testified that the North Facility has increased by 144% animal units and each location should fall under the new CAFO



regulations and would need to comply with the current requirements, which include a two-hundred-foot (200) foot setback requirement from the townsites of Firth and Basalt. As a result, the new robotic barn would not meet these setbacks.

(PZR-15) Justin Orner, of 732 N 700 E, Firth, ID, read testimony on behalf of Chris Jensen, who was unable to attend the Public Hearing. Mr. Jensen's address is 750 E 800 N, Firth, ID and his testimony was entered into the record as Exhibit PZR-16A. This testimony consisted of number verification, Bingham County Code Sections 8.5.9.2 and 8.5.9.3C-E, expansion of the operations and animal units, master plan of the NMP, intent to expand, that the grandfathered status should be terminated, and the need to reapply as two separate CAFOs.

(PZR-16) Von Del Chapman, of 593 E 750 N, Firth, ID, testified he would like this Application denied and donated his remaining time to Mr. Justin Orner per Bingham County Code Section 1-6-5 *Oral Testimony*.

Justin Orner, of 732 N 700 E, Firth, continued reading the testimony on behalf of Chris Jensen. This testimony consisted of the requirement for building permits, expansion of the operations and animal units, the lack of protecting neighbors, and that Cedar Arch Dairies make improvements to help with fly and dust mitigation. With the conclusion of Mr. Jensen's letter, Mr. Orner testified that they (Mr. Orner and his wife) have lived directly across from the dairy for the last three years and have not been able to utilize their outdoor space due to the flies and dust.

(PZR-17) Otho Wayne Harding, of 794 E, 800 E, Firth, ID, testified that the current operation violates Bingham County Code Section 10-8-2(A)4, as it stated the use must not be detrimental to persons. He testified that a member of his household has been medically diagnosed with a parasitic infection and low red blood cell counts and believed that this was a direct result of a failure of current compliance with waste management from the Cedar Arch Dairy. Mr. Harding provided a fly count at his property as one (1) fly every half inch of an eight (8) foot by eight (8) foot area. He testified that these flies remain active and abundant throughout the winter months and indicated that these flies are not being managed. When the feasibility of fly mitigation is determined, it must be evaluated as a year-round solution. Mr. Harding testified that time limits for these conditions should not take years to find solutions when there are health risks. He suggested a ninety (90) day verification of any mitigation for fly and pathogen control to find that any application has a measurable reduction in findings of fly density and pathogen runoff. If that cannot be found, he believed the conditional use permit should be revoked.

(PZR-18) Scott. B. Edrington, of 750 E 700 N, Firth, ID, played an audio recording from the Board of County Commissioners Appeal meeting on December 2, 2025, where the Commission discussed the inaccuracy of the animal units, the animals being at different locations, and obtaining an accurate cattle count. The audio played was from minutes 24:51 to 27:07. He concluded with his request to deny the Application.

(PZR-19) Nollene Jensen, of 724 E 800, Firth, ID, stated that she appealed the decision from the August 15, 2025 meeting as she felt the Planning and Zoning Commissioners did not address some of the concerns that were testified about. Mrs. Jensen submitted a document which displayed an email regarding animal head counts from the Firth and Pingree locations; this was entered into the record as Exhibit PZR-19A. She also submitted Page 2 of the Minutes from the Appeal meeting

of the Board of County Commissioners was entered into the record as Exhibit PZR-19B. Mrs. Jensen testified that she is in favor of agriculture, it's her livelihood, but that farmers, ranchers, and dairymen all need to follow ordinances and regulations. She questioned, hypothetically, why approval was not sought before investing a substantial amount of money into a robotic dairy project without proper permitting. She then questioned if there were millions of dollars on the line, why clear intentions were not shown to the county, and then seek the recommended permits that were required to allow the project to move forward legally, or, hypothetically, were they (Cedar Arch Dairies) afraid that those intentions and information would shut down the project and disqualify the grandfathered status? Specifically relating to the animal units, Mrs. Jensen testified that when the 2005 grandfathered status was granted, Bingham County did not seek animal unit verification; the 2005 animal units are vital to this Application and the grandfathered status. The animal units were at the highest level in 2005 at the Home Dairy. 21 years ago, the numbers at the Home Dairy were higher than they are today, and she has heard a few excuses as to why that is. She testified that it would be important to have a high count in 2005, as it sets the size of animal units allowed if the grandfathered status were legitimate. In a request to Planning & Development Services, Mrs. Jensen requested the animal units provided to Bingham County from 1990 to 2025, from the Applicant, due to the Board of County Commissioners asking for more information on numbers. She suggested that it would be helpful to provide the Planning & Zoning Commissioners with those papers and said there are twenty (20) plus pages of correspondence, and because of the number of pages, she could not submit them within the last 8 days due to hearing procedures. She testified that Bingham County has never requested Cedar Arch Dairies to submit an annual report of animal units until last year's determination of a material change. Mrs. Jensen testified that the numbers have been inconsistent and wished the Commissioners luck as they try to make heads or tails of them. Mrs. Jensen stated the robot dairy farm is actually located on the North Facility, and with the way the numbers are represented on the Cedar Arch Dairies exhibit, it appears as if there are three locations now. She testified that, unfortunately, although the Board had discussed the verification of animal units and third-party animal counts, this was not included in the final Decision, which is why a paper with numbers was turned in by the Applicant. Mrs. Jensen testified that Planning & Development Services requested specific animal verification for 2005, for all locations, when their Department was contacted by the Department of Agriculture requesting Bingham County's verification for the lagoon and catch basin not disclosed by Cedar Arch Dairies. In return, the document provided by Cedar Arch Dairies' accountant listed two locations in Firth and one location in Pingree, and there was no separation as to which cows belonged to each location.

(PZR-20) Jonathan Banks, of 729 E 800 N, Firth, ID, testified he would like to donate his remaining time to Mrs. Jensen per Bingham County Code Section 1-6-5 *Oral Testimony*.

