

TRINITY COUNTY PLANNING COMMISSION STAFF REPORT
--

DATE: August 13, 2020

PLANNER: Kim Hunter, Director of Building and Planning

APPELLANT: Mary Bowers and Karl Fisher

LICENSE APPLICANT: Raymond Lavasseur (RVR Agricultural Enterprises, LLC)

REQUEST: An appeal of Planning Director's Decision to approve Commercial Cannabis Cultivation License (CCL-2020-671) for a small mixed light cultivation operation (Type 2).

SITE LOCATION: 241 North Vista Lane, Hayfork (APN: 014-360-13-00)

APPROX. ACREAGE: 7.5 acres

ZONING DISTRICT: Rural Residential-Minimum 5 acre (RR 5)

ZONING DISTRICT OVERLAYS: None

GENERAL PLAN DESIGNATION: Rural Residential (RR)

STAFF RECOMMENDATION: Uphold the approval of commercial Cannabis cultivation license CCL #671 as the requested use complies with the provisions established by the Trinity County Commercial Cannabis Cultivation Ordinance No. 315-843 which allows for limited cultivation within the RR zoning district.

ADJACENT LAND USE AND ZONING INFORMATION:

Direction	Land Use	Zoning	General Plan Designation
North	Residential	RR5	RR
South	Residential	RR5	RR
East	Residential	RR5	RR
West	Residential	A20	A

SUMMARY: Mary Bowers and Karl Fisher submitted an appeal on July 8, 2020 opposing the granting of Cannabis Cultivation License 2020-671. The applicants cite numerous reasons for appealing the Planning Director's approval of CCL-671 including detrimental effects on quality of life, health, electrical and transportation infrastructure, water resources, environmental quality, and ability to earn income.

The appeal applicants also cite the designated zoning districts in which they reside as not permitting "A business or commercial operation of any kind...". Ms. Bowers and Mr. Fisher request that the approval application for CCL-2020-671 be denied.

ATTACHMENTS:

- A. Copy of Appeal Application submitted July 8, 2020.
- B. Appeal comments (6 pages)
- C. Neighborhood/area diagram showing cultivation sites
- D. Vicinity Satellite Image
- E. Correspondence: Email dated June 23, 2020
- F. Adjacent landowner notification letter dated June 15, 2020
- G. Correspondence: Appeal Response for CCL 671 RVR Agricultural Enterprises, LLC



COUNTY OF TRINITY

APPEAL OF PLANNING DIRECTOR'S
DECISION TO PLANNING COMMISSION

RECEIVED
JUL 08 2020
TRINITY COUNTY
PLANNING DEPARTMENT

Received Stamp

Name: Mary Bowers Karl Fisher Phone: [Redacted]

Email: [Redacted]

Physical Address or APN: 014-360-039-000 014-360-12-00

Mailing Address: [Redacted] Hayfork, CA

Decision of Planning Director rendered on (date): June 26, 2020

Planning Director's Decision was to: Approve Deny Continue

Request for: Appeal against Planner Director's decision
of approval CLC 2020-1671

Reason for Appeal: See attached reasons, letter, map

Signature: Mary Bowers Date: July 8, 2020

Clerk's Use Only	
Date Filed: <u>7-8-20</u>	Fee Collected: <u>D-20-26</u> <u>500.00</u>
Hearing Date: _____	Receipt No.: _____
Notice Published: _____	Notice Mailed: _____

Item 8 Attachment B

Reasons for Appeal for CCL 2020-671

We wish to appeal the approval of Provisional CCL 2020-671, APN 014-360-13-00 located at 241 North Vista Lane, Hayfork, California for the following reasons:

- ❖ Lance and Mary Bowers own a property directly east of the proposed grow site and another adjacent property to the northeast. Karl Fisher and Diane Yates-Fisher own the property due north, but their personal residence is located northeast of the proposed grow site. The prevailing winds in this area are from either the southwest or west. That means that they cross the proposed grow site onto our properties. As an example of this, the last time the owners were here they burned slash in their back yard. The smoke came directly over their house, across the road, and directly into the rental owned by Lance and Mary Bowers at 2 Murray Lane, directly east of the proposed grow site.

There are several concerns because of these prevailing winds.

- The odor from the grow will come directly onto our properties and into our homes.
- The pesticide/herbicide residue will also carry on the winds onto our properties and into our homes.
- The dust from the increased traffic on our gravel road will come onto our properties and into our homes.
- The noise level will increase as all sounds will carry toward us.

The Bowers' properties each have a permitted home, but neither has air conditioning. The only way they cool their homes during the hot (grow) season is to open all their doors and windows when it's cool. The occupants will be totally exposed to the odors, pesticide/herbicide residues, and dust mentioned above. The Fisher home has air conditioning, but they enjoy the same cool air and would like to be able to open their doors and windows also without consequence.

Karl Fisher is extremely allergic to marijuana products of any kind. He also experiences tachycardia/arrhythmia when exposed to the odor of growing plants for any length of time.

Lance Bowers is allergic to pesticides and has carried an EpiPen to keep from going into anaphylactic shock.

The Bowers' renters who reside at 2 Murray Lane are both asthmatic, sometimes with asthma so severe they have been hospitalized.

- ❖ The deterioration of our gravel roads has been consistent since the first grows here in our residential neighborhood. The roads are full of potholes which get worse every winter. Then the big transfers (trucks) come in with their loads of soil amendments,

chewing up the roads even further. There is much increased traffic (with dust) because the grows employ folks who travel up and down the road several times a day. These are private roads and not maintained by the county.

- ❖ With each permit granted for our small neighborhood, two to five or more greenhouses spring up. The electrical system up here was never designed for such a load. We have power outages such as the one on the afternoon of June 28, 2020 because the transformer was blown with an overload. Adding more greenhouses is not going to lighten that load, and the owners of the proposed grow have already been measuring for greenhouses.
- ❖ When the Bowers moved here in 1991, there was one water tank on the corner of their property that served 5 houses. When a family member wanted to build another house, she had to pay all expenses to install another water tank to serve her needs. Included in this were other homes that had not previously been on the original water tank. The two tanks were to serve only the domestic uses of the then existing houses and others that might be built with further land splits. New houses were then built. Several years ago the water company expanded the water district lines and included many other parcels, all with homes. Now there are eight (8) grows on these two water tanks, most with permitted greenhouses, along with their permitted residence. This is a zoned Rural Residential area, and the water system was never designed for agricultural use. This is our town's drinking water!
- ❖ To the west of the proposed grow is a seasonal stream which empties into Hayfork Creek which empties into the South Fork of the Trinity River. The pesticides and herbicides traditionally used in marijuana grows will enter into the ground water to contaminate it.
- ❖ There are concerns about the noise this grow will produce. Because of those prevailing winds, the noise from the greenhouse exhaust fans will be heard on our properties. All construction noises will be heard. There will also be the additional noise from the increased traffic from construction and daily workers.
- ❖ The Bowers house directly east of the proposed grow is a rental from which they derive a steady income. Their current tenants have been there about 10 years, and they wish to remain there. However, they have concerns about their health and quality of life if this grow were to go ahead. It will be hard to garner a reasonable rent with this grow contaminating the house, thereby denying the Bowers a portion of their income.
- ❖ When the Cannabis Program was first started, there were carve-outs for certain areas in the county. The Hayfork Water District was such a carve-out. It was voted on and approved. Then, at the next meeting without warning, a new Board of Supervisors voted again. And this time they left out the Hayfork Water District as a carve-out. This back pedaling was an outrage to those of us who thought they had left us out, as they should have. The Hayfork Water District is a high-density area, and not an agricultural area. As noted our water system and our water supply is NOT designed for agriculture.

