

To: Bear Butte Farms
3621 W 32nd Ave
Seattle, WA 98199

Case No.: COM2-4054
License No.: CCL18-0003553

**COMBINED NOTICE OF VIOLATION AND LICENSE REVOCATION
(For Violations of the Medicinal and Adult-Use Cannabis Regulation and Safety Act and
Regulations)**

The California Department of Food and Agriculture's CalCannabis Cultivation Licensing Division (Department) is revoking the provision license CCL18-0003553 of Bear Butte Farms at Assessor's Parcel Number 221-230-003-000 (Premises) and assessing the penalties as set forth in the Summary of Violation below. The revocation of Bear Butte Farms' license CCL18-0003553 is effective as of October 7, 2020 and is not appealable. The Licensee may appeal the assessment of penalties as set forth in this Notice.

On September 3, 2020 the Department and California Department of Fish and Wildlife (CDFW) staff conducted an inspection of Bear Butte Farms' Premises, located near Briceland, California in Humboldt County. One license (CCL18-0003553), a Medium Mixed Light Tier 1 license, with a maximum of 22,000 square feet of canopy allowed, was issued to Bear Butte Farms at the Premises. During the inspection, Department staff observed water diversions for the irrigation of cannabis that were not identified in the application as a water source used for cannabis cultivation activities as required in title 3 of the California Code of Regulations (CCR), section 8102, subdivision(v). In addition, Bear Butte Farms did not have the necessary permits or water right from CDFW or the State Water Resources Control Board for the water diversions observed at the Premises. (See CDFW Notice of Violation dated September 11, 2020 for APN 221-230-003.) The Department also found violations of the state's track and trace system requirements, the licensee's pest management plan, and modifications made to the site without prior approval, among others (see Summary of Violations below.)

Failure to comply with the provisions of the Medicinal and Adult-Use Cannabis Regulation and Safety Act or the regulations adopted pursuant thereto are grounds for license revocation and fines pursuant to Business and Professions Code (BPC) section 26030. Because Bear Butte Farms was operating under a provisional license issued by the Department and pursuant to BPC Section 26050.2, the revocation of license CCL18-0003553 does not entitle Bear Butte Farms to a hearing or appeal of the decision. Please see below for information regarding appealing the fines assessed in this Notice of Violation.

Bear Butte Farms may not engage in any commercial cannabis activity without a license. Pursuant to BPC Section 26031.5, CDFA may issue a citation to a licensee or unlicensed person

for any act or omission that violates or has violated any provision of this division or any regulation adopted pursuant thereto.

SUMMARY OF VIOLATIONS

The September 3, 2020 inspection revealed the following violations of the Medicinal and Adult-Use of Cannabis Regulation and Safety Act (Bus. and Prof. Code, §§ 26000 et seq.) (BPC) and regulations promulgated thereunder (CCR §§ 8000 et seq.). The violations described below ranged from Minor to Serious and warrant the following penalties for each violation pursuant to BPC section 26031.5 and CCR section 8601:

- CCR section 8402(a)- Failure to accurately and completely enter data in the track-and-trace system – \$500 per count (1 count)
- CCR section 8204(a)- Failure to notify the Department of any changes to items in the application – \$500 per count (4 counts)
- CCR section 8106(a)(I)- Failure to designate a physical space for products subject to administrative hold – \$500 per count (1 count)
- CCR section 8205(a)- Unlawful Material Modifications to Premises – \$1,000 per count (3 counts)
- CCR section 8405(c)(2-3)- Failure to report the disposition of immature plants into track and trace within three days – \$1,000 per count (1 count)
- CCR Section 8405(c)(4)(A)- Failure to report the wet weight of each harvested plant – \$501 per count (3,649 counts)
- CCR Section 8405(c)(4)(B)- Failure to report the net weight of each harvest batch – \$1,000 per count (1 count)
- CCR Section 8405(c)(4)(C)- Failure to report the weight of cannabis waste for each harvest batch – \$1,000 per count (1 count)
- CCR Section 8405(c)(4)(D)- Failure to report the unique name of each harvest batch – \$1,000 per count (1 count)
- BPC 26060.1(a)- Using a water source that was not identified or permitted in the application –\$5,000 per count (3 counts)
- CCR section 8201- Cultivating in excess of the total allowable canopy size – \$5,000 per count (1 count)
- CCR section 8300(a)- Failure to prohibit cannabis plants maintained outside the designated canopy area from flowering – \$5,000 per count (1 count)

