TRINITY COUNTY COMMUNITY DEVELOPMENT SERVICES
PLANNING DEPARTMENT
530 MAIN ST., PO BOX 2819
PHONE – 530-623-1351
WEAVERVILLE, CALIFORNIA 96093

Edward Prestley, Interim Deputy Director

MEMORANDUM

DATE:	August 3, 2023
TO:	Members of the Trinity County Planning Commission
FROM:	Drew Plebani, Director-Cannabis Division
SUBJECT:	Agenda Item: Item 8 P-23-22 Appeal of Director's Decision to Approve CCL-106

Comments received as of August 2, 2023

Deborah Rogge

From: info.cannabis
Sent: Monday, July 31, 2023 9:14 AM
To: info.planning
Subject: FW: APPEAL OF PLANNING DIRECTOR'S DECISION P-23-22

Importance: High

From: james hanson [redacted]
Sent: Saturday, July 29, 2023 8:37 PM
To: info.cannabis <info.cannabis@trinitycounty.org>
Cc: Petko Petkov [redacted]
Subject: APPEAL OF PLANNING DIRECTOR'S DECISION P-23-22

APPEAL OF PLANNING DIRECTOR'S DECISION P-23-22 An appeal of Cannabis Director's Decision to approve a Commercial Cannabis License application (CCL-106) for 1050 Rowdy Bear Rd. Hayfork, CA APN:
019-280-003-000 Appellant: Rowdy Bear Sanctuary / Rachel Doughty, Greenfire Law PC Applicant: Petko Petkov / Nature Farm., Inc

1. regarding armed guards: armed guards is referring to uniformed Armed officers,
to my knowledge there has been no! armed guards or uniformed officers on this property, all workers on this property have been encouraged not use firearms in order to not violate license board requirements. the only person allowed and available to protect the safety and welfare is a family member., a retired Army Military Police officer/firearms instructor and POST graduate (police officer standard training). trespassing is a violation of State law, (602K) county and city ordinance and is punishable by up to 1 year in jail and or fine. therefore it is the right of property owner to protect the property and welfare of all working on the property. trespassers do not have the right to enter the property what so ever. if entering or crossing the property is required to access anything on the outside boundaries, it is responsibility of the neighbor to access the outside boundary by another way.

2. in regards to accusation firearms being fired overhead, over property lines is absurd. to be in knowledge of this information would require a radar tracking device which is not available to the public. this would have to track the origin of the projectile back to its origin by trajectory. otherwise you have to assume to claim would have to from someone at the origin (illegal on the property) and even then a small round like a .223 that travels up 2800 feet per second cant be seen by the naked eye unless it was a tracer. As owners stepfather I have patrolled the property under the cover of dark and stealth, quietly. I have encounter persons on the property considered by law to "squatters under California Civil code .1007. any and all excess rubbish is centrally located prepped for removal, continuous inspections by the fire marshals have any all report on the condition of the property and have cleared Peter for environmental requirements. claims of non biodegradable material being buried

would have to be viewed by illegal access to the property, besides being gravely environmentally hazardous.

3. fencing: section 841 of California civil code, also known as the good neighbor fence laws, is the presumptions of property line fence and is presumed the responsibility of both neighbors since appellant is requesting Petko to bare the full cost of the fence, i can only assume he is not willing to be a good neighbor.
and since he or his house has been there since 1979 as he claimed, why does he feel entitled to the privacy if he is not willing to share the cost for, much less requesting another neighbors side. there appears to be more than just a privacy from sight or sound issue here. it is my recommendation that he wants a fence, but not to share the burden of cost. I have encountered persons, males and females entering the property from below. Ive been advised by Peter that everyone that has no business on the property be completely denied access to Petkos property, weather to maintain water tanks that are not 1. to the benefit of the community or access for emergency services. let it be known that any illegal access of Petkos property is a violation of California State Law, under Penal code 602 for private property and 602k business property.

One last statement: We are a family and community oriented, environmentally conscious business. We stand for respect, integrity and honor and the American way.

GREENFIRE LAW, PC

RACHEL S. DOUGHTY
P.O. Box 8055
Berkeley, CA 94707
Phone: (510) 900-9502
Email: rdoughty@greenfirelaw.com
www.greenfirelaw.com

July 31, 2023

By Electronic Mail

Planning Commission
Info.planning@trinitycounty.org

Drew Plebani
Director – Cannabis Division
Trinity County Planning Department
530 Main Street
Weaverville, CA. 96093
dplebani@trinitycounty.org

RE: Appeal of Planning Director Decision P-23-12 Commercial Cannabis License application (CCL-106) [1050 Rowdy Bear Rd., APN 019-280-003-000]

Dear Planning Commissioners:

On behalf of the Rowdy Bear Sanctuary Preservationists, we appeal the grant of Commercial Cannabis License (CCL-106) (referred to as the Project in this appeal) to Petko Petkov/NatureFarm Inc. (referred to as NatureFarm or Applicant).

The Planning Department's grant was based on its determination that the Project falls within the scope of the County's Cannabis Program EIR. As part of this determination, the Planning Department relied upon an Appendix C Environmental Checklist prepared by the Applicant, which is defective because (1) it ignores the Applicant's repeated noncompliance with county law, and (2) it fails to address potentially significant environmental impacts associated with the Project, including numerous active violations.

1. Applicant has shown repeated noncompliance with the law, which mandates disapproval.

Trinity County's cannabis regulations provide that applications to cultivate cannabis plants "shall be denied" where the Applicant has provided "materially false" information or not complied with applicable local or state laws. (Trinity County Ord. §17.43.070(A), emphasis added.) Such violation also "constitutes a nuisance" subject to abatement. (*Id.* at §17.43.080(A).)