- ❖ Karl Fisher, Diane Yates-Fisher, Gary and Wendy Armagnac, and Lance and Mary Bowers all feel that allowing this grow impinges on their quality of life. Everything about it is detrimental to their well-being and happiness.

We would like you to note that in the past the Bowers have not appealed two (2) grows adjacent to their properties. Those two properties are north and east of their residences, and the prevailing winds for the most part do not allow the odors to interfere with their daily lives. However, is it also from these two grows that we have learned about the odors, traffic, noise, dust, and power and water consumption. One grow to the east of us has rendered the eastern portion of our property uninhabitable. The stench and noise coming onto our property makes it impossible to enjoy any part of it. It's a beautiful piece of property that I used to walk on and enjoy tremendously. Not anymore.

The cumulative impacts to our air quality, odors, increased traffic noise and dust, and electrical and water resources are considerable. The impact to our quality of life is undeniable. Please DENY this permit.

Sincerely,

Lance and Mary Bowers

Carl Fisher and Diane Yates-Fisher

Mary Bowers
530-410-1502

Karl Fisher and Diane Yates-Fisher

Reason for Appeal: Destruction of "Quality of Life" in several ways.

1. Very important medical health issue. Karl Fisher is extremely allergic to marijuana. This issue was discovered in the mid-1960s when smoked or ingested, as it caused severe respiratory distress that came very close to his ending up in the ER. Moving forward to about three years ago with a large legal grow on the adjacent parcel to the north of ours (we did not receive a notice of that intent to grow), during late summer and early fall (plants maturing and being harvested) the normal prevailing winds moved from out of the SW to out of the NW. This wind change brought the very strong mature plant "skunk odor" onto our property and into our house. After just a few days and nights of the odor, my heart went into "tachycardia/arrhythmia" which puts a heavy burden on the heart. This condition lasted for about four weeks and converted to normal about 4 days after the marijuana left the property and the odor was gone. Since our prevailing winds and breezes are typically (well over 90% of the years) in this gulch are from the SW (a bit of swing from SSW to WSW), the odor from APN 014-360-12-00, will be directed straight to our parcel and home. I am not willing to, nor should I have to, have my heart health compromised in this way. Besides the health issue, it is an extremely uncomfortable event to have to put up with for weeks.
2. Karl and Diane bought this undeveloped parcel in 2005. We purchase this parcel after looking at many northern CA and southern OR properties. We were sold on the aesthetics (please see item 6, below) of the pristine forests, the clean air the interesting wildlife and the "quiet residential neighborhood". We moved into the house we designed and built in December 2007. It is designed with a deck that allows us to enjoy lunches, late spring through early fall, while enjoying the fantastic view of the landscape and the wildlife. We also frequently enjoy a glass of wine on the deck in the early evening for the same reasons. A commercial marijuana grow on the parcel to the south of us would make those activities impossible to enjoy. My wife and I also open our windows at night during hot weather so as to cool the house down and have fresh air. This will also not be able to happen with a commercial marijuana grow to our southwest.
3. My wife spends, at minimum, half of every day in her garden and orchard, early spring through late fall, doing all the planting, pruning, weeding cultivating, harvesting, and all the other jobs that are required by the garden and the orchard. A commercial grow on the parcel south of us would ruin that experience, either because of the nasty odor, which she hates, or having to wear a half face respirator that filters out organic gasses. The face mask would be impossible most of the time because of the heat.
4. The proposed grow will also add to the already out of hand traffic on our private one lane gravel road that results during the growing season. This traffic results from grow owners that tend to make many trips a day, from their employees that make many trips per day, truck & transfers hauling soil or gravel to all the grows, and the heavy equipment for the seemingly non-stop grading that goes on year in and year out. The "C" change in traffic along with the high speed of travel on this one lane gravel road has created a road that is now mostly "pot holes" that no longer drains properly, creating even more "pot holes", with most of the gravel leaving the road in the form of gravel dust. This is a private road and the cost of all maintenance and repairs is the responsibility of the property owners.
5. It should be noted that these parcels are zoned "Rural Residential", not "Rural Commercial" nor "Rural Mixed Use". A "business" or a "commercial operation" of any kind is not listed as a "Permitted Use" in this zone. The intent of the framers of this zone is quite clear. The framers

went to great lengths to prevent agricultural (animal husbandry and floriculture) from becoming a "Public Nuisance". They spent much time and effort in limiting the number of individual animals by ratios of individuals per square feet of property to make sure that animal husbandry would not cause a nuisance for the neighbors. There are no guidelines listed for floriculture. This is because at the time this zone was adopted, there were no legal agricultural crops (orchard, vineyard, row crops, field crops, etc.) that would risk becoming a public nuisance, because at that time, marijuana was illegal to the point that one could lose their property to the government for growing this crop.

6. The effects of commercial marijuana cultivation on the aesthetics are numerous when this business is allowed in residential and rural residential neighborhoods and areas of high (for TC) population density. A few of these are mostly public nuisances, such as noise, odor, increased traffic, destruction of roads, and visual blight. The commonly used "hoop houses" are very large (usually two or more of them on a parcel), a bright and highly reflective white that is an eyesore in an otherwise beautiful landscape. They will become an even greater eyesore after the marijuana cultivation business "boom" in TC "busts" and they deteriorate over time with weather. The latest "Commercial Cannabis Cultivation Ordinance" has addressed this in the section of the "carve out for specific areas of high density population". Although the Hayfork Water District was in the "carve out" because of its high density population, it removed for political reasons as was the addition of area in the "carve out" for the Lewiston District for the stated reason of a "possible public nuisance".

Page 2 of 2

Wendy and Gary Armagnac -2 Murray Lane Hayfork, California - 209.401.9287

July 1, 2020

To: Trinity County Officials

From: Wendy and Gary Armagnac

Re: CCL. 2020-671 Marijuana permit request

We currently rent a house across the street from Mary and Lance Bowers at 2 Murray Lane. We have lived here for 10 years and have enjoyed the quiet and safety that the neighborhood has afforded us. Both my husband and I are asthmatic. We strongly support the Bowers' (and our) rejection of a new 'grow' going into an area that is so close to our home. My husband, especially, has a severe allergy to marijuana and a new permit would result in affecting us adversely. The idea of 'growing' in a residential neighborhood full of children is a stressful and unreasonable idea. Granting a permit to grow marijuana on this neighborhood property will certainly result in changing our lives and will affect our health in a negative way. We appreciate that Trinity County utilizes input from neighbors before grows are allowed to be installed in neighborhoods. Please do not grant CCL. 2020-671 permit for 241 Vista in Hayfork. Feel free to call if you have any further questions: 209-401-9287.