Nollene Jensen, of 724 E 800 N, Firth, ID, stated that on August 15, 2025, she testified at the Planning and Zoning Commission's Public Hearing that the Pingree location was possibly used to inflate their 2005 animal units. When the Commission asked multiple times if the animals from the Pingree location were used, Mr. Crosby failed to answer until the third time. After a pause, he testified that it was possible those of those Pingree cattle might have been included in the numbers they were presenting. When the Commission asked how many, Mr. Crosby testified that approx. 300 animal units were accounted for. She asked the Commission to note that this has never been verified. Mrs. Jensen testified that in the Cedar Arch Dairies 2013 Chapter 11 bankruptcy documents, the dollar amount owed to creditors showed this was not a small dairy operation. She

planned on submitting those documents, but had forgotten to do so and commented that this is information that is available online. She asked the Commission to note that the three hundred (300) animal unit count from Mr. Crosby has not been substantiated. She suggested that the Commission request the bankruptcy records and that this can be used to verify animal units at that time. She said she also searched for animal units' verification in the January 2026 public notice of the Cedar Arch Dairies Sheriff's sale of their property. Mrs. Jensen questioned whether Cedar Arch Dairies owns the cattle, as only the land and assets were listed in the notice. If they do not own the cattle, she questioned if a Conditional Use Permit could even be applied for.

In the Board of County Commissioners' request to gather evidence, she suggested researching the Cedar Arch Dairies March 23, 2026, Chapter 11 bankruptcy filing to see if livestock numbers were listed. Mrs. Jensen referred to the December 2, 2025, Appeal meeting in which Commissioner Manwaring discussed the need for more information to verify the 2005 grandfathered status, which directly relates to animal units, and Commissioner Jackson mentioned the NMP where it shows animal unit numbers from 2014, 2017, and 2025. Mrs. Jensen referred to pages 12-13 of the NMP, where it discusses animal units and that there are plans for three robotic dairy barns. She testified that although the Commission was supposedly provided with this in August, an expansion of three dairy barns had not been part of the Commission's discussion, and asked that this information be looked at again. She testified that although she was going to mention needing a second CAFO, she was trying to stick with numbers and trying to show the Commission the wool that is being pulled over their eyes. Although she believed they were smart people, she urged them to really look at the numbers and numbers on a sheet are not verification. She appreciated the time given and testified that there were over sixty (60) people in opposition and that the manure, the flies, and the smell affect families' lives who cannot go into their yards. She concluded her testimony by disagreeing that the Claysons are good neighbors; she stated they are probably good people to some, but they have not been good neighbors to them.

(PZR-21) Jammie Matheson, of 867 N 700 E, Shelley, ID, testified of her concern for the use of wasps, as many people are allergic to wasps, and by fixing one problem, it would create another problem. As part of her testimony, she played an audio recording from the Board of County Commissioners Appeal meeting on December 2, 2025, where the Commission discussed the inaccuracy of the animal units. The audio played was from minutes 28:15 to 31:46. Commissioner Carter clarified that in his professional knowledge, the wasps that would be used are parasitic, roughly the size of a fly, and do not have stingers, and anyone who has an allergy to wasps should not be concerned about this being used as part of the management plan.

(PZR-22) Dolores Madsen, of 779 N 700 E, Firth, ID, testified that the Planning & Zoning Commissions Decision, signed October 23, 2025, was appealed by several community members. In the Appeal, Commissioners Jackson and Manwaring remanded the Conditional Use Permit back to the Planning and Zoning Commission to address concerns on time limits and compliance with the conditions. She testified that three weeks after the Conditional Use Permit was signed, there had been no effort to comply with any of the conditions. There were no time limits set or guidance given on what type of barrier was required. As a result, Director Olsen attempted to correct this with a notice of violation served by the Sheriff's office upon Cedar Arch Dairies. Mrs. Madsen testified that the CAFO was given one week to remove manure from the east side of their yard and 30 days to construct a barrier. The manure pile was over 20 years old and only partially removed after one week. Later, a straw barrier was placed in some areas, but there are currently areas where

no barrier has been placed. Although Planning & Development has stated these conditions have been met, she testified that the straw barrier is not a permanent barrier; it is a line of old straw, twenty feet tall in some areas. It is not stable or durable, and strongly disagreed that these conditions have been met. The purpose of the permanent barrier was to reduce noise, odor, and the visual impacts of the operation, and Cedar Arch Dairies has not done any of these things effectively. Straw is a fire hazard, and placing this combustible barrier fifteen (15) feet from their shop has violated the Fire Code, which requires twenty-five (25) feet. Mrs. Madsen testified that the straw barrier attracts mice and has experienced hundreds of them coming into their home. The straw blowing into their yard has caused an ongoing nuisance and qualifies as a public nuisance under Idaho Code. She believed this was not what the conditions were meant to accomplish. She testified that this barrier was not requested by her or her husband but was a decision of the Planning and Zoning Commission to eliminate the manure from being dumped onto their property, which has happened multiple times. She testified that one of the conditions states the manure is to be kept three hundred (300) feet from their well. She raised concerns about the manure stored along the property lines and the manure falling off the trucks. This distance is not being properly maintained, which is evident in the increased nitrate levels from tests completed recently. In just nine months, the levels have increased from 3.17 to 4.92. She testified that although the nitrate levels are within reason now, their well will soon reach the critical level and be unsafe to drink and is unacceptable.

Mrs. Madsen discussed what an approved and effective permanent barrier would look like, which in her opinion, included a size (6) foot vinyl fence between their chain link fence and Cedar Arch Dairies concrete wall, an additional six (6) foot concrete or corrugated metal barrier along the property line, and that it be maintained and repaired as necessary. This would be stable, effective, and meet the intent of the conditions. The straw barrier will continue to decompose, smell, and become unsightly. She testified that the existing four-foot concrete wall is in disrepair, broken, and leaning towards the property line. She testified that recently, heifers broke through and damaged the entire front fence on their property. They have reached out to Cedar Arch Dairies for repairs and have not received a response, and testified that this is not good neighborly behavior. She testified that although Cedar Arch Dairies is going through a financial hardship, her hardship has never been considered. She is living with the risk of fire, pests, odor, and ongoing impacts to their property. She testified that at the last hearing, Cedar Arch Dairies stated they wanted to be good neighbors, but good neighbors do not act this way. She requested that the Application be denied as these dairy locations do not share a common border and do not share a waste management system and was concerned about how these conditions could be enforced while in the middle of a Chapter 11 bankruptcy and what penalties would be applied if they continue to not comply. She referred to the photos that were submitted into the record as Exhibit PZR-14A.