Here, NatureFarm has engaged in numerous violations of law for more than six years–all of which are unaddressed in the Appendix C Environmental Checklist, and were apparently overlooked by staff in violation of the Ordinance. These omissions are particularly disturbing in light of the fact that the County and the Applicant have long been made aware of non-compliance, and the administrative record for this site is replete with complaints and evidence regarding violation of County ordinances and license conditions.[1] Among Applicant's violations are noncompliance with provisions related to light, noise, odor, waste, fencing, the discharge of firearms, road and traffic conditions, setbacks, and dust, all discussed in greater detail below.

Moreover, an abatement order was issued this year–a fact that is not addressed in the Application materials.[2] While a May 31, 2023, inspection form obtained via a Public Records Act request states "abatement successful, no cultivation present during inspection," Figures 1- to 3 are photographs taken on May 30, 2023, and May 18, 2023, showing cultivation at the Project site, documenting clear submittal of false information by the Applicant. Neighbors observed thousands of plants being trucked off the property immediately prior to the inspection and then many of them returned afterward.

Figure 1: Photograph of NatureFarm on May 30, 2023, taken of the property

[1] Rowdy Bear Sanctuary Preservationists incorporate by reference all prior comments made in the administrative record regarding the Project and its premises. Repeated requests have been made to the County for viewing of the full administrative record, but the County has failed to fully respond to these requests. Appendix A to this letter contains some–but not all–documents that should be considered part of the administrative record. Appendix B contains other relevant documentation regarding the Project, and the comments contained therein also are incorporated by reference.

[2] A request for the abatement order has been made to the County, but to date, the order has not been provided. It is assumed the order was based on Applicant's license expiring; however, it may also have been related to noncompliance with County ordinances, and anyway, operating without a valid license is itself a violation of the law.

Figure 2: Photograph of NatureFarm on May 30, 2023, taken of the property.

Figure 3: Photograph of NatureFarm on May 18, 2023, taken of the property.

Additionally, the Applicant was cited by CalFire on September 20, 2017, for unlicensed timber removal as well (see attached citation).

2. Inadequate Review of Potentially Significant Environmental Impacts

CEQA places the burden of environmental investigation on the lead agency and not the public. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1379.) As part of this burden, an agency must comply with legislatively mandated CEQA requirements, which are to be scrupulously enforced. (Pub. Resources Code, § 21005(a); *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435; *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 984.) The failure to comply with these requirements is a prejudicial abuse of discretion, and this is so regardless of whether a different outcome would have resulted had the government complied with the law. (Pub. Resources Code, § 21005(a); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 515; *Rural Landowners Assn. v. City Council of Lodi* (1983) 143 Cal.App.3d 1013, 1022-23.)

Where there is substantial evidence to support a fair argument that a project may have a significant effect on the environment, approval of a project should not be granted. (*Sierra Club v. California Dept. of Forestry & Fire Protection* (2007) 150 Cal.App.4th 370, 380-81; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Sierra Club v. County of Sonoma* (1992) 6 Cal. App. 4th 1307, 1318-20.) Lay commentary may constitute substantial evidence if based on relevant personal observations. (*Georgetown Preservation Society v.*

County of El Dorado (2018) 30 Cal.App.5th 358, 375; *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 583.)

CEQA also requires that project conditions and mitigation measures be incorporated into approval to ensure that they are implemented and can be enforced. (Pub. Resources Code § 21081.6(a)-(b); Cal. Code Regs., tit. 14, § 15126.4(a)(2); *King & Gardiner Farms, LLC v County of Kern* (2020) 45 Cal.App.5th 814, 852-853; *Environmental Council of Sacramento v City of Sacramento* (2006) 142 Cal.App.4th 1018, 1035.)[3]

County staff have apparently relied upon the Applicant's Appendix C, as revised, dated June 23, 2023. The Application does not reflect actual conditions of the Project.

2.1 Aesthetics

2.1.1 Light Pollution

The Cannabis Program requires all lighting be "downcast, shielded and/or screened to keep light from emanating off-site" and "[t]hose cultivations using artificial lighting. . .shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise." (Appendix C at p. 4-5; *see also* Trinity County Ord. § 17.43.060.) Yet, for the NatureFarm Project, "[l]ight pollution is mitigated by topography and vegetation. Blackout tarps will be added in the future." (*Id.*) As such, the Project's Appendix C conclusion is that the Cannabis Program EIR remains valid. (*Id.*)

The County ignores the fact that light pollution has been an ongoing issue at least since 2017, with NatureFarm failing to mitigate such impact in adherence with County ordinances and license requirements. The greenhouses on NatureFarm's premises are not covered, allowing light to escape, and that light is visible from neighboring properties. Each of the photos below was taken from a neighboring property.

Figure 4: 2017 photograph of NatureFarm property taken from adjoining property.

[3] In the Appendix C Environmental Checklist, the Applicant refers to a number of conditions and mitigation measures. As Rowdy Bear Sanctuary Preservationists have not yet been provided with a copy of the actual license grant nor any signed acknowledgement by NatureFarm of conditions and mitigation measures, it is unclear whether these conditions and mitigation measures have been or will be incorporated into the license or made a part of an enforceable mitigation monitoring program. To the extent that any conditions or mitigation measures have not been made enforceable, the environmental review is deficient, and a fair argument exists that the Project may have a significant effect on the environment.

Figure 5: 2019 photograph of NatureFarm property taken from adjoining property.

Figure 6: 2019 photograph of NatureFarm property taken from adjoining property.

Figure 7: 2020 photograph of NatureFarm property taken from adjoining property.

Figure 8: 2023 daytime photograph of NatureFarm property taken from adjoining property.

Applicant's noncompliance is not a mere oversight as Applicant was first put on notice of this violation in 2018.[4]

The Appendix C statement that "[b]lackout tarps will be added in the future" is not only vague as to time, but it ignores the reality that the Applicant has a history of ignoring mandatory mitigation measures. Because the Applicant has not adhered to County ordinance, the license must be denied. (Trinity County Ord. §17.43.070(A).) And, as it stands, the evidence demonstrates there is a fair argument that substantial environmental impacts associated with light will exist if the permit is issued.

