



512 I St. Eureka, CA, 95501

(707)798-6199

teisha@agdynamix.com

Humboldt County Planning Commission

825 5th St.

Eureka, CA, 95501

6/3/2019

Regarding 6/6/19 Planning Commission Hearing for Hawk Valley Farms, App #11141, Documenting Project Timeline

Applicant project is located on 1492 River Bar Rd. in Fortuna, CA, on APN 204-091-012, in the Van Duzen valley on a historic Perennial Flower Farm. The applicant applied for one acre pursuant to formulated prior historical cultivation within the perennial flower farm landscape. This sited parcel is situated where wind poses an extreme threat to crop productivity and in the years the applicant and prior tenants performed outdoor cultivation, dispersed within the prior flower farm, the establish perennial landscape created a wind block for growing outdoor plants.

Mr. Nunes has had various professionals working on his case as he has been subject to many setbacks through this process in getting his business fully operational. Delays in County interim permitting, additional dues to third party consultants, that failed to perform, and continuous requests for additional information from both County staff and Third-Party vendors has significantly set back Mr. Nunes in his business's success.

Throughout this County application process, there have been many hurdles set in place by the County and various outlying agencies and many points of clarification required to process applications to completion. My client, Mr. Nunes of Hawk Valley Farms has been extremely interactive and compliant with our requests for the entire duration of our involvement with his application. Despite our requests, the only item that Mr. Nunes did not entirely comply with was our request to keep us involved in all

correspondence. In Mr. Nunes defense, the pressure imposed on him led him to feel he needed more agents involved to help him contest the dilemma's thrown at him through this process.

When the applicant decided he would purchase the property in 2016, he chose to fallow the flower field as the flowers were not in a productive state in 2016. This ultimately made way for a more productive model of cannabis production that was consolidated within controlled Hoop Houses structures. Arguably, based on the applicant's testimony and my initial inspection of the property prior to the permitting process, through my involvement with a former dahlia farm tenant, it was apparent that there was cannabis throughout the property and exceeded 1 acre cumulatively. According to the applicant's account of what activities were present in 2015 there would have been equal to 48,000+ sq. ft. of active flowering area across the expanse of the property.

Please note that this applicant is being held subject to CEQA in terms of establishing a baseline for one (1) acre under prior impacts to the property prior to 2016. It has become a consistent issue with CDFW and the County in establishing baseline based on canopy area of prior grows. It is our understanding that CDFW is extending their jurisdiction on this matter. It is highly inappropriate to measure pre-existing impacted area based on aerial imagery which is inconsistent and unreliable data. The baseline of a prior cultivation project should be consistent with the extent of the **total** impacted area and incidental prior impacts and resource uses. Please be aware that in consideration of this, more than 85% of the property has been cultivated for perennial flowers for more than 15 years under the prior owner. That said, the total prior impacted area pursuant to CEQA was in fact 6 times more prior impacted area than that of the cannabis cultivation prior to 2016, and even today this project proposal is approximately 1/7th the amount of total prior cultivation activities and will **not** pose a significant impact pursuant to CEQA.

Through this case, we would like to see this baseline issue completely resolved with CDFW pursuant to a clarification point that pre-existing cultivation based on aerial imagery should not be the basis of determination for cultivation area, rather, the extent of impacted area, and historical resource uses. Please also note that it took more than one (1) year for the County and DFW to pose this issue regarding baseline cultivation for this project.

We put together a timeline of many of the interactions with the County throughout the application process on AgDynamix behalf not including the other interactions had by Paralegal's, Attorney's and an additional outside consultant. Ultimately, the many interactions with the County resulted in 100's of hours of cumulative Agent, staff and applicant time, excessive fees paid to the County and Third-Party consultants, as well as additional licensed specialists to facilitate the production of additional plans to support the County application. Ultimately, it took over 20 months for the County to issue the reduced interim permit of 28,000 sq. ft. to the applicant to support reduced cultivation area for the subject parcel. It has taken over 33 months to get this project to the Planning Commission for review, regardless of the many correspondences from County staff assuring that the project would progress to hearing. The agent has dedicated more than 20 meetings pertaining to this project in almost three years, and dozens of phone calls and email queries in attempt to move this project to completion.

***Please Note: The staff report makes many references to "Repeated Violations" which is not entirely accurate and refers to the onsite Nursery area is being subject to Mixed Light, and subject to pre-existing restrictions, and also subsequently a \$2/sq. ft. cultivation area excise Tax. In all the projects we've worked on, Nursery area has never been included in baseline, nor taxable area. Please correct County staff on this issue.**

Timeline of Events:

9/12/2016 Original Complete Application Submission Date, submitted \$2,581.45 with application package.

12/2/2016 Steve Lazar responded to a project query tracking down the Status of Application for Referral, assigned planner was Joshua Allen and subsequently assigned to Rodney Yandell and Michelle Nielsen.

5/8/2017 Project was finally transmitted for referral 5 months after prior correspondence with the County.

7/19/2017 Revised Application Materials Submitted to Elizabeth Moreno, assigned planner at the time.