Chairman Adams asked Mrs. Madsen to discuss the options she thought would be sufficient barriers. Mrs. Madsen stated that there needs to be a barrier along the east wall where the manure is currently being moved back and forth, which is 100 feet closer than Director Olsen stated it would be, but she thought it was a moot point. She testified that they already live in a horrible place, but it would be nice not to be able to see it consistently. Mrs. Madsen testified to her and her husband couldn't go outside due to the flies. In the areas outside of their yard, she testified that a vinyl fence would work as it could not be damaged by equipment. In the areas where the calf pens are located, and where equipment would be, Cedar Arch Dairies equipment would knock it over, and they would never fix anything. It would need to be more durable, and she suggested a six (6) foot concrete or corrugated metal fence.

(PZR-23) Kevin Bolander, of 718 N 600 E, Firth, ID, testified that although a lot of this had already been covered, he wanted to reiterate animal units and that the locations seem vague. He was not sure if there was a way to verify the numbers. He explained that he has been in business for 50 years, and the accountant's verification used animal units that were provided to them and are not verified on-site. Mr. Bolander respectfully asked that this Application be denied. Mr. Bolander testified that he has lived in this area his entire life and knows each location. He questioned if Cedar Arch Dairies is in Chapter 11 bankruptcy, how will that affect their ability to manage condition compliance, and if Cedar Arch Dairies can afford compliance. He testified that flies have been an issue for twenty (20) years and never seem to get better. The County would need to have a condition in place where fly abatement could be verified. Mr. Bolander testified that the dust can be quite severe, and he said that he has not seen a water truck used for dust control. Mr. Bolander testified that he did not want to see Cedar Arch Dairies go out of business, but they would need to be good neighbors and try to make it work. The timelines need to be stringent with reinforcement for penalties for non-compliance. He concluded his testimony by providing the option that a tree barrier for all neighbors will help with fly and dust control.

(PZR-24) Jade Kohler, of 732 E 700 N, Firth, ID, who provided a map of the dairy and a timeline of dirt being moved; this was entered into the record as Exhibit PZR-24A. He also asked that the Application be denied. In the Board of County Commissioners' December Appeal hearing, Commissioner Manwaring stated a concern that a Conditional Use Permit should have been required when the robotic barn was constructed. Commissioner Manwaring asked Director Olsen for her input. Director Olsen stated that she had a conversation with Gaylen Clason when a building permit had been applied for, and that the animal units would not increase, and existing lagoons would be utilized. Mr. Kohler provided a timeline of events and referred to the photos he provided, in which the 2021 Google Earth imagery shows no existing lagoons. Mr. Kohler testified that this shows no intent to tie into an existing lagoon. In 2018, a new well was installed for a future metal building to house cows. On November 20th, dirt work began, and on June 21st, an Agriculture-Exempt Building Permit was issued. On October 7th, 2023, Google Earth imagery clearly shows the new robotic barn and lagoon. On October 23, 2024, the final milk tank was operational. Mr. Kohler testified that sometime in 2024, the Department of Agriculture contacted Director Olsen and she found that there had been an addition of a new lagoon, and because of the robotic barn, four catch basins had been added. Mr. Kohler said this new lagoon is twice the size needed for one milking barn and prompted the process for the new Conditional Use Permit. In November 2024, Cedar Arch Daires applied for a Conditional Use Permit. Mr. Kohler stated that Mr. Clayson misrepresented the facts and provided misleading information to obtain an Agriculture-Exempt Building Permit without the need to apply for a Conditional Use Permit before building. While Mr. Clayson's intent cannot be proven, Google Earth shows he did not tie into an existing lagoon but created a brand new CAFO facility, and that the animal units at the barn did, in fact, change. Mr. Kohler testified that a dairy in Pingree affected five (5) homes within a mile radius and was shut down. This dairy affects over one hundred and fifty (150) homes within a one-mile radius. He did not believe that those who are affected had been given consideration and asked that the Application be denied and the CAFO be returned to the as-is 2005 condition, which would require the new building and the lagoon to be removed. Mr. Kohler testified that he has seen an increase in flies and that fly season can last until November. He asked that preventative measures be completed diligently and not on an as-needed basis, a proven odor mitigation method be used, and the lights on the dairy shut off at 10:00 p.m., as the lights shine directly into his bedroom.

(PZR-25) Karie Lynn Harper, of 752 ½ E 800 N, Firth, ID, testified that last year, when her grandkids were over to visit, her windows were covered in flies and would come inside anytime the door was opened. She had her home fumigated twice, and it did not seem to help. She requested that the Application be denied and that two Applications be required. She then testified she would like to donate her remaining time to Mrs. Nollene Jensen per Bingham County Code Section 1-6-5 *Oral Testimony*.

Nollene Jensen, of 724 E 800, Firth, ID, stated that she has talked a lot of numbers but that she wanted to apologize to Director Olsen, Paul Rogers, and the Planning and Zoning Commissioners, for taking it out of them and to Clayson's for being harsh. She stated she is not a mean person, she is a nice person, and this has made everyone emotional. She testified that over the last two weeks she has poured through hundreds of documents, mostly concerning numbers as it was concerning her with so many discrepancies found. She concluded with saying thank you and apologized.