2.2 Waste

Appendix C reports that "[t]he farm is kept clean for aesthetic, biological, and wildfire risk reduction purposes, therefore satisfying Mitigation Measure 3.1-1b." (Appendix C at p. 4-4; see also, Appendix F, mitigation measure 3.1-1b ("property is kept clean and clear of debris, trash, and refuse for aesthetic, biological, and wildlife reduction purposes".) This mitigation measure provides that no trash debris, including cannabis waste, shall be allowed to accumulate for a period greater than two weeks for the life of the license. (*Id.*; *see also* Trinity County Ord. §17.43.060(V).) And, the County must "inspect compliance with this measure prior to license renewal." (*Id.*) The reality is that NatureFarm has repeatedly allowed trash debris to accumulate, and waste is dispersed around the site at present. (See photos below)

[4]*See* February 28, 2018, Letter from Harland Law Firm to Petkov in Appendix B.

Figure 9: 2022 photograph of NatureFarm property showing debris piled on property

Figure 10: 2022 photograph of NatureFarm property showing debris and slash piled on property

Because the Applicant has not adhered to County ordinance, the license must be denied. (Trinity County Ord. §17.43.070(A).) And, as it stands, the evidence demonstrates there is a fair argument that substantial environmental impacts associated with debris and waste exist.

Furthermore, the Applicant has a history of burning and burying waste. "Vegetation cleared as part of cultivation operations, or for cultivation purposes, shall not be burned unless proof is submitted that all required permits have been obtained including, but not limited to, a standard burn permit, a non-standard burn permit, and/or CalFire approval for less-than-three-acre conversion." (*Id.,* § 17.43.070(X).) In October 2022, neighbors observed the Applicant burn plastic and wood materials by the location of a former greenhouse, as described in the email of July 2, 2023, attached to the Staff Report. The remains of the illegal burn was documented by County representative Daniel Marvel. A photo of the burn pile is shown below. The Applicant does not include any evidence of having obtained any burn permits and the application, therefore, is deficient.

Figure 11: May 17, 2023 photograph of burn pile on NatureFarm property

2.3 Erosion

Appendix C states that "[s]oil erosion does not result from the Project as it currently operates. . . . All best management practices regarding water conservation, erosion control, and soil stabilization are followed as fully as possible . . .." (Appendix C at pp. 4-49 and 4-51.)

Neighbors can confirm, however, that the NatureFarm Project has resulted in erosion and run-off to adjacent land, roadways, and seasonal waters. This erosion also has been documented by Daniel Marvel with the Trinity County Commercial Cannabis Department, who took photographs in October of 2022.

Figure 12: July 2023 photograph of runoff from NatureFarm property causing erosion on adjacent property still visible in late-summer.

2.4 Grading & Related Vegetation Disturbance

The Project application states that "[t]here is currently no proposed earthwork."(Appendix D, 2.1.1.) Additionally, the environmental checklist submitted by the Applicant states only that "one greenhouse was added to an already disturbed area." The environmental checklist states that "[t]he only potential source of soil disturbance will be from minimal regrading of less than a quarter acre." (p. 2-2.) Additionally, while the Project proposes the addition of two shipping containers "within the next three years," they are not currently mapped on the Site Plan and "[i]f the Applicant moves forward with the shipping containers, the Site/Property Map shall be resubmitted and installed within the preexisting disturbed area."[5]

Mass grading, regardless of size or volume, is prohibited in Trinity County where it is a "threat to the stability or use of adjacent property."[6] Further, mass agricultural grading is allowed only if:[7]

> 1.That does not grade more than two feet either above or below existing ground or substantially change the natural contour of the land, or that

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[5] Colton Trent Compliance Memo (June 23, 2023); see also Combined Appendix C, section 4.7.3 ("The proposed sites for the shop and shipping containers have already been leveled and cleared.").

[6] TCC § 15.24.080(B).

[7] TCC § 15.24.080(O).

> 2.Uses "best management practices," where applicable, as approved/recommended by a construction general permit qualified stormwater pollution prevention plan (SWPPP) qualified SWPPP developer (QSD).

Nevertheless, *since the permit was granted*, the Applicant has engaged in extensive grading work, using two backhoes, to clear land north of the two most eastern greenhouses. The grading clearly exceeds two feet above the existing ground and substantially changes the natural contour. Approval of a permit does not allow any activity to occur until the permit is in fact issued; "No construction permits, license or other permit shall be issued while a hearing on appeal therefrom is pending." (Trinity County Ord. § 17.34.120.) In this instance, no grading permits were issued.

Figure 13: July 10, 2023 photograph of recent grading.

Figure 14: July 10, 2023 photograph of recent grading.

Figure 15: July 10, 2023 photograph of recent grading.

Figure 16: July 10, 2023 photograph of recent grading.

This grading is a threat to adjacent property. The undisclosed grading has also caused mitigation measures to not be applied, and thus resulted in unexamined impacts. The Applicant noted compliance with MM 3.8-1a "because there is no need to remove additional vegetation."[8] But vegetation has clearly been disturbed.[9]

2.5 Noise

Cannabis cultivation cannot exceed 55 dBA between the hours of 7 a.m. and 7 p.m. or 50 dBA from 7 p.m. to 7 a.m. as measured at the property line, except that generators are not to be used between the hours of 10 p.m. and 7 a.m.[10] These thresholds are contained within Mitigation Measure 3.4-2n for the NatureFarms Project. (Appendix C at 4-36.)

Neighbors have repeatedly complained to the Applicant and the County regarding noise impacts,

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[8] NatureFarm Environmental Checklist, section 4.8.3

[9] See July 10, 2023, photographs.