Total penalty amount: \$1,863,149

VIOLATIONS

1. Failure to accurately and completely enter data in the track-and-trace system

Bear Butte Farms failed to accurately and completely enter data in the track-and-trace system pursuant to CCR section 8402, subdivision (a). During the inspection, evidence of recently harvested mature plants were observed throughout the canopy area and the immature plant area. Used track and trace tags for the track and trace system were also observed still attached to the cut stocks and were also strewn around the ground. On September 3, 2020, following the inspection, Department staff checked the track and trace system and found tags on the stocks corresponded with plants that were listed as unharvested and still in the ground. The system was checked again on September 9, 2020, 6 days after the inspection, and the system still indicated the plants had not been harvested. Bear Butte's failure to accurately and completely enter data in the track and trace system in violation of CCR section 8402, subdivision (a) is a Minor violation pursuant to CCR section 8601, subdivision (a)(3) and warrants an administrative penalty in the amount of \$500 per violation per count. This violation is correctable by updating the track and trace system with accurate and complete data to reflect the conditions on site.

2. Failure to notify the Department of any changes to items in the application

Bear Butte Farms failed to notify the Department of any changes to items in the application pursuant to CCR section 8204, subdivision (a). The application requires a proposed cultivation plan that has all of the elements in CCR section 8106, including a detailed premises diagram. During the inspection, 9 greenhouses and one greenhouse labeled as nursery were observed on site. The premises diagram submitted with the application showed one greenhouse, a nursery area greenhouse, and three other growing areas. One of the canopy area greenhouses was not located in the canopy areas indicated on the premises diagram. Bear Butte Farms' failure to notify the Department of changes to the application in violation of CCR section 8204, subdivision (a) is a Minor violation pursuant to CCR section 8601, subdivision (a)(3) and warrants an administrative penalty in the amount of \$500 per violation per count. This violation is correctable by updating the premises diagram to reflect the presence and location of all greenhouses on the premise.

Bear Butte Farms failed to notify the Department of any changes to items in the application pursuant to CCR section 8204, subdivision (a). The application requires a proposed cultivation plan that has all of the elements in CCR section 8106, including a detailed premises diagram. Drying of cannabis is considered "Processing" under CCR section 8000, subdivision (ab) and all areas for processing must be indicated on the

premises diagram. During the inspection, drying cannabis was observed in one of the greenhouses. The area with drying cannabis was not indicated as a processing area as required on the premises diagram. Bear Butte Farms' failure to notify the Department of changes to the application in violation of CCR section 8204, subdivision (a) is a Minor violation pursuant to CCR section 8601, subdivision (a)(3) and warrants an administrative penalty in the amount of \$500 per violation per count. This violation is correctable by updating the premises diagram to reflect all locations where processing occurs on the premises.

Bear Butte Farms failed to notify the Department of any changes to items in the application pursuant to CCR section 8204, subdivision (a). The application requires the identification of all water sources for cultivation activities, including diversions pursuant to CCR section 8102, subdivision (v)(4). The application lists rainwater catchment as the water source for cannabis activities. During the inspection, three water diversions from a stream were observed that were not indicated in the application. Bear Butte Farms' failure to notify the Department of changes to the application in violation of CCR section 8204, subdivision (a) is a Minor violation pursuant to CCR section 8601, subdivision (a)(3) and warrants an administrative penalty in the amount of \$500 per violation per count. This violation is correctable by updating the application to reflect all water sources used in cultivation activities.

Bear Butte Farms failed to notify the Department of any changes to items in the application pursuant to CCR section 8204, subdivision (a). The application requires a proposed cultivation plan that has all of the elements in CCR section 8106, including a pest management plan. The pest management plan must include all of the product names and active ingredients pursuant to CCR section 8106, subdivision (a)(3)(A). During the inspection, products not listed in the pesticide management plan were present on site. Bear Butte Farms' failure to notify the Department of changes to the application in violation of CCR section 8204, subdivision (a) is a Minor violation pursuant to CCR section 8601, subdivision (a)(3) and warrants an administrative penalty in the amount of \$500 per violation per count. This violation is correctable by updating the pest management plan to reflect all pesticides present on site.