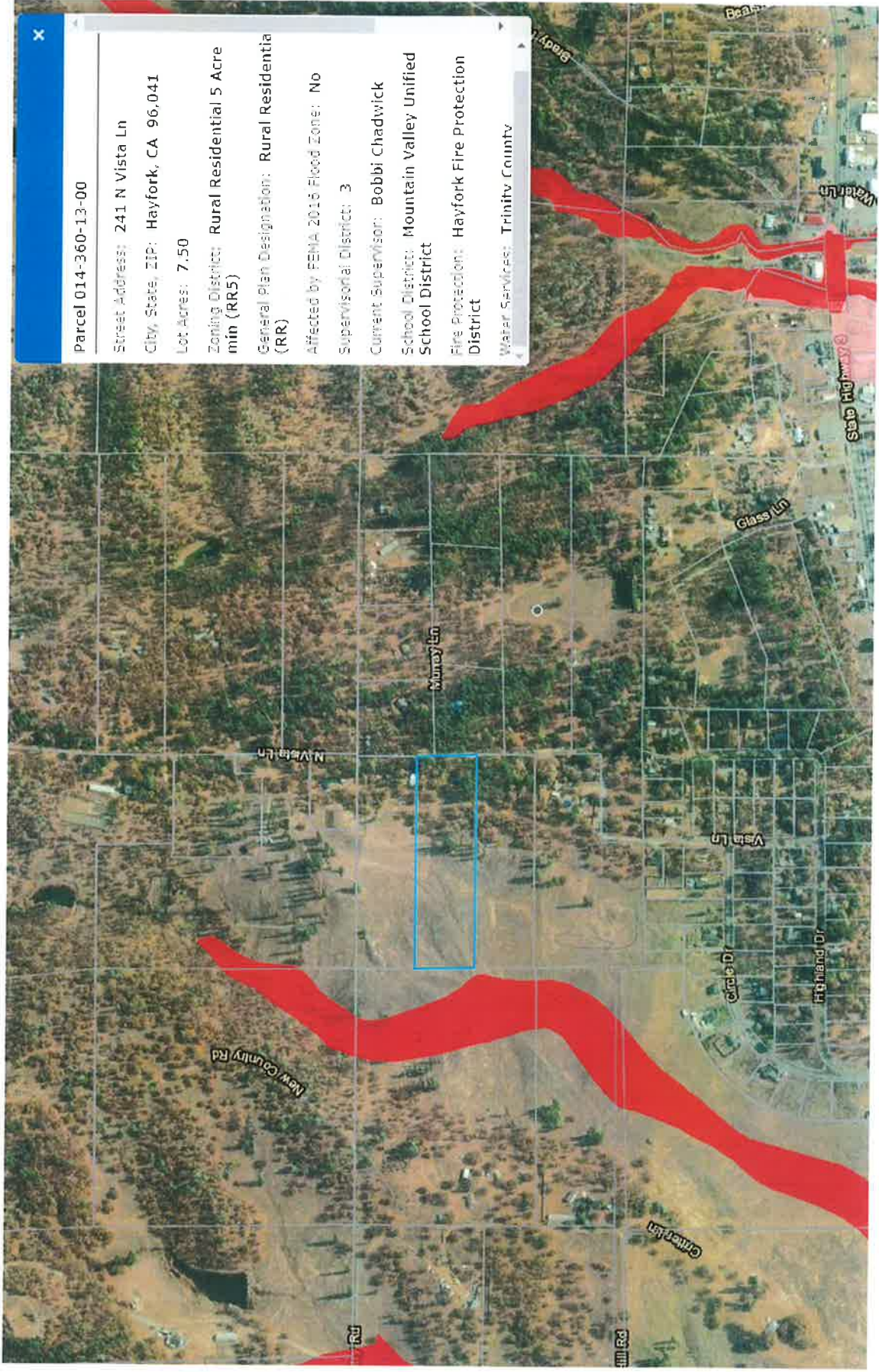
Sincerely,

W Armagnac

Wendy Armagnac and Gary Armagnac

Gary Armagnac

Agenda Item 8 Attachment D
Satellite Image – Location of APN 014-360-13-00



Mary B. Brinkley

From: Mary Bowers <mklbowers@yahoo.com>
Sent: Tuesday, June 23, 2020 1:27 PM
To: Mary B. Brinkley
Subject: CCL 2020-671 APN 014-360-13-00 241 North Vista Lane Hayfork, CA

Dear Ms. Brinkley

I am writing to you because the Trinity County Planning Department sent us two letters saying they were going to approve CCL 2020-671 on June 26, 2020. I am imploring the Planning Department to DENY this permit.

We own two adjacent properties to the one seeking this permit, one directly to the east which is a rental, and our personal residence which is slightly northeast of 241 North Vista Lane. The prevailing winds in this area come directly out of the west or southwest, which means that the winds come across the property that wants to be permitted and straight onto our two pieces. As an example of these wind directions, the last time the owners who are seeking this permit burned a pile of brush behind their house, the smoke came up the hill, around and over their house and directly into our rental. If a permit is allowed the smell from this grow would definitely inhibit our ability to rent that residence at a reasonable sum, from which we derive a good portion of our monthly income.

We built our home here in 1991 and have lived here continuously since then. We moved here for the quality of life offered in this neighborhood where there were only a few neighbors who were considerate of others living here. Now there are 8 grows in our immediate vicinity, some of which are licensed and some not. The noise level has increased tremendously with the expansion of all these grows. The vehicle traffic has grown to be almost non-stop – and this is a dead-end road. The huge transfers (trucks) that come one after another after another in the spring and early summer have destroyed our gravel road which is privately owned by all of us. Then there are all the workers going in and out several times a day, creating tons of dust that, because of those prevailing winds, finds its way onto and into our houses. We don't have air conditioning, so we use our open windows and doors to help cool us down, so we not only get dust, we get noise and the stench of marijuana daily from the grows that are already here and not in the usual directions of the prevailing winds. A marijuana grow on the property seeking this permit would be intolerable for us.

Please, DENY this permit.

Thank you for your consideration.

Mary and Lance Bowers

Sent from [Mail](#) for Windows 10

Item 8 Attachment #



TRINITY COUNTY PLANNING DEPARTMENT

P.O. BOX 2819 ♦ 61 AIRPORT ROAD
WEAVERVILLE, CALIFORNIA 96093
PHONE (530) 623-1351 ♦ FAX (530) 623-1353
Email: khunter@trinitycounty.org

June 15, 2020

NOTICE OF APPLICATIONS FOR COMMERCIAL CANNABIS CULTIVATION LICENSE

LISTED BELOW IS AN APPLICATION RECEIVED BY THE TRINITY COUNTY PLANNING DEPARTMENT. YOU HAVE RECEIVED THIS NOTICE BECAUSE YOU OWN PROPERTY THAT IS LOCATED WITHIN 300 FEET OF THE SUBJECT PROPERTY.