7/25/2017 Applicant paid an additional \$6,025.77 to the county to pay for **unknown** additional administrative review fees.

7/31/2017 Proof of legal parcel status emailed to Michelle Nielsen.

8/9/2017 Additional project information submitted to the County for the application.

9/20/2017 Agent and applicant attended a County Application Review Meeting.

11/2/2017 Initial Contact with Helix Consulting regarding project requesting additional information for Road Evaluation.

11/17/2017 Additional contact with Helix regarding potential wetland concern setback issue.

12/6/2017 James Reagan, the Botanist and Wetland Delineation Specialist wrote to the County and Helix regarding the wetland survey he conducted.

12/13/2017 Helix advised us that the draft staff report would be finalized by the end of the week.

12/18/17 Agent requested additional information from CPOD Caitlin Castellano regarding status of project, Ms. Castellano responded on December 19th, 2017 with an update on Hawk Valley for the first time informed us that there was an issue regarding the baseline of cultivation area.

12/21/2017 Helix advised agent again that the staff report would be finalized upon receipt of updated NOI and MRP from the Water Board enrollment in which those items were provided on the same day.

12/22/2017 Helix advised us the review was complete and the draft staff report was sent to the County.

12/22/2017 Ms. Castellano corresponded again with the agent informed that Mr. Yandell was handling baseline issue. Applicant was awaiting issuance of Interim Permit in the December round of IP issuance.

12-2017-5/2018 We continued to work with the County to resolve the baseline and Interim Permit issue. Providing a multitude of evidence to support prior impacted area.

2/9/2018 County agreed to increase Mr. Nunes baseline to 28,000 sq. ft. for the interim in which Mr. Nunes contested.

2/26/2018 Agent conducted a survey of all project status and no visible progress was noted on project since October 2017 when additional information was submitted for the project under the referral process.

3/23/2018 Megan Ryan emailed agent updating her on review on requested projects that would include Hawk Valley Farms.

4/9/2018 Corresponded with Meghan Ryan further regarding a list of projects that included Hawk Valley as a request item.

4/27/18 Received update from Meghan Ryan that the project was still in review mode. Notified agent that Staff Report was being revised to be finalized.

5/3/2018 Steven Santos contacted agent regarding project status updates including Hawk Valley Farms.

5/7/2018 Followed up with Mr. Santos regarding updates, sent additional supplemental documentation support Mr. Nunes testimony evidence of one (1) acre.

5/8/2018 Mr. Santos returned responses to Mr. Nunes contest and supplemental testimony evidence of one (1) acre.

5/25/2018 Interim Permit finally issued with significantly reduced cultivation area of 28,000 sq. ft. that had been agreed on between Planning and Mr. Nunes.

6/6/2018- County advised project agent of additional fees imposed to project totaling an additional \$1,950.00.

6/8/2018 Agent received correspondence from Mr. Hilton stating he needed additional items to process staff report to completion. The airspace variance request was argued and ultimately removed from project requirements.

7/19/2018 Applicant Submitted Temporarily Adopted Interim Permit Amount of 28,000 sq. ft. of flowering area with contest of reduced area from one (1) acre. Applicant maintained reduced cultivation area under the Interim Permit CAV issued, but kept existing Hoop House infrastructure in place, in anticipation he would ultimately be able to occupy structures later for other agricultural uses and cannabis use. He used existing infrastructure implemented to design Hoop House buffering as a wind block exterior structure in 2018 which ultimately resulted in an alleged violation of expanded footprint in 2019.

6/8/2018 Mr. Hilton requested additional items for processing the staff report including and Airspace Variance and Traffic Management Plan.

7/20/18 Agent responded to request questioning request for Airspace Variance and Traffic Management Plans.

7/21/2018 Mr. Hilton responded to Agent's request.

11/28/2018 and 11/29/2018 Temporary License Applications submitted to the County.

12/28/2018 and 12/29/2018 Temporary Licenses Issued from CDFA for Medium and Small Mixed Light Tier 1 Licenses.

12/31/2018 both Final Applications Submitted for Provisional License eligibility.

3/7/19 County inspected property as a result of neighboring complaint, County observed evident violation of International Dark Sky Standards in which the applicant agreed to correct and was already in process of doing so, by implementing an automatic light shielding system and had contracted an electrician to install an automated tarping system. The electrician was awaiting dry weather to get out to the facilities to implement the electrical support for this system. The applicant agreed to implement temporary light shielding measures once he was informed by the electrician that the job would need to be pushed out due to inclement weather. Mr. Nunes then subsequently order temporary tarps to correct the light shielding issue.