3. Failure to designate a physical space for products subject to administrative hold

Bear Butte Farms failed to designate an area for physically segregating cannabis subject to an administrative hold pursuant to CCR section 8106, subdivision (a)(I). It is a requirement of the application to have a designated administrative hold area. During the inspection, staff asked the Bear Butte Farms' employee on site if there was an administrative hold on site. The employee stated there was no administrative hold area on site. In addition, there is not an administrative hold area on the premises diagram as required in CCR section 8106, subdivision (a)(I). Bear Butte Farms' failure to designate

an area subject to administrative hold in violation of CCR section 8106, subdivision (a)(l) is a Minor violation pursuant to CCR section 8601, subdivision (a)(3) and warrants an administrative penalty in the amount of \$500 per violation per count. This violation is correctable by designating a physical space for products subject to administrative hold, and by updating the premises diagram with the physical location of the administrative hold area.

4. Unlawful Material Modifications to Premises

Bear Butte Farms failed to get prior written approval of the Department for a material physical modification of the licensed premises as specified in the premises diagram filed with the license application pursuant to CCR section 8205, subdivision (a)(1). During the inspection, 9 greenhouses and one greenhouse labeled as nursery were observed on site. The premises diagram submitted with the application showed one greenhouse, a nursery area greenhouse, and three other growing areas. One of the canopy area greenhouses was not located in the canopy areas indicated on the premises diagram. Bear Butte Farms' physical modifications to the licensed premises without prior written approval of the Department in violation of CCR section 8205, subdivision (a)(1) is a Moderate violation pursuant to CCR section 8601, subdivision (a)(2) and warrants an administrative penalty in the amount of \$1,000 per violation per count. This violation is correctable by updating the premises diagram to reflect the presence and location of all greenhouses on the premise.

Bear Butte Farms failed to get prior written approval of the Department for a material physical modification of the licensed premises as specified in the premises diagram filed with the license application pursuant to CCR section 8205, subdivision (a)(1). Drying of cannabis is considered "Processing" under CCR section 8000 and all areas for processing must be indicated on the premises diagram. During the inspection, drying cannabis was observed in one of the greenhouses. The area with drying cannabis was not indicated as a processing area as required on the premises diagram. Bear Butte Farms' physical modifications to the licensed premises without prior written approval from the Department in violation of CCR section 8205, subdivision (a)(1) is a Moderate violation pursuant to CCR section 8601, subdivision (a)(2) and warrants an administrative penalty in the amount of \$1,000 per violation per count. This violation is correctable by updating the premises diagram to reflect the location of all processing areas on the premises.

Bear Butte Farms failed to get prior written approval of the Department for a material physical modification of the licensed premises as specified in the premises diagram filed with the license application pursuant to CCR section 8205, subdivision (a)(1). The application lists rainwater catchment as the water source for cannabis activities. During the inspection, three water diversions from a stream were observed that were not indicated in the application. Bear Butte Farms' physical modifications to the licensed premises without prior written approval from the Department in violation of CCR section 8205, subdivision (a)(2) is a Moderate violation pursuant to CCR section 8601,

subdivision (a)(2) and warrants an administrative penalty in the amount of \$1,000 per violation per count. This violation is correctable by only utilizing the listed water sources for all cannabis activities.

5. Failure to report the disposition of immature plants into track and trace within three days

Bear Butte Farms failed to report in the track and trace system information related to the disposition of cannabis on the licensed premises within three days of the applicable event pursuant to CCR section 8405, subdivision (c)(2-3). During the inspection, there were no immature plants present on site in the immature plant area, or otherwise observed. However, Department staff checked the track and trace system and immature plants had been entered for the Premises, but their disposition had not been entered. On September 9, 2020 the track and trace system was checked and the immature plants were still indicated as being on site, a violation of the three-day requirement to report movement of immature plants to the canopy area or destruction of immature plants. Failure to report the disposition of the immature plants in the track and trace system in violation of CCR section 8405, subdivision (c)(2-3) is a Moderate violation pursuant to CCR section 8601, subdivision (a)(2) and warrants an administrative penalty in the amount of \$1,000 per violation per count. This violation is correctable by updating track and trace system with accurate and complete data regarding the immature plants that were previously reported in the track and trace system.

6. Failure to report the wet weight of each harvested plant

Bear Butte Farms failed to report the wet weight of each harvested plant, which must be obtained by the licensee immediately after harvest of the plant, into the track and trace system pursuant to CCR 8405, subdivision (c)(4)(A). During the inspection, evidence of recently harvested mature plants were observed throughout the canopy area and the immature plant area. No unharvested plants remained on the licensed premises. On September 9, 2020, Department staff checked the track and trace system and 3,649 plants had been tagged on site prior to harvest, but no wet weights had been entered for any of the harvested plants. Bear Butte Farms' failure to report the wet weight of each harvested plant in violation of CCR section 8405, subdivision (c)(4)(A) is a Moderate violation pursuant to CCR section 8601, subdivision (a)(2) and warrants an administrative penalty in the amount of \$501 per violation per count, with 3,649 counts. This violation is only correctable if wet weights were taken at the time of harvest with a sealed scale by a licensed weighmaster that could be entered in the track and trace system.