APN
014-360-13-00

CCL
2020-671

Located at 241 North Vista Lane, Hayfork

The Planning Director will approve the above referenced Provisional CCLs on **June 26, 2020**. Should you desire to appeal this decision, you must do so within 10 working days, or by **July 10, 2020**, pursuant to Trinity County Zoning Code Section 17.34.110.

If you have any questions or wish to receive additional information concerning the above listed Provisional CCLs or wish to file an appeal, please contact Mary Beth Brinkley at the Trinity County Planning Department, P.O. Box 2819, Weaverville, CA. Phone (530) 623-1351, ext. 6, or by email at mbrinkley@trinitycounty.org. **COVID-19 NOTICE: The Planning Department office, located at 61 Airport Rd, Weaverville, is open with limited access to the public due to the COVID-19 virus. Staff is available by appointment, phone or email to provide assistance and accept appeal application submittals.**

Agend Item 8 Attachment G

August 5, 2020

Chair Frasier and Planning Commissioners,

We are responding to the appeal filed on CCL 671, RVR Agricultural Enterprises, LLC, applicant Raymond Levasseur.

The Appellants' argument touches on a multitude of factors. All points argued reference the California Environmental Quality Act (CEQA) and potential impacts from this applicant's impending commercial cannabis cultivation license. However, what the Appellants' arguments lack are hard facts that are based on proven and verified evidence.

According to Trinity County Planning Department's "Frequently Asked Questions Regarding the Appeal Process," found on their website, grounds for an appeal on a cultivation license may only raise one of two issues. Either the applicant is in non-compliance with the county ordinances, and/or if the CEQA determination concerning the license application is appropriate (exempt v. provisional). This "FAQ" sheet is the only written policy for CEQA appeals on cultivation applications. Appellants' appeal fails to prove either of the two listed requirements for proper grounds of the appeal.

Regarding the first of two grounds for appeal, there are two points of argument from Appellants that touch on the county cultivation ordinance, found in Trinity County Code section 17.43. Appellants claim that the current zoning of the applicant's parcel of Rural Residential is inappropriate for commercial activity. This claim has no merit due to the county cultivation ordinance allowing this zoning for commercial activities (Trinity County Code 17.43.050(A)). The other claim that relates to the county cultivation ordinance revolves around the local districts that are on a list of "No Grow" zones for commercial cannabis. These districts can be found in the county code section 17.43.050(A)(7), whereas the Hayfork Water District is not included on that list of "No Grow" zones. Both arguments raised by Appellants regarding non-compliance with the county ordinance are thus moot.

Additionally, this licensee follows all local and state agency regulations and requirements. Setbacks in the local cultivation ordinance include a 350-foot setback from cultivation area to neighbors' permitted dwellings to address the kind of nuisance issues Appellants raise. This applicant meets this setback on all sides, and only needs to meet this requirement according to the local ordinance (Trinity County Code 17.43.050(A)(8)). This applicant has received their final Non-Agreement Certification letter from California Department of Fish and Wildlife

(Attachment A), the Notice of Applicability from the State Water Resources Control Board's Cannabis General Order (Attachment B), and an approved California Department of Food and Agriculture (CDFA) state cultivation license pending payment (Attachment C).

Regarding the second grounds for appeal, Appellants touch on the following CEQA factors in their argument: aesthetics, air quality (dust & odor), pesticide, water, traffic and noise. To make a sound CEQA argument, claimed impacts must be supported by evidence in the record. A certified CEQA document may be used to demonstrate that the impacts alleged are indeed significant. As shown throughout the appeal, the claims presented are neither supported by evidence in the record, nor based on any certified CEQA document. Because Trinity County's CEQA document is still in the draft phase, the only certified CEQA document that pertains to commercial cultivation is CDFA's Programmatic Environmental Impact Report (PEIR).

Aesthetics, and potential significant impacts of cultivation on aesthetics, are addressed in CDFA's PEIR Chapter 4.1. Of all potential impacts identified by CDFA, all are ruled to be less than significant (CDFA PEIR 4.1-16 – 4.1-19). Absent evidence to refute the state's findings, Appellants' argument that cultivation impacts local aesthetics is moot.

Odor, and potential significant impacts of cultivation on odor, are addressed in CDFA's PEIR Chapter 4.3 under Air Quality. According to the California Health and Safety Code section 41700, it is prohibited to discharge air contaminants (including odor) that causes nuisance or annoyance to the public. However, agricultural operations are exempt from this prohibition, thus their impact towards Air Quality is less than significant (CDFA PEIR 4.3-9). Many areas have air quality plans to ensure all activities in their community do not significantly impact the Air Quality. Commercial cannabis cultivation is an activity that CDFA notes does not conflict with air quality plans due to the cultivation activities not generating a substantial amount of vehicle trips, as well as the anticipation that the total cannabis production in the state remains unchanged with commercial licensing available (CDFA PEIR 4.3-30). All potential impacts identified by CDFA were ruled to be less than significant (CDFA PEIR 4.3-29 – 4.3-34). Appellants' argument that the odor of cannabis, beyond the 350' setback determined by the Trinity County Cultivation Ordinance to be adequate to dissipate the nuisance, is detrimental to their quality of life is neither supported by evidence in the record, nor demonstrated by the only available certified CEQA document for commercial cultivation.

Pesticide, Herbicide, Water, and potential significant impact of cultivation on these areas, are addressed in CDFA's PEIR Chapter 4.8 under Hydrology and Water Quality. According to the National Toxics Rule and California Toxics Rule, all usage of toxic pollutants must be regulated, which includes regulation of toxicity thresholds for what chemicals may be used for permitted cultivations. These include heavy metals, hydrocarbons, and pesticides (CDFA PEIR 4.8-4 – 4.8-

5). Additionally, impact HWQ-4 that commercial cannabis cultivation could “cause water quality impacts from pesticide use in outdoor or mixed light cultivation” is ruled as less than significant (CDFA PEIR 4.8-36 – 4.8-37).

The Trinity County Code 17.43 also addresses potential issues surrounding pesticide and water use from commercial cannabis cultivations. All applicants are required to enroll with the State Water Resources Control Board (Trinity County Code 17.43.02(D)) and show proof of such enrollment for a complete commercial cannabis application to be submitted and approved (Trinity County Code 17.43.030(A)(2)). Additionally, Trinity County Code section 17.43.060(G – I) states applicants must be in compliance with county and state laws, hazardous materials and wastes are properly regulated, and rodenticides that require a California Restricted Materials permit cannot be used. The applicant in question does not use pesticides, rodenticides, or any other hazardous materials. Proof is shown through the Notice of Applicability with the State Water Resources Control Board (SWRCB) attached to this document, as well as a screen shot from the EnviroStor Database showing no history or current conditions of hazardous waste (Attachment D).