(PZR-26) Dennis Howell, of 775 N 600 E, Firth, ID, testified that he owns the property between the two dairy locations. He raised concerns about future water quality, citing that the dairy has been there since 1959, and at that time, every cow was out in the pasture until the winter. He discussed the need for the grandfathered status to change due to everything about the CAFO changing and the number of animals increasing. He explained that in 1970, there were roughly the same number of cows as there are today, but they were spread out. Mr. Howell testified that he has been in the beef and construction industry for over 40 years and explained that a yearling at 1 year old is considered a cow. He testified that although we want to do things as they have been done in the past, 20 years ago, methane digesters did not exist, there were concrete lagoons with agitators to reduce the smell before it could be used as fertilizer, and it was sprinkled out on alternating fields. Fertilizers in the same field year after year can increase the nitrate levels. Mr. Howell said the operation would need to be managed correctly and that the management of Cedar Arch Dairies is not very good. He concluded that the grandfathered status should be eliminated and did not want to see Cedar Arch Dairies go out of business, but that their dairies needed to be managed better.

(PZR-27) Brooke Orner, of 732 N 700 E, Firth, ID, lives across the street from the dairy and was concerned with her children's way of life and how it has affected her family. She testified about the previous year and the flies being so bad that they had to race to the car, her kids would not play outside, the manure trucks driving down the road to where their vehicles were covered in manure, and they could not be parked in the garage due to the smell. She testified to her concern about the regular burning of plastic tarps, which release toxic fumes and permeate their homes, something forcing them to leave. She did not want to see Cedar Arch Dairies go out of business, but to see it from their side and how it's affecting their children and their ability to play outside.

(PZR-28) Anna Ruth Kohler, of 735 E 700 N, Firth, ID, provided her written testimony which was entered into the record as Exhibit PZR-28A. Ms. Kohler appreciated the Commissioners at the August 2025 hearing who listened to their concerns and tried to understand them. In the past several years, the smell and flies have been terrible. She said that she cannot hang her laundry out and sometimes has to rewash her laundry due to the smell. She testified that every home is affected differently depending on the location. Living with the flies and smell is different than visiting a location with flies and smell. She testified to an important family event that was held at her home, and due to the number of flies, it was held in the hot garage with the doors closed. In 2024, she visited Planning & Development Services to see what could be done. She learned that a

Conditional Use Permit would be required with a new expansion of an existing CAFO with a material change. She read a Wikipedia definition of *as-is*. It appears this dairy is not the same as 2005 and she was not sure how it could be grandfathered *as-is*. Ms. Kohler testified that as citizens, they can live their lives, but when they (Cedar Arch Dairies) infringe on others, there are consequences. Cedar Arch Dairies is infringing on the neighbors and the community, and needs to do what is necessary to resolve the issues, guidelines need to be followed, odors, insects and pests need to be controlled with scientifically proven commercial methods, and completed on a routine basis. She testified to the options that had been discussed, and if these options were not solving the issues, they would need to consider all other options. Ms. Kohler testified that manure should be moved to a less residential area and proof should be provided for the treatments used. Three (3) or four (4) rows of trees should be planted. She testified that these measures are part of running a business and not an extra burden. She testified that this should not be considered as one CAFO because the two different locations do not share a common border. The number of animals at each location should be separated. She concluded that the dairy does not comply with the requirements as specified in Ordinance 2005-17 and asked not to issue a Conditional Use Permit at this time.

(PZR-29) Tracy Berg, of 699 N 700 E, Firth, ID, confirmed that composting does not require a permit. Mr. Berg testified that the manure-covered equipment needs to be cleaned more often and that they need to keep the manure in the dairy and off the roads. He testified that there are manure piles in almost every direction from these dairies. Approximately a half mile south, there are two to three (2-3) acres where manure and composting piles are on the road and are in violation of Bingham County Codes. He testified to his concern that these manure piles are on sand and rock and leaching into the aquifer.

(PZR-30) Shad Matheson, of 867 N 700 E, Shelley, ID, provided photos of the property, which were entered into the record as Exhibit PZR-30A. His testimony included purchasing property just North of the CAFO, and that the Application is vague. When purchasing the property, they had gone through the proper steps to ensure their kids could also build next to them. He explained an instance when they built a concrete curb to contain the driveway gravel close to the right of way, and were contacted by Bingham County. He cut fifteen (15) inches off the concrete curb to be compliant. He testified that, between state and federal requirements, the County should be more restrictive. The County is there to protect the citizens and the community. He questioned how a thirteen (13) million-dollar barn could be built without any supervision. He requested that the Application be rejected and questioned whether the County would oversee it well enough, as he felt it was a County responsibility. Mr. Matheson testified that if a straw fence were to catch fire, he believed fifty to one hundred feet is too close to a house, and it is not acceptable, and there needs to be common sense in any conditions placed.

Commissioner Jolley asked Mr. Matheson to explain the photos that were provided. Mr. Matheson stated there was a picture of his curb being too close to the road, an old dairy lagoon close to the fence, and with no liner. With the growth of the dairy, he testified that this Application should be rejected. He stated that if the operation and groundwater could be successfully monitored, he would want to build another house there. He concluded his testimony by stating that he may build his own privacy fence to obscure his view of the dairy.

(PZR-31) Becky Chapman, of 593 E 750 N, Firth, ID, testified that she is concerned with odor management and that enforcement must be upheld to meet the request from the Commissioners. She lives in Firth city limits and testified that the odor affects those who are not in proximity, and believes this can be fixed, and did not want to see the dairy go out of business.

(PZR-32) Jeniece Olive, of 747 E 800 N, Firth, ID, lives half a mile from the dairy barn in the direction of the wind and offered that anyone could come to her home and experience the smell. Her grandchildren cannot come and visit due to the odor and flies. She testified that her goats get bit by the flies and expressed that she would like Cedar Arch Dairies to be held accountable.

(PZR-33) Kim Burns, of 756 E 800 N, Firth, ID, has lived in the area since 2003. At that time, there was no odor or fly problem. She testified that she would like to see the dairy be held accountable and that this has had an impact on the whole community. It has caused chaos and disharmony. She concluded that she would like the Application to be denied, and if Cedar Arch Dairies are to proceed, she would like to see two CAFO applications.