[10] TCC § 17.43.060(B)

with unreasonable levels being experienced during the day and at night. Despite this, noise emanating from the Project site remain high–with noise levels exceeding 90 dBA.

According to the Appendix C, the Project utilizes a diesel generator that operates continuously for domestic power and cultivation purposes, producing 41.3 dBA at the property line. (Appendix C at 4-10.) Thus, it operates between the hours of 10 p.m. and 7 a.m., in contradiction of the County's ordinance.

The Applicant notes that "[g]enerator shielding would be the most reasonable solution to minimize noise impact[,]" but it does not appear that such shielding is a condition of NatureFarm's license. (*Id.* at 4-78.) The Applicant states that it "plans to switch to a Tier 4 generator or to a propane generator, whichever is more cost-effective." (*Id.* at 4-13.) However, no description of the specific generator is provided, the Applicant makes no assurance or commitment to switching generators, the site map does not show the placement of propane tanks necessary for a propane generator, and the license is not conditioned upon this change.

Other sources of noise associated with the Project include those arising from construction and earthmoving equipment, the use of specialized, mechanized equipment for operations, and increased traffic. (*Id.* at 4-76 through 4-78.)

The Appendix C review does not provide details sufficient to determine the cumulative level of noise that will arise when more than one source of noise is in operation. It does not identify what "specialized, mechanized equipment" the Project will use. It ignores noise associated with the numerous industrial fans used bv NatureFarm for cultivation[11]

As regards traffic, it only refers to two vehicle trips occurring per week during Spring and Fall for cultivation supplies and non-cultivation activities–ignoring traffic associated with workers. (*Id.* at 2-8.) Further, ATVs and trucks on the Project premises have routinely been used–and heard–as late as 1:00 a.m.

In the evening, excessive noise from the premises also arises from guard dogs kept chained onsite, gunfire, and loud music.

Because the Applicant has not adhered to County ordinance, the license must be denied.[12] And, as it stands, the evidence demonstrates there is a fair argument that substantial environmental impacts associated with debris and waste exist.

2.6 Odor

Although an odor management plan exists, it is deficient and does not meet the standards of County Ordinance Section 17.43G.040(E). Contrary to Applicant's assertion (*see* Appendix C at 4-15), as explained in communications attached to the Staff Report, the neighbors are subjected to odors associated with cannabis plants on a regular basis. Additionally, all of the adjoining neighbors experience odors from the 24/7 operation of the Project's diesel generator. Appendix

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[11] The Project has 5 greenhouses and a two-story barn. According to the Odor Management Plan for the Project, each of these have oscillating and exhaust fans: "The 30' by 124' greenhouse has two 42" exhaust fans and eight 16" horizontal air flow (HAF) fans. The 34' by102' greenhouse has two 42" exhaust fans and eighteen 16" HAF fans. The two 30' by 97' greenhouses each have four 42" exhaust fans and eighteen 16" HAF fans. The greenhouse housing immature plants has one 10" exhaust fan and twelve 20" HAF fans. . . .The barn has . . . one 20"exhaust fan on each floor, along with eight 16" oscillating fans." (Odor Management Plan at p. 3.)

[12] TCC § 17.43.070(A).

C fails to address and mitigation this impact of odors and air quality.

2.7 Setbacks

The Cannabis Program requires a minimum setback for cultivation sites of 350 feet from any "residential structure on any adjoining property."[13] A residence to the south is located within 50 feet and 80 feet of two of the Project's greenhouses and proposed compost area. Appendix C states, however, that "[t]he Project involves an existing mixed-light cultivation that complies with setback requirements. The nearest *permitted* neighboring dwelling is more than 820 feet away." (Appendix C at 4-14 (emphasis added).) The County's ordinance does not distinguish between permitted and unpermitted adjacent residences, thus, the 350-foot setback requirement applies and must be honored.

Over the weekend of July 7, 2023, significant new grading took place at the Project site very close to that same residence.

2.8 Traffic

In addressing traffic-related impacts, Appendix C ignores the actual traffic associated with the Project. No analysis is conducted for the significant number of vehicles associated with operation of the farm, which include vehicles used by residents, workers, and others. Neighbors attest to ATVs being used throughout the day to transport between greenhouses, water trucks frequent the site, worker vehicles are routinely seen, delivery and service trucks visit the site, and an increase in traffic also occurs after harvesting. All of this traffic causes impacts related to roads, noise, air quality, and odor. Further, the Applicant has allowed vehicles to use neighbors' private roads--despite being asked not to.

In evaluating the environmental impacts from these vehicles, the County is obligated to consider the actual traffic arising from the Project.

Additionally, given that the property is only served by Forest Route roads over Forest Service property, any commercial uses require a permit from the Forest Service.[14] This is reasonable because the road is only one lane and travers steep terrain with blind turns. The operation of fuel trucks and other large commercial vehicles imposes serious hazards. It also damages Forest Service property. The Applicant has not demonstrated having applied for or received any necessary permits from the Forest Service. It is inappropriate for the Commission to approve any operation that will be in violation of federal law.

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[13] TCC § 17.43.050(A)(8).

[14] https://www.fs.usda.gov/working-with-us/contracts-commercial-permits/special-use-permit-application#:~:text=When%20do%20I%20need%20a,is%20derived%20from%20the%20use.

Figure 17: July 2023 photograph of Forest Service notice on 31N31 coming from Hayfork.