The SWRCB’s General Order is specific to cannabis cultivators. This General Order lists proper regulations of cultivators around pesticide and water usage for enrollees to follow. Water conservation is required by all cultivators enrolled under the General Order, specific requirements including regular inspections of the water system/water delivery system, use of weed-free mulch, and to keep records on water usage (SWRCB Section 2(96 – 99)). The General Order also requires proper pesticide storage, containment, and management, all located outside of riparian areas so waterways are not polluted (SWRCB Section 2(104 – 106) and a list of “cannot use” pesticides are provided to the public on their website (Attachment E).

The applicant in question will not use any pesticides, rodenticides, or any other harmful chemical on their cultivation – only organic fertilizers and integrated pest management controls will be used. A materials list of fertilizers has been provided and approved by the county (Attachment F), and a pest management plan has been provided and approved by CDFG (Attachment G). Additionally, this applicant is in good standing with the SWRCB, proof shown by the attached Notice of Applicability, thus all regulations are being adhered to.

Traffic/Dust, and potential significant impact of cultivation on these areas, are addressed in CDFG PEIR Chapter 4.12. Traffic generated by commercial cannabis cultivation sites do not generate a greater amount of traffic as Appellants would argue. This applicant plans on two to three truckloads of soil per season to be delivered to the site. The road the trucks would have to drive on is paved all the way until right before the applicant’s home, ensuring the only dust created from these trucks will be for a handful of feet before entering the applicants’ driveway. Additionally, all potential impacts commercial cultivation could have on traffic and dust have been ruled as less than significant (CDFG PEIR 4.12-4 – 4.12-9).

Additionally, Appellants argue the winds in the area increase the chances the dust would negatively impact their lives. While Appellants are correct in the average direction of winds in

their area, according to weatherspark.com the average windspeed is between 3.4 and 4 mph. To put this into perspective is the following example:

0 --- Calm	less than 1 mph (0 m/s)	Smoke rises vertically
1 --- Light air	1 - 3 mph 0.5-1.5 m/s	Smoke drifts with air, weather vanes inactive
2 --- Light breeze	4 - 7 mph 2-3 m/s	Weather vanes active, wind felt on face, leaves rustle

(http://gyre.umeoce.maine.edu/data/gomoos/buoy/php/variable_description.php?variable=wind_2_speed)

Thus, the wind is not a valid factor in the Appellants’ argument as the average miles per hour noted cannot significantly contribute to their complaints.

Noise, and potential significant impacts of cultivation, is addressed in CDFA’s PEIR Chapter 4.10. Of all potential impacts identified, all are ruled to be less than significant (CDFA PEIR 4.10-16 – 4.10-19). Appellants’ argument that the applicant’s cultivation negatively impacts them via noise generation is thus moot.

Cumulative Impacts were brought up by Appellants to summarize the issues in their opinion would affect them by this applicant’s commercial cultivation license. However, Appellants do not use this definition appropriately. According to the CEQA Guidelines Section 15130(a)(1), “a cumulative impact is created by the combination of a proposed project...with other past, present, and probable future projects...causing related impacts” (CDFA PEIR 6-1). The CDFA PEIR addresses what components should be considered when addressing cumulative impacts (CDFA PEIR 6-5), as shown in the table below:

Resource Area	Geographic Scope
Aesthetics	Statewide, at Proposed Program activity locations near sensitive receptors
Agriculture and Forestry Resources	Statewide, at Proposed Program activity locations in agricultural and forested areas
Air Quality	Statewide within each air basin for criteria pollutant emissions, and locally at Proposed Program activity locations near sensitive receptors for toxic air contaminants
Biological Resources	Statewide, at Proposed Program activity locations near special-status species, their habitats, and sensitive natural communities
Hazards, Hazardous Materials, and Human Health	Statewide, at Proposed Program activity locations where impacts to the public could occur
Hydrology and Water Quality	Statewide, at Proposed Program activity locations near water bodies (e.g., lakes, reservoirs, streams, estuaries, Pacific Ocean, groundwater)
Noise	Statewide, at Proposed Program activity locations near sensitive receptors
Public Services	Statewide, at Proposed Program activity locations
Transportation and Traffic	Statewide, at Proposed Program activity locations
Utilities and Service Systems	Statewide, at Proposed Program activity locations

All areas of potential impact listed in the table above have been determined, in a cumulative perspective, to be less than significant by CDFA (CDFA PEIR 6-22 – 6-34). Though the Appellants misuse the definition of cumulative impact, it is also shown here that this point is moot regardless.

In conclusion, the applicant in question in this appeal has met all local and state regulations set forth for obtaining a commercial cannabis cultivation license. All points of refute from the Appellants are meritless and not based on any certified CEQA document. The responses outlined here address Appellants points of concern with facts that are proven and based on certified, legal documents. Additionally, Trinity County Planning Department’s “FAQ” sheet specifically states, “The Planning Commission does not have the lawful authority to consider any other grounds for appeal” (FAQ sheet pg 1). Thus, this appeal should be denied, and licensure granted to the applicant as the Appellants have failed to meet both grounds for the appeal.

Sincerely,



Ana Wright

Executive Vice President, Flowra

ana@theflowraplatform.com

M: (530) 739-9908

O: (800) 811-4356, ext 502



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Region 1 – Northern
601 Locust Street
Redding, CA 96001
(530) 225-2300
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



ATTACHMENT A

February 10, 2020

Raymond Levasseur
1326 Poppy Hills Lane
Tracy, CA 95377

Subject: Notification of Lake or Streambed Alteration, EPIMS Notification No. EPIMS-09331-R1, Trinity County APN 014-360-13-00, 241 North Vista Lane, Hayfork

Dear Mr. Levasseur:

The California Department of Fish and Wildlife (Department) has reviewed your Lake or Streambed Alteration Notification (Notification), dated February 6, 2020. Your Notification includes, but is not limited to, the following information:

Cultivation of up to 10,000 square feet of cannabis, irrigated by municipal water district service.

The Department determined that your cannabis cultivation project is not subject to the notification requirement in Fish and Game Code section 1602. Your fee payment in the amount of \$609.25 will be refunded to you.

Please note that if you change your project you will need to submit a new Notification and corresponding fee to the Department if your modified project will do any of the following:

- Divert or obstruct the natural flow of any river, stream, or lake
- Change the bed, channel, or bank of any river, stream, or lake
- Use material from any river, stream, or lake
- Deposit or dispose of material into any river, stream, or lake

In addition, while your project as proposed in your Notification is not subject to the notification requirements of Fish and Game Code sections 1602, you are still responsible for complying with other applicable local, state, and federal laws. These include Fish and Game Code sections 5650 and 5652 which make it unlawful to pollute waters of the state. Fish and Game Code section 5650 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state any substance or material deleterious to fish, plant life, mammals, or bird life, including, but not limited to gasoline and oil, as well as sediment. Fish and Game Code section 5652 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark

Conserving California's Wildlife Since 1870

of the waters of the state, any garbage, refuse, or waste, among other materials. A person who violates Fish and Game Code sections 1602, 5650, and 5652 in conjunction with the cultivation or production of cannabis is subject to significant penalties or fines. Specifically, CDFW may impose civil penalties administratively against any person found by CDFW to have violated these Fish and Game Code sections in connection with the production or cultivation of cannabis following a complaint and, if requested, a hearing.