Commissioner Thomson asked when she noticed an increase in odor. Ms. Burns testified that it was the summer of 2025. She testified that she does not receive the smell like everyone else, because it depends on the direction of the wind. She then testified that she was donating her remaining time to Mr. Jay Madsen per Bingham County Code Section 1-6-5 *Oral Testimony*.

Gordon Jay Madsen, of 779 N 700 E, Firth, ID, testified that there is a list of conditions which they would like enforced, which included that the Application be denied, each location receive its own Conditional Use Permit, no future milking barns be build, no additional structures more than 10,000 SF be used for housing animals, and predatory wasps and permethrin spray be used for fly control or a combinate of both. Mr. Madsen added that:

- (1) wasps and permethrin spray should be used every two to three weeks, and more serious areas are treated weekly;
- (2) manure control should include Pit King and aerators;
- (3) to clean the corals weekly in the heifer area;
- (4) tree berm barriers should be required along 700 E on the south property line and on the north end of the dairy which should reduce flies and smell and protect the neighbors. These trees would be watered with fresh water, and they would need to consult with an arborist to determine which tree would be best to use;
- (5) head count should be completed twice yearly, and specific sizes of cows should be determined;
- (6) if compliance cannot be met, a cease-and-desist order will be issued within thirty (30) days;
- (7) an inspection report will be completed twice a year for compliance;
- (8) receipts produced on the mitigation methods used;
- (9) an additional condition on the barrier and distance to the Madsen's well.

Commissioner Carter questioned how bi-annual inspections would be funded by the County and that if bi-annual inspections were imposed on this dairy, he believed that those would need to be imposed on all other dairy operations in the County as well. Mr. Madsen testified that electronic records could be produced, a process that would be easy to implement, and was sorry but that this is the cost of doing business. If a Conditional Use Permit approval has conditions that require this

to be done, it should be paid for by the dairy. Commissioner Carter asked if he believed verification was the County's responsibility? Mr. Madsen stated he believed it was the County's responsibility to verify the numbers at least on an annual basis and should be paid for by the County but if it were completed by a third party, it would be at the cost of the dairy. Commissioner Carter explained again that if inspections were imposed on this dairy, those would need to be imposed on all other dairy operations as well and expressed his concern about how that would create a tax burden on the citizens. Mr. Madsen stated there are less dairies than there used to be so there would be less cost than there used to be.

(PZR-34) Elizabeth Harding, of 794 E 800 N, Firth, ID, testified that she has lived in the area for 10 years and in that time, her health has declined, and she believed that was directly related to the dairy and the sludge going into the groundwater. She testified she lives downwind from the dairy which has caused significant health trauma and financial hardship on her family. She discussed her health issues and how it impacts her life and how nitrates will affect everyone. She testified that Cedar Arch Dairies is not taking responsibility, testified to the severe smell, the incessant number of flies throughout the year, and that parasitic wasps do not survive through winter.

(PZR-35) Michael Heathcott, of 643 N 700 E, Firth, ID, referred to condition number 4 from the August 15, 2025 hearing and testified that he would like to see monthly records or receipts from April to October on the timeline of the pest and odor treatments and what was used. He stated that if Cedar Arch Dairy fails to comply with the conditions, failure should result in a cease-and-desist order and the use of the third-party contractor at the CAFO's expense, including associated legal costs. Mr. Heathcott proposed the following conditions, if approved:

- (1) Fly control measures: the use of parasitic wasps, every two to three weeks during a set timeframe, feed additives be administered to all animals to prevent the development of fly larva, treatment typically starting April 1 and continued until thirty (30) days after the first frost. The sprays be applied to the affected outdoor corals and pens every two weeks for residual control and treated daily in areas with high fly activity.
- (2) Odor control methods: the use of bioaugmentation additives, Microbio products used to reduce sludge accumulation, covers, and gas collection. He suggested that multiple fly and odor methods may be effective and most practical.
- (3) For the heifer pens: regular cleaning and manure removal will be most effective to remove odors.

He concluded his statement by stating if these conditions cannot be met, the Application should be denied.

(PZR-36) Jesslyn Speakman, of 726 E 700 N, Firth, ID, provided her written testimony which was entered into the record as Exhibit PZR-36A. She testified that the Application should be denied due to the reasons that were addressed in the August hearing. One of the hardest things about this is that the community is divided among good people. In this decision-making, she asked that we be good stewards if our future selves and our future communities.

With no additional testimony provided by the audience, the Applicant's Representative, Mr. Barry Crosby, provided a rebuttal statement. He testified that there are electronic records from health tests completed on the cattle numbers and that no animals from the Pingree location were included in the animal units provided. Mr. Crosby explained that using the animal unit conversion from

2025 to the animals in a one-mile radius, including the Home Dairy, North Dairy and the calf and heifer facility in 2005, it would calculate as three thousand six hundred and twenty-eight (3,628.) If the 2025 animal unit conversion was used for the animals within the same one-mile radius, and the number was provided, that number is three thousand three hundred and seventy-seven (3,377.) He confirmed the parasitic wasps are gnat-sized with no stinger. He testified that the manure holding ponds are regulated at the state and federal levels; they are approved in size and lining depending on the number of animals there are. Mr. Crosby testified that those were inspected regularly throughout the construction period. Mr. Crosby discussed that the close proximity of the City of Basalt's sewage treatment plant, Firth's City treatment plant, and a potato processing facility makes it hard to know where the smell and flies come from.

Commissioner Thomson asked if the manure handling practices had changed since 2005. Mr. Crosby stated that it has, the industry is always improving, and that is why an investment was made for a manure separator. The new barn now uses the manure separator to further management, describing that the solids are separated from the liquid and immediately relocated to start the composting process to be used as fertilizer. This is a modern requirement imposed at the state and federal levels. Commissioner Thomson referred to the testimony that manure was on the roads and asked if that was from the solids being relocated and asked how it is hauled away. Mr. Crosby stated that the liquid is hauled away in enclosed tankers and the solids are hauled away in spreaders, and that this is done only at the North Dairy. Mr. Crosby confirmed that the Home Dairy's process had not changed. He spoke about being vigilant with the employees' continual training on the correct hauling procedures. Commissioner Thomson asked if side dumps are used to transport the manure and then moved into a spreader. Mr. Crosby stated that side dumps have been used on occasion and that efforts will be doubled up to ensure the manure does not get on the road.