2.9 Water

There are 2 wells on the Project premises. (Staff Report at 2-4.) One, which was completed in 2009, is used for domestic purposes. The other, completed in 2021, is used for cultivation. However, the application also does not include a "Trinity County well permit" as required by County Ordinance Section 17.43.030(A)(7). Moreover, Appendix C concludes that the Project does not The Applicant states that the farm used 22,000 gallons of water for cultivation and that "the groundwater well provides a more than sufficient water supply for the proposed cultivation activity." However, neighbors have observed regular hauling of water during the fall season for the past four years, including in 2022, after the second well was completed and in operation. (*See* Appendix C at 4-106; Declarations of John Coogan and Cedar Burnette provided under separate cover.) Obviously, the Applicant's wells are insufficient to meets cultivation needs and the application does not demonstrate that the Project will not significantly decrease groundwater supplies or interfere substantially with groundwater recharge necessary to supply the wells of neighboring property owners reliant on the same aquifer As required by Ordinance Section 17.43.060(C) and noted in Appendix C, "If water is hauled it shall be for emergencies, as defined as a sudden, unexpected occurrence, and a bill of sale shall be kept on file from a water district or legal water source." (Id. at 4-67, 4-15, 4-94.) The Application does not acknowledge the hauling of water that is occurring, nor does a multi-year, predictable reliance upon trucked water qualify as an emergency. The Applicant not submitted the appropriate documentation from any hauler. The application cannot be approved without further documentation demonstrating that water hauling will not be required as was the case in previous years.

2.10 Wildlife

In June, the Rowdy Bear Sanctuary Preservationists asked the Trinity County Resource Conservation District to conduct a search of the California Natural Diversity Database for the Naufus Creek quad, as well as adjacent quads. The results[15] identify the following animals and plants that are often included in environmental reviews: Bald Eagle, Wolverine, Trinity Bristle Snail, Northern California Steelhead, Chinook Salmon, Konocti Manzanita, Serpentine Rockcress, Small Flowered Calycadenia, Shasta Chaenactis, Jepson's Dodder, Oregon Fireweed, Tracy's Eriastrum, Pink-Margined Monkeyflower, Coast Fawn Lily, Umpqua Green-Gentian,

[15] *See* June 8, 2023, Results from California Natural Diversity Database in Appendix B.

Niles' Harmonia, Stebbins' Harmonia, Yolla Bolly Mtns. Bird's-Foot Trefoil, California Globe Mallow, Small Groundcone, Wooly Meadowfoam, South Fork Mountain Lupine, Siskiyou Phacelia, White Flowered Rein Orchid, Pacific Fuzzwort, White Beaked Rush, Tracy's Sanicle, Siskiyou Jellyskin Lichen, Pale Yellow Stonecrop, Canyon Creek Stonecrop, Bolander's Catchfly, Hooker's Catchfly, and Tracy's Eriastrum. In the Appendix C review, it further is noted that the Northern Spotted Owl and Fisher also may be impacted by the Project. (Appendix C at p. 4-40.)

The area is rich with diversity, the loss of which could substantially affect the abundance, distribution, and viability of local and regional populations of these species – which the County and Cannabis Program EIR acknowledges. (*Id.* at pp. 4-20 through 4-40.) Nonetheless, Appendix C concludes that, with mitigation measures, the Project falls within the scope of the Cannabis Program EIR. (*Id.* at 4-40.)

This conclusion is unsupported. First, it is based upon the Applicant not engaging in any further clearing of vegetation, but as stated above, in the past weeks alone, neighbors have witnessed the Applicant engage in unpermitted grading on the premises. (*Id.*)

Second, Appendix C acknowledges that noise from the Project's generators poses the "biggest potential concern for wildlife" and notes that "a shed around the generator" would help reduce its impact. (*Id.*) There is no analysis of the noise impacts in toto from all equipment and vehicles, and the construction of a generator shed does not appear to be a condition of license approval.

Third, the only mitigation measures that the Applicant is expected to follow involve a number of pre-construction surveys before construction of a new shop and proposed shipping containers. (*Id.*) As NatureFarm has previously engaged in construction without permitting and *currently is engaged in unpermitted grading,* there is no reason to believe that it will comply with this condition *which it is already violating*, in the future.

Because the Applicant has not adhered to County ordinance, the license must be denied.[16] And, as it stands, the evidence demonstrates there is a fair argument that substantial environmental impacts associated with debris and waste exist.

2.11 Discharge of Firearms and Guard Dogs

NatureFarm's continued noncompliance with County ordinances constitutes a nuisance. Adding to this is the fact that unlicensed, armed guards have regularly patrol the premises, and gunfire at nighttime has been a repeated issue. At times, these guards have trespassed upon adjoining property.

The Staff Report incorrectly asserts that "Dogs, and nuisances related to dogs, are not included or addressed in the FEIR or Chapter 17.43 of the Trinity County Code and are not within the purview of the Trinity County Cannabis Program, and therefore does not have any bearing on approval and subsequent licensure of a project under the Trinity County Cannabis Program." (Staff Report at 5.)

However, Chapter 17.43 specifically states that an "Applicant shall be denied a license" where:

"The operation as proposed by the applicant, if permitted, would not have complied with all applicable county and state laws, including, but not limited to; the building, planning, housing,

[16] TCC § 17.43.070(A).

fire and health codes of the county, including the provisions of this chapter and with all applicable laws including zoning and county ordinances."[17]

The Commission has the discretion and responsibility to ensure that permit-requiring activities do not create a nuisance. The Commission must not approve any business activity that utilizes dangerous dogs or is otherwise in violation of County Ordinances. Guard dogs and armed employees are only on the property on account of the cannabis business proposed by the application.

"It is unlawful for the owner or possessor of any animal to allow it to enter upon the land of another without the permission of the owner or possessor of such land." (Trinity County Code, § 6.04.050(A).) Pursuant to Section 6.04.050(B):

"It is unlawful for the owner or possessor of any animal to allow said animal to disturb the peace by loud and unreasonable howling, barking, or by the marking of other loud and unreasonable noise. The written affirmation by two persons, not related and having separate residences, stating their peace and quiet is unreasonably disturbed by such dog shall be prima facie evidence of a violation of this subsection."