Other statutes in the Fish and Game Code that might apply to your activity, include, but not limited to the following sections: 2080 et seq. (species listed as threatened or endangered, or a candidate for listing under the California Endangered Species Act); 1908 (rare native plants); 3511, 4700, 5050, and 5515 (fully protected species); 3503 (bird nests and eggs); 3503.5 (birds of prey); 5901 (fish passage); 5937 (sufficient water for fish); and 5948 (obstruction of stream), and the requirements set forth in the Forest Practice Act (Pub. Resources Code, § 4511 et seq.) for projects on private timberlands.

If you have any questions, please contact Matt Mitchell, Environmental Scientist, at (530) 225-2103 or by email at matthew.mitchell@wildlife.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam', with a long, sweeping horizontal stroke extending to the right.

Adam McKannay
Cannabis and LSA Permitting Supervisor

Cc: Leslie Hubbard, Trinity County Planning Department
lhubbard@trinitycounty.org



ATTACHMENT B



North Coast Regional Water Quality Control Board

March 19, 2020

WDID:1_53CC422337

RAYMOND LEVASSEUR
1326 POPPY HILL LANE
TRACY, CA 95377

Subject: Notice of Applicability - Waste Discharge Requirements Water Quality Order WQ 2019-0001-DWQ

The attached Notice of Applicability provides notice that the requirements of the State Water Board *Cannabis Cultivation Policy- Principles and Guidelines for Cannabis Cultivation (Policy)*, and the *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities*, Order WQ 2019-0001-DWQ (General Order – previously WQ 2017-0023-DWQ, with updates and revisions effective April 16, 2019) are applicable to the site as described below. Based on the information provided, the Discharger self-certifies the cannabis cultivation activities are consistent with the requirements of the State Water Board Policy and General Order.

Please direct all submittals, discharge notifications, and questions regarding compliance and enforcement to the North Coast Regional Water Quality Control Board Cannabis Program at (707) 576-2676 or northcoast.cannabis@waterboards.ca.gov.

Sincerely,

Matthias St. John
Executive Officer
North Coast Regional Water Quality Control Board

200319_1L_1_53CC422337_Raymond_Levasseur_NOA_TW

VALERIE L. QUINTO, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

5550 Skylane Blvd., Suite A. Santa Rosa, CA 95403 | www.waterboards.ca.gov/northcoast

NOTICE OF APPLICABILITY – WASTE DISCHARGE REQUIREMENTS, WATER QUALITY ORDER WQ 2019-0001-DWQ, RAYMOND LEVASSEUR, TRINITY COUNTY APN(s) 014-360-13-00

Raymond Levasseur (hereafter “Discharger”) submitted information through the State Water Resources Control Board’s (State Water Board’s) online portal on October 17, 2019, for discharges of waste associated with cannabis cultivation related activities. Based on the information provided, the Discharger self-certifies the cannabis cultivation activities are consistent with the requirements of the Policy and General Order. This letter provides notice that the Policy and General Order are applicable to the site as described below. You are hereby assigned waste discharge identification (WDID) number **1_53CC422337**.

The Discharger is responsible for all the applicable requirements in the Policy, General Order, and this Notice of Applicability (NOA). This includes making any necessary changes to the enrollment, and the Discharger is the sole person or entity with legal authority to make those changes. The Discharger will be held liable for any noncompliance with the Policy, General Order, and the NOA.

1. FACILITY AND DISCHARGE DESCRIPTION

The information submitted by the Discharger states the disturbed area is equal to or greater than 2,000 square feet and less than 1 acre (43,560 square feet) no portion of the disturbed area is within the setback requirements, no portion of the disturbed area is located on a slope greater than 30 percent, and the cannabis cultivation area is less than or equal to 1 acre.

Based on the information submitted by the Discharger, the cannabis cultivation activities are classified as Tier 1 Low Risk.

2. SITE-SPECIFIC REQUIREMENTS

The Policy and General Order are available on the Internet at:

https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html

The Discharger shall ensure that all site operating personnel know, understand, and comply with the requirements contained in the Policy, General Order, this NOA, and the Monitoring and Reporting Program (MRP, Attachment B of the General Order). Note that the General Order contains standard provisions, general requirements, and prohibitions that apply to all cannabis cultivation activities.

The application requires the Discharger to self-certify that all applicable Best Practicable Treatment or Control (BPTC) measures are being implemented, or will be implemented by the onset of the winter period (November 15 - April 1), following the enrollment date. Landowners of the cultivation site in the North Coast Region are required to submit and

implement Site Management Plans that describes how BPTC measures are implemented property-wide, including BPTC measures implemented to address discharges from legacy activities (e.g. former timber harvest, road building, mining, etc.) at the site per Provision C.1.a. of the General Order. Dischargers that cannot implement all applicable BPTC measures by the onset of the winter period, following their enrollment date, shall submit to the appropriate Regional Water Board a *Site Management Plan* that includes a time schedule and scope of work for use by the Regional Water Board in developing a compliance schedule as described in Attachment A of the General Order.

The Policy and General Order require that, prior to conducting any work in streams or wetlands, the Discharger obtain water quality certification from the Water Boards and other required permits from other agencies (e.g. a Clean Water Act section 404 permit from the United States Army Corps of Engineers, a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife, and other local permits). Enrollment in the General Order requires that the Discharger obtain water quality certification for any such work, but this NOA does not provide the necessary certification. If the Discharger proposes or requires work in streams or wetlands, they must apply for water quality certification separately by filling out and submitting a separate application for that work. The application is available for download at the following Regional Water Board website:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/

Currently, the direct link to that application is as follows:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/200204/RB1_Cannabis_WQC_401_App.pdf

Note: Water Quality Certifications require separate application and monitoring fees. A fee calculator and additional information are available at:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification/#401_calc

During reasonable hours, the Discharger shall allow the State Water Board or Regional Water Board (collectively Water Boards), California Department of Fish and Wildlife, CAL FIRE, and any other authorized representatives of the Water Boards upon presentation of a badge, employee identification card, or similar credentials, to:

- i. enter premises and facilities where cannabis is cultivated; where water is diverted, stored, or used; where wastes are treated, stored, or disposed; or in which any records are kept;
- i. access and copy, any records required to be kept under the terms and conditions of the Policy and General Order;
- ii. inspect, photograph, and record audio and video, any cannabis cultivation sites, and associated premises, facilities, monitoring equipment or device, practices, or operations regulated or required by the Policy and General Order; and

- iii. sample, monitor, photograph, and record audio and video of site conditions, any discharge, waste material substances, or water quality parameters at any location for the purpose of assuring compliance with the Policy and General Order.

3. TECHNICAL REPORT REQUIREMENTS

The following technical report(s) shall be submitted by the Discharger as described below:

A Site Management Plan, by January 14, 2020, consistent with the requirements of General Order Provision C.1.a., and Attachment A, Section 5. Attachment D of the General Order provides guidance on the contents of the Site Management Plan.