Commissioner Tominaga referred to the animal units of three thousand six hundred and twenty-eight (3,628) in 2005, and questioned why the numbers are less on the most current provided breakdown of numbers on Exhibit PZR-7D. Mr. Crosby stated the young stock listed on the 2025 breakdown under the North Facility were at the holding facility, which was leased to Cedar Arch Dairies in 2005, and moved to the North Dairy when that holding facility closed.

Commissioner Jolley referred to the 4 hours of testimony, and the documents provided, and asked what is being done to change the existing conditions, as there is a dissatisfied community. Commissioner Jolley said that when the Application was first approved, there was a list of conditions that were to be met to continue operation, and it was partially satisfied but only with pressure from Bingham County. He referred to Commissioner Manwaring's statement that the dairy is not going to smell good, but it doesn't have to be horrible, and that he felt the same way. Commissioner Jolley asked the dairy's perspective on what would change to satisfy the community concerns. Mr. Crosby testified that the important things will be focused on, and those are the things that can be controlled, such as fly predators, Pit King treatment (applied as advised), possibly reaching out to a competitor to ensure the most effective treatment is used, the barrier needs to be

installed right away, and that they will double up on their efforts and be more cognizant of the concerns expressed. Commissioner Jolley asked why that has not already happened, and that it takes this venue to make it happen. Mr. Crosby has stated that there are things that have been done, and that they are aware of the concerns. He added that Cedar Arch Dairies wants to do any feasible option with the current methods to take care of the dust, odor, and fly control. Mr. Rogers asked if it would be beneficial to work on these concerns with the current number of cattle, or a lower or higher number of cattle. Mr. Crosby thought that unless a humongous number of cattle were removed, he did not see that be effective for the numbers they have. He testified that Cedar Arch Dairies does not have the plans or capacity for any more cattle and that the waste management system was built in excess to handle current numbers. He added that Cedar Arch Dairies intends to use all the best methods available and try other methods if what they use is not working, but that using a multimillion-dollar methane digester is not feasible. He explained that a predator wasp works in the same way as a manure separator. The manure separator causes the feed through larvicide to be less effective, but the predators will work to find the larvae.

Commissioner Tominaga brought up the financial concerns and asked Mr. Crosby, with those concerns, if these efforts are doubled down on to ease the community concerns, is he concerned that those obligations may not be fulfilled? Mr. Crosby testified that using Pit King, predator wasps, and dust control are normal requirements, citing that the Dairy can be better with the employees and retraining on those concerns. Commissioner Tominaga was unsure if those would be feasible because he hadn't been provided any evidence on the cost. Mr. Crosby stated he would be happy to submit those and that they planned to use those mitigation measures when the weather gets warmer.

Commissioner Thomson spoke to the concerns about the straw barrier and pointed out that in some of the photos, the bales were leaning. He stated that a vinyl fence would not be feasible with the cows. He asked Mr. Crosby if the dairy had researched a permanent type of barrier? Mr. Crosby testified that bids have not been received, but they can look into the cost of a cow-tough and permanent option.

Commissioner Winder asked for clarification of the motivating factors in building a robotic barn. Mr. Crosby stated that it was in their Application, which described how old the North Dairy parlor was and that it could not be repaired. Additionally, it was hard to find workers to milk the cows, and the fact that a cow can be milked whenever she wants, and be comfortable, it was a significant investment to the operation. Commissioner Winder asked for the approximate cost of the robotic farm, which Mr. Crosby stated that with the construction of the barn and the robot inside it was approx. eight to then (8-10) million dollars. Commissioner Winder asked that on the business side of things, why the investment went into the robotic barn and not looking into the opportunity of a methane digester. Mr. Crosby stated that with a worn-out facility, the existing cows had to be cared for. They looked at the longevity of the cow's life and the financial sense to put them indoors for a better life, and that is why it was constructed before they looked at a methane digester.

Commissioner Winder asked if the methane digesters reduce odors and pests. Mr. Crosby stated that the materials provided showed there was a reduction in odors and flies.

Chairman Adams asked Mr. Crosby about the accuracy of the current animal count. Mr. Crosby stated they were very solid, and in preparation for this hearing, they double-checked their electronic records of each of the locations and could provide records to back that up.

Chairman Adams asked what an acceptable timeline would be to be in compliance with a permanent barrier. Mr. Crosby stated it would depend on what type of fence would be acceptable as a permanent barrier, the cost, how it was manufactured, the length required and the cost approval as the bankruptcy court manages the Dairies money now. Chairman Adams asked what he thought would be the best option for the barrier because the straw barrier was not a good option. Mr. Crosby stated that a vinyl fence would not be a good option as it could be easily damaged. Mr. Crosby describe that there currently is three to four (3-4) foot high concrete border in one section, which is practically indestructible. He said there would need to be a Chicago barrier with steel sheeting on top to provide a six (6) foot barrier.

Chairman Adams asked for the ability to provide proof of applied chemicals. Mr. Crosby said he could supply invoices, treatment records and professional visit records, and related professional application recommendations.

Commissioner Thomson asked if mag chloride was researched as a source of dust mitigation, as water evaporates faster. Mr. Crosby stated it was an option, but that it has not been applied, and questioned at what point in time that would need to be applied, possibly during obvious times of harvest if water was not working. Commissioner Thomson asked if a water truck is currently being used at times. Mr. Crosby stated they have not used it, but there is a water tank available to use. He stated the road into the young stock area is paved, and the area where the manure is stored is wet, but there are a couple of open pens they will pay attention to when they clean them out.