7. Failure to report the net weight of each harvest batch

Bear Butte Farms failed to report the net weight of each harvest batch in the track and trace system pursuant to CCR 8405, subdivision (c)(4)(B). During the inspection,

evidence of recently harvested mature plants were observed throughout the canopy area and the immature plant area. No unharvested plants remained on the licensed premises. On September 9, 2020, Department staff checked the track and trace system and 3,649 plants had been tagged on site prior to harvest, but no harvest batches had been entered into the track and trace system. As Bear Butte Farms reported only one strain of cannabis plant in the track and trace system, a minimum of one unique harvest batch would have been required. Bear Butte Farms' failure to report the net weight of each harvest batch in violation of CCR section 8405, subdivision (c)(4)(B) is a Moderate violation pursuant to CCR section 8601, subdivision (a)(2) and warrants an administrative penalty in the amount of \$1,000 per violation per count. This violation is correctable if a correct harvest batch net weight is entered into the track and trace system for the harvest.

8. Failure to report the weight of cannabis waste for each harvest batch

Bear Butte Farms failed to report the weight of cannabis waste associated with each harvest batch into the track and trace system pursuant to CCR 8405, subdivision (c)(4)(C). During the inspection, evidence of recently harvested mature plants were observed throughout the canopy area and the immature plant area. No unharvested plants remained on the licensed premises. On September 9, 2020, Department staff checked the track and trace system and 3,649 plants had been tagged on site prior to harvest, but no harvest batches had been entered into the track and trace system. As Bear Butte Farms reported only one strain of cannabis plant in the track and trace system, a minimum of one unique harvest batch would have been required. Bear Butte Farms' failure to report the weight of cannabis waste of each harvest batch in violation of CCR section 8405, subdivision (c)(4)(C) is a Moderate violation pursuant to CCR section 8601, subdivision (a)(2) and warrants an administrative penalty in the amount of \$1,000 per violation per count. This violation is correctable if a correct weight is entered in the track and trace system for the cannabis waste in the harvest batch.

9. Failure to report the unique name of the harvest batch

Bear Butte Farms failed to report the unique name of the harvest batch and the initiating date of harvest into the track and trace system pursuant to CCR 8405, subdivision (c)(4)(D). During the inspection, evidence of recently harvested mature plants were observed throughout the canopy area and the immature plant area. No unharvested plants remained on the licensed premises. On September 9, 2020, Department staff checked the track and trace system and 3,649 plants had been tagged on site prior to harvest, but no harvest batches had been entered into the track and trace system. As Bear Butte Farms reported only one strain of cannabis plant in the track and trace system, a minimum of one unique harvest batch would have been required. Bear Butte Farms' failure to report the unique name of each harvest batch in violation of CCR section 8405, subdivision (c)(4)(D) is a Moderate violation pursuant to CCR section 8601, subdivision (a)(2) and warrants an administrative penalty in the

amount of \$1,000 per violation per count. This violation is correctable if a correct unique harvest batch name and initiating date of the harvest are entered in the track and trace system.

10. Using a water source that was not identified or permitted in the application

Bear Butte Farms failed to identify and obtain a permit for a water source used for the irrigation of cannabis pursuant to BPC 26060.1, subdivision (a). During the inspection, three water diversions for the irrigation of cannabis that were not identified in the application for cannabis cultivation were observed. In addition, the water diversions did not have the necessary permits or approvals from CDFW and the State Water Resources Control Board. Failure to identify or obtain the relevant permit for a water source used in cannabis cultivation violates BPC section 26060.1, subdivision (a) and is a Serious violation pursuant to CCR section 8601, subdivision (a)(3) that warrants an administrative penalty in the amount of \$5,000 per violation per count, for each of the three diversions. This violation is not correctable as the water has already been illegally diverted and used to cultivate cannabis on the premises.