A Site Closure Report must be submitted 90 days prior to permanently ending cannabis cultivation activities and seeking to rescind coverage under the General Order. The *Site Closure Report* must be consistent with the requirements of General Order Provision C.1.e., and Attachment A, Section 5. Attachment D of the General Order provides guidance on the contents of the *Site Closure Report*.

4. MONITORING AND REPORTING PROGRAM

The Discharger shall comply with all provisions of the Monitoring and Reporting Program (MRP), which appears as Attachment B to the General Order. The Discharger shall also comply with all provisions of the *North Coast Regional Supplement to Annual Monitoring and Reporting Requirements for Statewide Cannabis General Order WQ 2017-0023-DWQ* (Regional Supplement), which independently appears as Investigative Order No. R1-2019-0023, issued by the Regional Water Board Executive Officer on March 22, 2019. Annual reports for both sets of requirements shall be submitted to the Regional Water Board in a combined report by March 1 following the year being monitored through the online portal (<https://public2.waterboards.ca.gov/cgo>). The Discharger shall not implement any changes to the MRP or to the Regional Supplement unless and until a revised MRP or Regional Supplement is issued by the Regional Water Board Executive Officer or the State Water Board Division of Water Quality Deputy Director, or the State Water Board Chief Deputy Director.

A copy of Attachment B to the General Order can be obtained online at the following location, or by contacting staff at the phone number and email address listed below.
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wqo2019_0001_dwq.pdf#page=32.

A copy of the Regional Supplement can be obtained online at the following location, or by contacting staff at the phone number and email address listed below.
https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2019/19_0023_Regional%20Supplement%2013267%20Order.pdf.

5. ANNUAL FEE

According to the information submitted, the discharge is classified as Tier 1 Low Risk. The 2018-2019 annual fee for that tier and risk level was set at \$600, but please note

that the Fee Schedule is updated annually and future fees may be invoiced at different rates. Invoices are sent by the State Water Board at the beginning of each calendar year (generally in February). Do not submit payments without receiving an invoice. If you have questions or concerns about your fees please contact the Fee Branch at FeeBranch@waterboards.ca.gov or (916) 341-5247. The fee is due and payable on an annual basis until coverage under this General Order is formally rescinded. To rescind coverage, the Discharger must submit a Request for Termination in writing through the online portal (available at: <https://public2.waterboards.ca.gov/cgo>), including a Site Closure Report at least 90 days prior to termination of activities and include a final MRP report.

6. TERMINATION OF COVERAGE UNDER THE GENERAL ORDER & REGIONAL WATER BOARD CONTACT INFORMATION

Enrollees that propose to terminate coverage under the General Order must submit a Request for Termination in writing through the online portal (<https://public2.waterboards.ca.gov/cgo>). The Request for Termination consists of a formal statement regarding the reason for requesting termination (i.e. cultivation is no longer occurring, the property is being sold, etc.), documentation that the site is in compliance with the General Order, including dated photographs and a written discussion. If the site is not meeting the requirements of the General Order, then the enrollment cannot be terminated. Regional Water Board staff will review the Request for Termination for completeness before determining if a property inspection, enrollment termination, or a request for additional information is appropriate.

If the Discharger cannot comply with the General Order, or will be unable to implement an applicable BPTC measure contained in Attachment A by the onset of the winter period each year, the Discharger shall notify the North Coast Regional Cannabis Unit staff at (707) 576-2676 or northcoast.cannabis@waterboards.ca.gov so that a site-specific compliance schedule can be developed.

Cc: Kevin Porzio, State Water Resources Control Board,
dwq.cannabis@waterboards.ca.gov
Adam McKannay, California Department of Fish and Wildlife,
adam.mckannay@wildlife.ca.gov
Cheri Sanville, California Department of Fish and Wildlife,
cheri.sanville@wildlife.ca.gov
Kristy Anderson, Trinity County Environmental Health,
kanderson@trinitycounty.org

Notice of Applicability
WQ 2019-0001-DWQ-R1
WDID #1_53CC422337

- 6 -

March 19, 2020



7/23/2020

Raymond Levasseur
1326 Poppy Hills Lane
Tracy, CA 95377

Application ID: LCA20-0000371

Dear Raymond Levasseur:

This letter is to notify you that you have an outstanding invoice for the license fee for your application LCA20-0000371. Your cannabis cultivation license will not be issued until this fee has been paid in full.

In accordance with CA Code of Regulations, Title 3, Div 8, Ch 1, the Department shall receive the license fee no later than 9/21/2020. Failure to provide full payment of the license fee by this date will result in disqualification of the application from further consideration. If disqualified, the applicant may reapply and pay a new application fee.

Questions regarding this notice can be directed to CalCannabis Licensing staff via telephone at (833)-CAL-GROW (225-4769) or via email at calcannabis@cdfa.ca.gov. Do not send confidential information to this email account.