Mr. Rogers asked for clarification on the exhibit that was provided and the three locations mentioned, and why the North Dairy and the robotic dairy were separated. Mr. Crosby stated the robotic barn and North Dairy are 150 yards from each other, and the Home Dairy was a mile south of the North Dairy. Mr. Rogers stated that CUP's are intended to run with the property and asked the reason why only one application was applied for versus two. Mr. Crosby testified that although there used to be two NMPs, the state required one with the new manure handling facility. He was unsure how the County perceived this with the grandfathered status, but the state combined those and considered it as one CAFO. Mr. Rogers stated that there are two different properties and asked Mr. Crosby if he thought it would be two applications for two separate CAFOS as an NMP and CUP are different. Mr. Crosby testified that he did not know how that would change anything as they still have to stay within the approved animal units, abide by state regulations and be inspected federally and by the state. The NMP was updated due to the new manure handling facility, and he believed Cedar Arch Dairies was grandfathered as one CAFO.

Commissioner Carter asked if an IGR feed-through is currently being used. Mr. Crosby testified it was not. Commissioner Carter testified that when it comes to fly control, some of the methods do not work together, and the approach has to be thought through. He asked if an IGR feed-through would be feasible to execute. Mr. Crosby stated they could easily add it to the feed, but he would want to talk to the scientists and see if it can be conducive to how manure is handled. Commissioner Carter was not sure if the manure separator would make a difference, but something that could be considered. He stated the purpose of the NMP is so that phosphorus does not build up in the soils, which can be troublesome and contaminate water. It does not address the things that the community is concerned with, such as odor or fly control. It makes sense to him to have one NMP, which entails monitoring the soil levels of those nutrients in the farms to which they are applied. Commissioner Carter testified that there should be two CAFOs to manage the concentration of the animals in each location. He thought that animals on the North Dairy could be decreased and moved to the Home Dairy, where there are fewer people around. He understood the reason to have more cattle at the North Dairy was due to the better facilities and not reinvesting money into the Home Dairy. The consequence of that is that there are neighbors who are unhappy with the situation. Commissioner Carter said it has been 5 months since the last hearing, and there has been a relaxed effort to put required measures into place; these should not be measures specified by the County but something that is done to be a good neighbor. Cedar Arch Daires not only represents itself but every dairy, feedlot, and ranch operation in the state, and that responsibility needs to be taken seriously; he did not believe that had been done. He reiterated the importance of more concrete guidelines and timelines. Commissioner Carter did not think much could have been done about the flies from October to April but it is a concern of the community and therefore should be a concern for Cedar Arch Dairies. Commissioner Carter said there have been good suggestions made by the community, such as aerating the lagoons and using dust control, feed through IGR. Commissioner Carter expressed his concerns with composting and asked Mr. Crosby what steps would be taken to reduce the odors from composting around the north dairy facility. Mr. Crosby stated that, in his understanding of the composting process, it is required to be turned. He offered to discuss options with the composting scientists and make sure of the best treatment for proper composting, or additional additives they can add to that process. Commissioner Carter asked if that composing was done on the North Dairy or if it was taken off-site. Mr. Crosby stated it is being hauled off. Commissioner Carter stated there are some simple fixes for the road debris and light pollution, and that he would like to see a little effort in these areas, expressing that a little effort goes a long way.

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

IV. DISCUSSION

Chairman Adams explained that the Commissioners may do one of three things: uphold, amend, modify, or reverse the prior recommendations to the conditional approval of the CAFO. Application. Mr. Rogers added that testimony was heard from the Applicant's Representative that stated there was documentation that could be provided, but that it cannot be supplemented at this point because this was the time for evidence to be provided (meaning it would be considered new finding at this point to accept anything new, it would take a new hearing.) He further explained that there was testimony provided that was outside of the scope of the Board's remand, and it was the Commission's duty not to consider that testimony for fact-finding.

Chairman Adams thought that this Application is tasking the Commissioners to micromanage a dairy and that by amending or modifying their prior decision, is putting a huge task upon the Commissioners. With that said, Chairman Adams found that the Commission was not given the information requested to fact-find and clarify information. He also said that there should be two Applications and that combining the two into one was not fair to the neighbors. Commissioner Tominaga agreed with Chairman Adams and personally did not think anything could be approved without seeing something done with the receipt of solid numbers, facts, or concrete plans for operation. Commissioner Tominaga stated that to create an urgency to complete these conditions, the Commissioners would need to reverse their decision, and when Cedar Arch Dairy is ready to come back and fulfill those things, they would need to reapply with an Application for each location. Commissioner Thomson partially agreed but also did not see how this would solve a fly and odor issue, but that it could perhaps be better managed. Chairman Adams added that the burden would be placed back on the Applicant to show what steps would be taken for mitigation, rather than the Commission forcing conditions. Chairman Adams said that he counted six different times where testimony was presented that documents could be provided at a later date, and that it was too late for that. Commissioner Thomson agreed and was not impressed by how unprepared the Applicant was, but did not think it was fair to start over. Chairman Adams stated that, between the hearings and testimony, the Applicant knew what to expect.

Commissioner Carter stated Cedar Arch Dairies has grandfathered status; he questioned if it were grandfathered as one or two. He also questioned if the Application was denied, the Home Dairy would be operable, but the North Dairy would not, based on the updated information received by the Dairy showing the animal units at each location. Commissioner Carter raised concerns that there would be 700-800 head of cows that would still need to be milked and is not a common-sense approach. He questioned whether the conditions could be modified by reviewing the conditions, ignoring the animal units, they have: (1) a current NMP; (2) abandoned the compost area; and (3) met the 300-foot setback. He added that the barrier needs to be better clarified with a timeline, feed through IGR needed to be included, and the time frame of that implementation be extended. Commissioner Carter questioned that, because the North Dairy triggered the need for this Application, could the Commission modify the animal unit specification for the North Dairy

and make this CAFO applicable to only the North Dairy location? Cedar Arch Dairies would then have to apply for a CAFO on the Home Dairy if they want to expand. Mr. Rogers stated that it could be done, but that the Commission needed to think about this, setting a precedent with other applications. It also needs to be discussed that from 2005 to 2025, is there enough evidence to show that ownership, uses, lessee and lessors, have stayed the same.