11. Cultivating in excess of the total allowable canopy size - \$5,000 per count

Bear Butte Farms had a total canopy size on the licensed premises that exceeded the total allowable canopy size for their license type pursuant to CCR section 8201. Under BPC section 26061, subdivision (a) a medium mixed light license allows for the cultivation of cannabis between 10,001 and 22,000 square feet. During the inspection, a total of 22,269 square feet of mixed light cultivation was observed and measured, of which 269 square feet exceeded the licensed amount. During the inspection, evidence of recently harvested mature plants were observed in the immature plant area. Pots with large cut off stocks indicative of mature plants were observed throughout the immature plant area. The size of the stocks and the pot sizes used in the immature plant area were congruent with those observed in the other mature canopy areas and appears to have been harvested at the same time. In addition, track and trace tags still attached to the stocks were also observed. Because the immature plant area on the Premises was being used for mature cannabis it qualifies as a canopy area under the regulations and is included in the square footage measurement. Bear Butte Farms' cultivation of mature cannabis canopy in excess of its medium Mixed Light License violates CCR section 8201 is a Serious violation pursuant to CCR section 8601, subdivision (a)(3) and warrants an administrative penalty in the amount of \$5,000. This violation is not correctable as the cannabis has already been harvested and may have left the premises.

12. Failure to prohibit cannabis plants maintained outside the designated canopy area from flowering

Bear Butte Farms failed to prohibit cannabis plants maintained outside the designated canopy area from flowering pursuant to CCR section 8300, subdivision (a). During the inspection, evidence of recently harvested mature plants were observed in the immature plant area. Pots with large cut off stocks indicative of mature plants were observed throughout the immature plant area. The size of the stocks and the pot sizes used in the immature plant area were congruent with those observed in the other mature canopy areas and appears to have been harvested at the same time. In addition, track and trace tags still attached to the stocks were also observed. Bear Butte Farms' failure to prohibit cannabis plants maintained outside the designated canopy area from flowering in violation of CCR section 8300, subdivision (a) is a Serious violation pursuant to CCR section 8601, subdivision (a)(3) and warrants an administrative penalty in the amount of \$5,000. This violation is not correctable as the cannabis has already been harvested.

TO APPEAL NOTICE OF VIOLATION FINES

The Licensee has the right to request an informal hearing to contest the findings of violations and assessment of fines set forth in this Notice of Violation, but no right to appeal the revocation set forth herein. The hearing will be held pursuant CCR sections 8605-8607 and the Administrative Procedure Act (Gov. Code, § 11340 et seq.), Chapter 4.5 (commencing with section 11400).

Unless a written request for a hearing, signed by or on behalf of the Licensee, is delivered or mailed to the Department within 30 days after the Notice of Violation was personally served on or mailed to the Licensee, the Licensee's right to a hearing will be waived, any penalty amounts proposed are due and payable, and the Department may proceed upon the violations noticed without a hearing.

The request for a hearing may be made by delivering or mailing a written request to:

California Department of Food and Agriculture
Legal Office of Hearings and Appeals
1220 N Street, Suite 315
Sacramento, California 95814

OR

VIA EMAIL: cdfa.legaloffice@cdfa.ca.gov

The written request must include: (1) the Licensee's name, mailing address and daytime phone number; (2) the license number issued by the Department; (3) a copy of the Notice of Violation; and (4) a clear and concise statement for the basis of the appeal or counts within the Notice of Violation being appealed. If you would like the hearing to be conducted by phone, that request must be made at the time you submit the written request for hearing.

TO MAKE PAYMENT

Based on the violations above, the proposed penalty is \$1,863,149. Unless the Notice of Violation is being appealed, the penalty must be paid within 30 days after the Notice of Violation was personally served on mailed to the Licensee. To ensure proper credit, indicate on the payment the case number provided at the top of this Notice of Violation. Payment shall be made payable to the California Department of Food and Agriculture by cashier’s check and submitted to:

CDFA- CalCannabis
Attn: Cashier
P.O. Box 942872
Sacramento, CA 94271-2872

To pay the penalty by cash, please call (833) 421-2274 or email CannabisAppts-Eureka@cdfa.ca.gov to schedule an appointment to pay in person prior to the expiration of 30 days after the Notice of Violation was personally served on or mailed to the Licensee.

Failure to pay the penalty, unless the Notice of Violation is being appealed, is grounds to disqualify an application for licensure.

CONTACT INFORMATION

If you have any questions regarding this Notice of Violation, please contact Lindsay Rains at (916) 616-6458 or at Lindsay.Rains@cdfa.ca.gov.

Dated: October 6, 2020
Sacramento, California

RICHARD PARROTT
Director, CalCannabis Cultivation Licensing Division
California Department of Food and Agriculture

Issued by: _____
Lindsay Rains
Environmental Program Manager
CalCannabis Cultivation Licensing Division
California Department of Food and Agriculture