Sincerely,

CalCannabis Cultivation Licensing

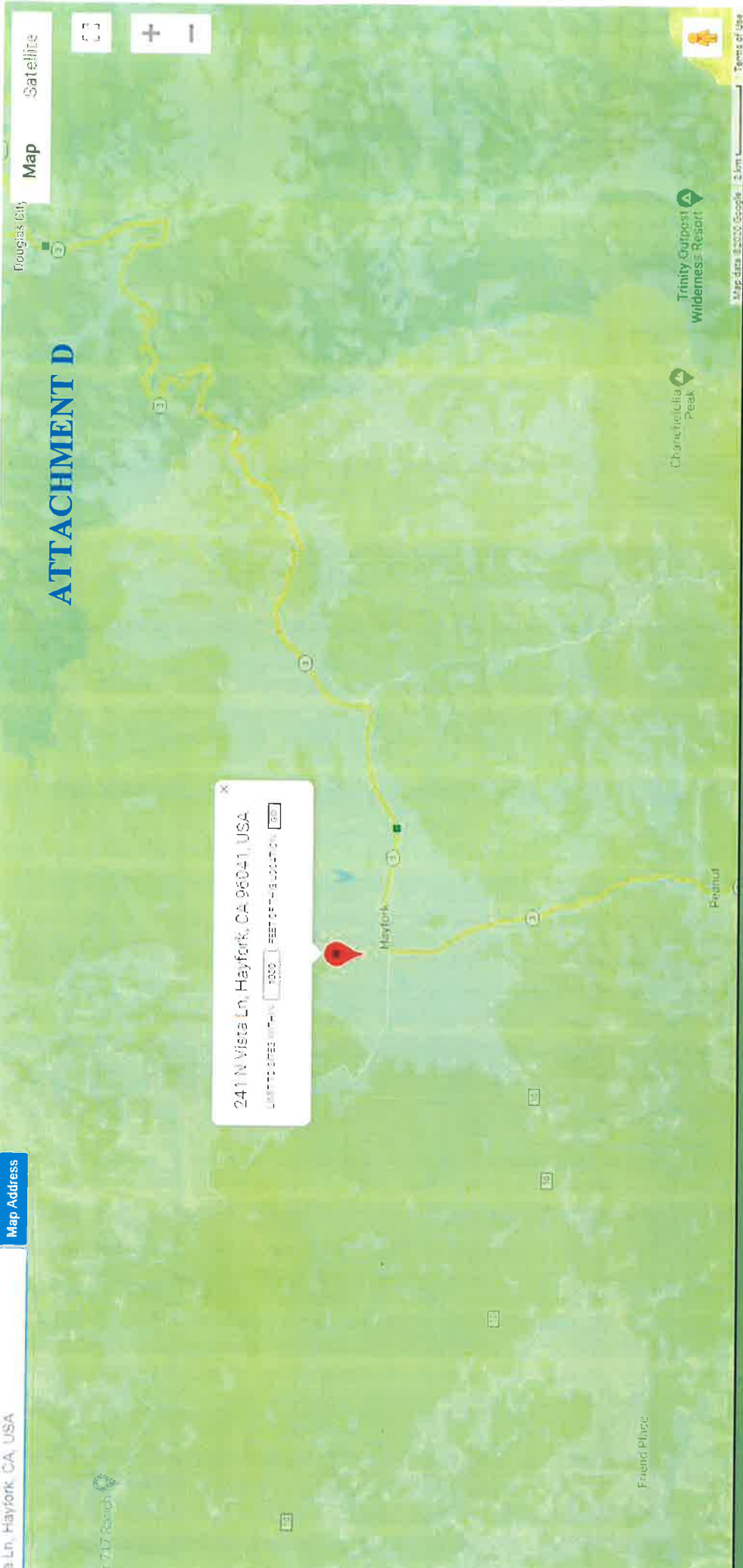


241 N Vista Ln, Hayfork, CA, USA

Map Address

Map Satellite

ATTACHMENT D



241 N Vista Ln, Hayfork, CA 96041, USA

LIMIT TO SPEED WITHIN 1000 FEET OF THIS LOCATION

STATUS	PROJECT TYPE	ADDRESS	CITY
REFER - RWACB	EVALUATION	HWY 3 MARSHALL ROAD	DOUGLAS CITY
CERTIFIED	STATE RESPONSE	90 MILES WEST OF REDDING OFF HWY 3	HWY/FOM
INACTIVE - NEEDS EVALUATION	EVALUATION	MULLANE AND HWY 3	HAYFORK

3 SITES LISTED

CANNABIS

PESTICIDES THAT **CANNOT** BE USED



ATTACHMENT E

Protecting workers, the public, and the environment from adverse effects of pesticide use in cannabis cultivation is critical to the mission of the California Department of Pesticide Regulation (DPR). DPR and the County Agricultural Commissioners (CAC) enforce the use and sale of pesticides under Divisions 6 and 7 of the California Food and Agricultural Code (FAC), and Title 3 of the California Code of Regulations (CCR). These laws and regulations apply to all pesticide use; cannabis is no exception.

All pesticide product labels include a warning statement, precautionary statements for protecting human and environmental health, storage and disposal statements, and directions for use. By law, all pesticide users must follow these statements.

When using pesticide products in cannabis cultivation, applicators must not use a rate that is higher than the rates listed on the label and follow the agricultural use requirements including method of application, restricted entry interval, personal protective equipment, and pre-harvest interval.

Always read the label prior to using any pesticide.

Some pesticides cannot be used in cannabis cultivation.

While there are some pesticide products that are legal to use on cannabis under state law, (see DPR's document: [Pesticides that are Legal to Use on Cannabis](#)) other products are never allowed in cannabis cultivation. The following criteria identify pesticide products that cannot be used in California cannabis cultivation under any circumstances. The use of any pesticides meeting any one of these criteria on cannabis will be strictly enforced as a violation of the FAC and could result in civil or criminal penalties (FAC sections 12996 and 12999.5):

- Not registered for a food use in California
- California Restricted Material including Federal Restricted Use Pesticides (3CCR section 6400)
- Signal word "DANGER"
- On the groundwater protection list (3CCR section 6800)

Cannabis cultivators who are licensed by the California Department of Food and Agriculture are required to comply with pesticide laws and regulations as enforced by DPR and the CAC's.

For more information:
www.cdpr.ca.gov/cannabis

PESTICIDES THAT **CANNOT** BE USED ON CANNABIS

The following are criteria for identifying pesticides that cannot be used in cannabis cultivation and examples of active ingredients meeting these criteria. This is a representative list of active ingredients and not intended to be exhaustive. The fact that an active ingredient is not listed does not authorize its use on cannabis in California.

Pesticides Not Registered for Food Use in California

If a pesticide product does not have directions for use on a food crop, it cannot be used in cannabis cultivation. Examples of active ingredients that do not have food uses include:

- Aldicarb
- Carbofuran
- Chlordane
- Chlorfenapyr
- Coumaphos
- Daminozide
- DDVP (Dichlorvos)
- Etofenprox
- Fenoxycarb
- Imazalil
- Methyl parathion
- Mevinphos
- Paclobutrazol
- Propoxur
- Spiroxamine
- Thiacloprid

California Restricted Materials

DPR designates certain pesticides as California restricted materials (3 CCR section 6400). A pesticide can be considered a restricted material for many reasons including designation as a federal Restricted Use Pesticide. Many of these products have product labels that clearly state "Restricted Use Pesticide." Consult your local CAC to determine whether a product is a restricted material. Examples of California restricted materials include:

- Abamectin
- Bifenthrin
- Brodifacoum
- Bromodiolone
- Cyfluthrin
- Difenacoum
- Difethialone
- Fipronil
- Naled

Pesticides on the Groundwater Protection List

Active ingredients that are on the Groundwater Protection List (3CCR section 6800) have chemical characteristics that make them likely to move into groundwater. Examples of active ingredients on the groundwater protection list include:

- Acephate
- Azoxystrobin
- Boscalid
- Carbaryl
- Chlorantraniliprole
- Diazinon
- Dimethoate
- Dimethomorph
- Ethoprop(hos)
- Fludioxonil
- Imidacloprid
- Malathion
- Metalaxyl
- Methiocarb
- Methomyl
- Myclobutanil
- Propiconazole
- Tebuconazole
- Thiamethoxam

Pesticide Products with the Signal Word "DANGER"

**CalCannabis Cultivation Licensing
Pest Management Plan**

ATTACHMENT G

Cultural Pest-Management Control Methods

No cultural methods are being used.

Biological Pest-Management Control Methods

No biological methods are being used.

Chemical Pest-Management Control Methods

241 N. Vista Lane topical pest management is limited to one product, The Amazing Dr. Zymes. The Amazing Dr. Zymes uses naturally occurring organic materials in combination with citric acid and other biologically stimulating ingredients to produce a fungicide/miticide with multiple modes of action. Dr. Zymes is OMRI certified which means that it is approved for Organic Gardening practices.

Chemical(s) to Be Applied at any Stage of Plant Growth

Product Name	Active Ingredient(s)
The Amazing Dr. Zymes	Citric Acid .05%, Other Ingredients (Water, Yeast, Potassium Sorbate) 99.5%

Attach additional sheets of paper as needed.