Complaints have been made by John Coogan on August 27, 2022 under police report number 22-0433 regarding all-night howling from the Applicant's property and by Cedar Burnette on May 30, 2021 under police report number 21-02779 regarding a loose pitbull from the Applicant's property that attacked and nearly killed Ms. Burnette's dog.

Under the Cannabis Cultivation Ordinance, "Applicants shall comply with all state laws [.]" (Trinity County Ordinance, § 17.43.060(C).) Under Civil Code, section 3479, anything that is "indecent or offensive to the senses . . . so as to interfere with the comfortable enjoyment of life or property . . . is a nuisance." Unreasonable gunfire, howling dogs and late-night ATV activity is a nuisance is a violation of state law. Under the Cannabis Program, the Commission must not approve a permit to an Applicant that is operating the cannabis business in this unlawful manner.

3. Conclusion

The Applicant has a long history of egregious and unremedied violations of the County's ordinances. Moreover, the Applicant has not satisfied the application and performance requirements for issuance of Commercial Cannabis License. The Planning Commission must, therefore, approve the appeal and deny CCL-106.

Respectfully,

Rachel S. Cayley

[17] TCC § 17.43.070(A)(3).

APPENDIX A

DEPARTMENT OF FORESTRY AND FIRE PROTECTION
Shasta-Trinity Unit
875 Cypress Ave.
Redding, CA 96001
(530)-225-2418
Website: www.fire.ca.gov

RECEIVED
SEP 25 2017
REDDING
FOREST PRACTICE

September 20, 2017

ERIC HUFF
P O BOX 1255
HAYFORK, CA 96041

NOTICE OF VIOLATION OF FOREST PRACTICE LAWS

Section 4604 of the Public Resources Code (PRC) requires the department to inspect timber operations for compliance with the Forest Practice Act and rules of the Board of Forestry and Fire Protection. Violations may be cause for prosecution as a misdemeanor (Public Resources Code 4601), action against a Timber Operator License (PRC 4573 and 4576), injunction action (PRC 4605 and 4606), or a combination of the foregoing actions. Civil penalties may also be imposed (see PRC 4601.1). The following letter details code sections violated, mitigations required and date by which all work must be completed.

Harvest Document: 2-17EX-024-TRI
Inspection Date: August 15, 2017
Inspection Type: Inactive
Inspection Number: 1
Person Contacted: PETER PETKOV

Violator(s):	Violation(s):	Count(s):
Petko PETKOV	**PRC 4571(a)**	**1**
Eric HUFF	**PRC 4571(a)**	**1**

Narrative:
On August 15, 2017, I inspected less than three-acre conversion exemption 2-17EX-024-TRI. Timber operations were inactive at the time of inspection. On-site during the inspection was the timberland owner, Petko "Peter" PETKOV.

Timber operations were conducted under this conversion exemption. The conversion area had trees which were cut and removed. The conversion area had greenhouse structures and marijuana being cultivated on-site. The conversion was to "agriculture and residential." The slash and woody debris still remains to be treated.

Prior to this inspection, I was notified by the LTO when I called to set up an inspection that timber operations were conducted but he (Trinity River Construction) did not do the work. During the inspection, PETKOV said that EH Excavating subcontracted with Trinity River Construction. PETKOV identified the real person as Eric

HUFF and provided a phone number. After additional conversation, PETKOV acknowledged that he had hired EH Excavating and paid him directly for his services.

On August 24, 2017, I called Eric HUFF and left a message. I again called on September 18, 2017, and talked with HUFF by phone. HUFF told me that he did not cut any trees. HUFF said that PETKOV and his dad cut the trees and HUFF used his excavator to move the logs and create the slash piles. HUFF said he was not an LTO. HUFF said he was working at the same time as PETKOV, saying he [PETKOV] was cutting while I was working. HUFF thought if the wood was not offered for sale a timber operator's license was not needed. During the call, I explained the necessity of having a timber operators license for timber operations associated with a conversion of timberland.

Also on September 18, 2017, I called PETKOV. PETKOV confirmed that he and his dad were the ones cutting the trees. PETKOV said he hired HUFF for the excavator. PETKOV said the listed LTO on the conversion could not do the work soon enough so he did the work himself and hired EH Excavating. PETKOV is not a licensed timber operator.

Both PETKOV and HUFF were advised of the requirement to possess a valid timber operators license to conduct timber operations.

The following VIOLATION was identified during the inspection:

1. **Violation of**

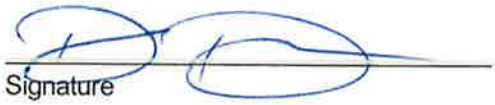
   Rule: PRC 4571 Necessity of license. (a) No person shall engage in timber operations until he has obtained a license from the board.

   Violation: PETKOV acknowledged that he cut the trees for the conversion of timberland associated with his approved less than three-acre conversion exemption. Concurrent with the timber cutting, HUFF utilized his excavator to move the logs and construct the slash piles. Neither PETKOV nor HUFF possess timber operator's license. Therefore, both PETKOV and HUFF conducted timber operations without a license [license timber operator] in violation of PRC 4571(a) (1 count each).

   Correction or Mitigation: These violations are non-correctable. PETKOV was advised of the requirement for timber operations to be conducted by a licensed timber operator. PETKOV shall hire a valid licensed timber operator to complete the timber operations associated with the approved less than three acre conversion exemption. If the hired licensed timber operator is different than who is currently listed on the conversion exemption, that operator shall be amended into the conversion exemption.

ADDITIONAL ENFORCEMENT OPTIONS INCLUDING CRIMINAL OR CIVIL PENALTIES MAY BE PURSUED.

If you have any question about this matter, please contact Daniel Dresselhaus at 530-448-2493.