Commissioner Tominaga asked Commissioner Carter what is being grandfathered in. Commissioner Carter stated that prior to 2005, Bingham County did not have regulations specific to a CAFO. When those regulations were adopted through ordinances, all of the existing CAFOs were grandfathered in, *as-is*, and could operate at the same status. If animal units were increased 25% or there was a material change, a CUP would be required.

Commissioner Carter testified he was very comfortable with having two CAFOs and one NMP. He was not concerned with setting a precedent with each property and the concentration of animals for each location. He thought they should be treated separately. Mr. Rogers added that the NMP must be followed, but that they are not regulated by the county. Commissioner Carter clarified that to approve a CAFO, there must be an NMP, but that there could be multiple CAFOs under one NMP.

Commissioner Thomson asked if this Application is denied, it is business as usual, and nothing really changes to mitigate any of the concerns until the next process phase. Chairman Adams stated that it is not the Commissioner's duty to enforce; it should be the dairy to enforce internally. Commissioner Tominaga asked how that would affect the new robotic dairy's operation. Chairman Adams stated that a denial would still provide the ability to operate, but that there would be a request for the separation of CAFOs. Commissioner Thomson questioned whether they were still qualified to be grandfathered at that location, and if the Application was denied, they would need to move the animals to the Home Dairy, and they would still be under the animal units originally grandfathered. Chairman Adams referred to the Board of County Commissioners' request to specifically know what the numbers are at each location, and why they were asking for that information, and whether they are accomplishing that. Commissioner Tominaga questioned the accuracy of the number provided. Chairman Adams stated that for him, he has to assume that the Applicant is providing accurate information.

Commissioner Jolley was unclear if a CAFO is required for the Home Dairy, as there has been no substantial change. Mr. Rogers asked if the Commission had enough evidence to clearly separate that. Commissioner Jolley thought there was a heavier distribution on the North Dairy and did not want to deny this and require two CAFOs if two are not required. Mr. Rogers stated the Applicant would need to determine if it was required, and in the location where they want to increase their numbers. Commissioner Jolley stated that he did not believe they could provide the Board of County Commissioners with the fact-finding and information they requested. Chairman Adams

agreed and added that the Home Dairy is shrinking and there is no question that there are two different dairies owned and operated by the same business.

Commissioner Carter asked what the consequences of denying this Application would be. Director Olsen stated she would not be able to provide a letter to the State Department of Agriculture inspector stating that Cedar Arch Dairies' operation is compliant with current County Code. Commissioner Thomson asked if they would be given a certain amount of time to come into compliance or if the business would be terminated at that point. Director Olsen stated she would be in the same position as last time when Mr. White (the State Inspector) asked for a letter. A Notice of Violation was issued to the property owner, providing an opportunity to cure by applying for a Conditional Use Permit. Commissioner Thomson added that if a dairy could not sell dairy products, it would be out of business. Director Olsen stated that it would be between Cedar Arch Dairies and the State Department of Agriculture to work through.

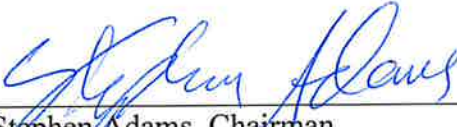
When she requested the NMP from 2005, this was not received because those records are not kept by the state for that long. She stated that she did receive two NMPs from 2017 which leads her to believe they were treated as two separate CAFOs prior to 2017 and were combined as one in 2024 and the reason why one Application was applied for. If she had received two NMPs, two applications would have been required. In the numbers provided in Exhibit PZR-7D, there were fewer animal units in November 2025 at the home dairy than in July of 2005. These numbers were provided by the Applicant and have not been verified by a third party or by the county as that was not in the scope of the Board of County Commissioners remand.

Commissioner Carter believed the best record of 2005 is what they have received and did not think they could recover anything else, and was not aware of any material change at the Home Dairy. Chairman Adams agreed that the change happened on the North facility, which consisted of the numbers provided on Exhibit PZR-7D. Commissioner Thomson stated that this Application cannot be accepted as submitted, with a decision to approve only one location. Commissioner Carter questioned why. Commissioner Thomson responded that the Application is for two locations, not one, and was applied for on a much broader operation. Commissioner Jolley stated that he was not aware of how the Applicant was directed to apply, but that they are not able to provide the Board of County Commissioners with what they asked for. For him, it is pretty clean cut, the decision is to send it back with a recommendation to deny and have them reapply with a much stronger application, and that will give them time to correct the issues with the community. Commissioner Carter asked why he thought they could not deliver to the Board of County Commissioners what they asked for. Commissioner Jolley stated there were four items. In the question of compliance status for the conditions, there was not information provided on two of the seven conditions. In denying this application, it provides Cedar Arch Dairies the opportunity to look at the feasibility, costs, and expert opinions and to come back with that information with a much cleaner, more complete application. In relation to the conditions, Commissioner Carter believed they had


received an answer on five of them and that they are not out of compliance with the other two, as they are not in fly season and there has not been dust. Commissioner Thomson stated he believed they had not been provided adequate information to present their case on those two conditions. Commissioner Carter responded that the new application material would be the same except for the change of the animal units on the North facility. He questioned if it was fair to make them go back, and if it was a good use of time. Chairman Adams stated it would be unjust to look at this as one CAFO and was not sure how this was not noticed the first time, but they are, in fact, two separate facilities.

V. DECISION

Based on the record, Commissioner Thomson moved to deny the request by property owner, Cedar Arch Dairies, LLC, based on the fact that the Commissioners are not able to provide the Board of County Commissioners the facts they had asked for, and that the Commissioners believe there should be two separate CAFO locations. Commissioners Thomson, Jolley, Carter, Tominaga, and Winder voted in favor. The motion passed.



Stephen Adams, Chairman
Bingham County Planning and Zoning Commission



Date