Signature

DANIEL DRESSELHAUS
Forester II
Shasta-Trinity Unit
875 Cypress Ave.
Redding, CA 96001
(530) 623-5681- office
(530) 448-2493- cell

cc: Unit, Region, RPF, TLO, Huff.

APPENDIX B

6/8/23 Results from California Natural Diversity Database

CALIFORNIA DEPARTMENT OF FISH and WILDLIFE **RareFind**

Query Summary:
Quad IS (Hyampom (4012354) OR Halfway Ridge (4012353) OR Hayfork (4012352) OR Sportshaven (4012344) OR Naufus Creek (4012343) OR Dubakella Mtn. (4012342) OR Ruth Reservoir (4012334) OR Forest Glen (4012333) OR Smoky Creek (4012332))
AND Taxonomic Group IS (Fish OR Amphibians OR Reptiles OR Birds OR Mammals OR Mollusks OR Arachnids OR Crustaceans OR Insects)
AND Federal Listing Status IS (Endangered OR Threatened OR Proposed Endangered OR Proposed Threatened) OR State Listing Status IS (Endangered OR Threatened OR Rare)

Print Close

CNDDB Element Query Results

Scientific Name	Common Name	Taxonomic Group	Element Code	Total Occs	Returned Occs	Federal Status	State Status	Global Rank	State Rank	CA Rare Plant Rank	Other Status	Habitats
Gulo gulo	wolverine	Mammals	AMAJF03010	174	1	Proposed Threatened	Threatened	G4	S1	null	CDFW_FP-Fully Protected, IUCN_LC-Least Concern, USFS_S-Sensitive	Alpine, Alpine dwarf scrub, Meadow & seep, Montane dwarf scrub, North coast coniferous forest, Riparian forest, Subalpine coniferous forest, Upper montane coniferous forest, Wetland
Haliaeetus leucocephalus	bald eagle	Birds	ABNKC10010	332	2	Delisted	Endangered	G5	S3	null	BLM_S-Sensitive, CDF_S-Sensitive, CDFW_FP-Fully Protected, IUCN_LC-Least Concern, USFS_S-Sensitive	Lower montane coniferous forest, Oldgrowth
Monadenia infumata setosa	Trinity bristle snail	Mollusks	IMGASC7080	36	14	None	Threatened	G2T2	S2	null	IUCN_VU-Vulnerable	Riparian forest
Oncorhynchus mykiss irideus pop. 48	steelhead - northern California DPS summer-run	Fish	AFCHA0213P	10	2	Threatened	Endangered	G5T2Q	S2	null	AFS_TH-Threatened	Aquatic, Estuary, Klamath/North coast flowing waters
Oncorhynchus mykiss irideus pop. 49	steelhead - northern California DPS winter-run	Fish	AFCHA0213Q	95	2	Threatened	None	G5T3Q	S3	null	AFS_TH-Threatened	Aquatic, Estuary, Klamath/North coast flowing waters
Oncorhynchus tshawytscha pop. 30	chinook salmon - upper Klamath and Trinity Rivers ESU	Fish	AFCHA02056	6	1	Candidate	Threatened	G5T2Q	S2	null	CDFW_SSC-Species of Special Concern, USFS_S-Sensitive	Aquatic, Klamath/North coast flowing waters

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AND Taxonomic Group IS (Ferns OR Gymnosperms OR Monocots OR Dicots OR Lichens OR Bryophytes)
AND CA Rare Plant Rank IS (1A OR 1B OR 1B.1 OR 1B.2 OR 1B.3 OR 2A OR 2B OR 2B.1 OR 2B.2 OR 2B.3 OR 3 OR 3.1 OR 3.2 OR 3.3 OR 4 OR 4.1 OR 4.2 OR 4.3)

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CNDDB Element Query Results

Scientific Name	Common Name	Taxonomic Group	Element Code	Total Occs	Returned Occs	Federal Status	State Status	Global Rank	State Rank	CA Rare Plant Rank	Other Status	Habitats
Arctostaphylos manzanita ssp. elegans	Konocti manzanita	Dicots	PDERI04271	69	1	None	None	G5T3	S3	1B.3	SB_UCSC-UC Santa Cruz	Chaparral, Cismontane woodland, Lower montane coniferous forest
Boechera serpenticola	serpentine rockcress	Dicots	PDBRA40110	4	2	None	None	G1	S1	1B.2	SB_CalBG/RSABG-California/Rancho Santa Ana Botanic Garden	Lower montane coniferous forest, Ultramafic, Upper montane coniferous forest
Calycadenia micrantha	small-flowered calycadenia	Dicots	PDAST1P0C0	22	1	None	None	G2	S2	1B.2	USFS_S-Sensitive	Chaparral, Meadow & seep, Ultramafic, Valley & foothill grassland
Chaenactis suffrutescens	Shasta chaenactis	Dicots	PDAST200H0	38	2	None	None	G2G3	S2S3	1B.3	BLM_S-Sensitive, SB_BerrySB-Berry Seed Bank, USFS_S-Sensitive	Lower montane coniferous forest, Ultramafic, Upper montane coniferous forest
Cuscuta jepsonii	Jepson's dodder	Dicots	PDCUS011T0	28	2	None	None	G3	S3	1B.2	null	Broadleaved upland forest, Lower montane coniferous forest, Upper montane coniferous forest
Epilobium oreganum	Oregon fireweed	Dicots	PDONA060P0	61	5	None	None	G2	S2	1B.2	SB_CalBG/RSABG-California/Rancho Santa Ana Botanic Garden, USFS_S-Sensitive	Bog & fen, Lower montane coniferous forest, Meadow & seep, Ultramafic, Upper montane coniferous forest, Wetland
Eriastrum tracyi	Tracy's eriastrum	Dicots	PDPLM030C0	119	5	None	Rare	G3Q	S3	3.2	USFS_S-Sensitive	Chaparral, Cismontane woodland, Valley & foothill grassland
Erythranthe trinitiensis	pink-margined monkeyflower	Dicots	PDPHR01070	15	1	None	None	G2	S2	1B.3	SB_CalBG/RSABG-California/Rancho Santa Ana Botanic Garden	Cismontane woodland, Lower montane coniferous forest, Meadow & seep, Ultramafic, Upper montane coniferous forest
Erythronium revolutum	coast fawn lily	Monocots	PMLIL0U0F0	172	1	None	None	G4G5	S3	2B.2	SB_UCSC-UC Santa Cruz	Bog & fen, Broadleaved upland forest, North coast coniferous forest, Wetland
Frasera umpquaensis	Umpqua green-gentian	Dicots	PDGEN050F0	6	6	None	None	G3	S1	2B.2	USFS_S-Sensitive	Chaparral, Lower montane coniferous forest, Meadow & seep, North coast coniferous forest
Harmonia doris-nilesiae	Niles' harmonia	Dicots	PDAST650L0	25	17	None	None	G2G3	S2S3	1B.1	SB_UCSC-UC Santa Cruz, USFS_S-Sensitive	Chaparral, Cismontane woodland, Lower montane coniferous forest, Ultramafic
Harmonia stebbinsii	Stebbins' harmonia	Dicots	PDAST650K0	21	3	None	None	G2	S2	1B.2	BLM_S-Sensitive, SB_UCSC-UC Santa Cruz, USFS_S-Sensitive	Chaparral, Lower montane coniferous forest, Ultramafic
Hosackia yollabolliensis	Yolla Bolly Mtns. bird's-foot trefoil	Dicots	PDFAB2A1F0	11	3	None	None	G2	S2	1B.2	SB_CalBG/RSABG-California/Rancho Santa Ana Botanic Garden	Meadow & seep, Upper montane coniferous forest
Iliamna latibracteata	California globe mallow	Dicots	PDMAL0K040	40	3	None	None	G2G3	S2	1B.2	SB_CalBG/RSABG-California/Rancho Santa Ana Botanic	Chaparral, Lower montane coniferous forest, North coast coniferous forest,

											Garden, USFS_S-Sensitive	Riparian scrub
Kopsiopsis hookeri	small groundcone	Dicots	PDORO01010	21	1	None	None	G4?	S1S2	2B.3	null	North coast coniferous forest
Limnanthes floccosa ssp. floccosa	woolly meadowfoam	Dicots	PDLIM02043	54	1	None	None	G4T4	S3	4.2	SB_UCBG-UC Botanical Garden at Berkeley	Chaparral, Cismontane woodland, Valley & foothill grassland, Vernal pool, Wetland
Lupinus elmeri	South Fork Mountain lupine	Dicots	PDFAB2B1G0	15	6	None	None	G2	S2	1B.2	SB_CalBG/RSABG-California/Rancho Santa Ana Botanic Garden	Lower montane coniferous forest
Phacelia leonis	Siskiyou phacelia	Dicots	PDHYD0C2N0	24	1	None	None	G3	S2?	1B.3	null	Meadow & seep, Ultramafic, Upper montane coniferous forest
Piperia candida	white-flowered rein orchid	Monocots	PMORC1X050	222	4	None	None	G3?	S3	1B.2	SB_CalBG/RSABG-California/Rancho Santa Ana Botanic Garden	Broadleaved upland forest, Lower montane coniferous forest, North coast coniferous forest, Ultramafic
Ptilidium californicum	Pacific fuzzwort	Bryophytes	NBHEP2U010	177	2	None	None	G4G5	S3S4	4.3	BLM_S-Sensitive	Lower montane coniferous forest, Upper montane coniferous forest
Rhynchospora alba	white beaked-rush	Monocots	PMCYP0N010	17	1	None	None	G5	S2	2B.2	IUCN_LC-Least Concern	Bog & fen, Marsh & swamp, Meadow & seep, Wetland
Sanicula tracyi	Tracy's sanicle	Dicots	PDAPI1Z0K0	80	14	None	None	G4	S4	4.2	USFS_S-Sensitive	Cismontane woodland, Lower montane coniferous forest, Upper montane coniferous forest
Scytinium siskiyouense	Siskiyou jellyskin lichen	Lichens	NLTES34580	18	5	None	None	G2G3	S1	1B.1	null	Lower montane coniferous forest, North coast coniferous forest
Sedum flavidum	pale yellow stonecrop	Dicots	PDCRA0A0L2	47	19	None	None	G3	S3	4.3	SB_CalBG/RSABG-California/Rancho Santa Ana Botanic Garden	Broadleaved upland forest, Chaparral, Lower montane coniferous forest, Upper montane coniferous forest
Sedum paradisum ssp. paradisum	Canyon Creek stonecrop	Dicots	PDCRA0A0U3	31	3	None	None	G3G4T3	S3	1B.3	BLM_S-Sensitive, SB_UCSC-UC Santa Cruz, USFS_S-Sensitive	Broadleaved upland forest, Chaparral, Lower montane coniferous forest, Subalpine coniferous forest
Silene bolanderi	Bolander's catchfly	Dicots	PDCAR0U2L0	30	1	None	None	G2	S2	1B.2	null	Chaparral, Cismontane woodland, Lower montane coniferous forest, Meadow & seep, North coast coniferous forest, Ultramafic
Silene hookeri	Hooker's catchfly	Dicots	PDCAR0U2M0	31	10	None	None	G4	S2	2B.2	null	Chaparral, Cismontane woodland, Lower montane coniferous forest, Ultramafic

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Eriastrum tracyi	Tracy's eriastrum	Dicots	PDPLM030C0	119	5	None	Rare	G3Q	S3	3.2	USFS_S-Sensitive	Chaparral, Cismontane woodland, Valley & foothill grassland