Additionally, on this inspection day, the County cited Mr. Nunes for alleged expansion as a result the initial temporary Hoop Houses structures developed that were ultimately left on site for future use. The applicant utilized an interior Hoop House development design within existing infrastructure to impose a wind break Hoop House design that was implemented to:

- A) protect cultivation and structures from wind damage and,**
- B) Insulate Hoop House structures to bolster yield productivity.**

The applicant did not have any active flowering cultivation at the time of inspection and has not actually had more than seven (7) cumulative flowering Hoop Houses actively planted at any one point in time beyond their initial construction, nor since initial application, totaling less than 23,000 sq. ft. of cultivation, due to crop cycling and limited capital resources. Only the design of the farm was implemented to support one (1) acre based on the applicant's understanding with the County that they would accept the proposal to apply for one (1) acre contingent on his initial application, prior uses, and delayed communication from the County and CDFW regarding their questioning of expanded cultivation area and the limited aerial support. Mr. Nunes feels that the evidence, testimony, and support for one (1) acre is strong and establishes that the additional impacts to this parcel are in fact reduced in comparison to the prior use of the property as primarily a flower farm subject to continuous impact tilling.

Subsequently, the County attempted to cite Mr. Nunes for "excessive" designated nursery area to support the cultivation arguing that 41% of the cultivation area in designated nursery area is an inappropriately in unproportionate amount of supporting nursery space. In Mr. Nunes and all applicant under this process' defense the County cannot possibly limit nursery area subject to an arbitrary formula, with a loosely held understanding of this agricultural activity. Each cultivation production utilizes unique methods to ensure productivity, and in Mr. Nunes' case he needs every square foot of current designated nursery area to support his cultivation activities due to the various stages of nursery zones to support a healthy and efficient transplanting plan. There are typically four stages within a productive nursery zone that consist of:

- 1) Mothering Room (Parent Nursery Stock)**
- 2) Propagation Room (Cutting Zone)**

3) Initial Transplant Zone (1 Gallon Pot)

4) Secondary Transplant (5 Gallon Pot)

That said, Mr. Nunes occupies all Nursery zones to support the current 28,000 sq. ft. of cultivation zones, and proposes that with the increase to one (1) acre of cultivation he would need to modify his nursery zones to support additional cultivation activity.

3/9/19- Applicant removed skins from (3) three hoop houses structures and attempted to send to the department from an analog cell phone to the County Cannabis Service Division planning email address.

3/27/19 Mr. Hilton contacted Mr. Nunes to inform him that he had not received imagery. Mr. Nunes then re-took photos on March 28th again to document compliance with additional square footage issue. Light leak issue was still being addressed and temporary tarps were to be available to project site shortly.

3/28/2019 Mr. Nunes resent evidence of removal of three (3) exterior skins from Hoop Houses. He was sending photos from a cellular phone with the email of 7075990524@vzwpix.com to the Cannabis Service Division email.

4/9/2019 Humboldt County Planning Department correspondence send to Applicant and Attorney, not Agent revoking Interim Permit.

4/9/2018 Agent emailed Mr. Hilton regarding the permit revocation and their failure to process photo documentation sent to the County Planning Department by the Applicant on March, 28th, 2019 showing removal of skins from three (3) Hoop Houses, and requested that the photo evidence that was sent to be sourced within the County Planning's inbox on behalf of Mr. Nunes. No response was given from assigned planner Mr. Hilton regarding this issue.

5/16/2019 Final application submission package submitted by Agent to the County requesting that this project be put on agenda and moved into the Planning Commissions' authority.

6/3/2019 Both Mixed Light Tier 1 Licenses are currently active with the State.

It is important to note that in the County's staff report prepared for this meeting by Mr. Hilton that his attempts to soil Mr. Nunes' good faith attempts in working with the County need are unwarranted and to be noted as false accusations based on a serious ongoing communication breakdown within the Humboldt County Planning Department, and that Mr. Nunes has made progressive attempts to work with County staff to maintain compliance with his business and permit and has consistently experienced major setbacks to running a successful business as you are able to see documented in the timeline I have provided. This timeline does not account for other agent and legal counsel interactions with County staff.

With the hardship that has been imposed on Mr. Nunes, he has had to seek outside investment capital of nearly \$100,000 to support this permit application development over the years and

subsequently has made no profit due to delays in interim permit issuance and delay in the pursuance of his State Licenses due to lack of funding for the project. Please note also that his ultimate decision to purchase the property was contingent on the County's acceptance of his application in this process as well. To date, Mr. Nunes has sourced investment of large sources of capital in attempts to launch this business only to find himself steam rolled in bureaucracy, even though, this project is sited on an ideal parcel within a predominant agricultural production area in the outlying Fortuna area.

We feel that both CDFW and the County have imposed extreme discriminatory behaviors towards Mr. Nunes and his many representatives that have attempted to assist him in navigating this frustrating process. We do not feel that the County, nor its referral agencies have handled these permit applications in a process that conforms to the local or Federal Government Code. Many deadlines have been missed on these agencies behalf and countless unthorough reviews, ultimately resulting in additional documentation being requested.

In my review of the staff report, there are mis references to "repeated violations" as if my client was intentionally making decisions to jeopardize his permit. This could not be further from the truth, and in my involvement with this property since 2014 with another prior farm tenant, and in my personal involvement with Mr. Nunes since the Fall of 2015, I have documented nothing but cooperative behavior on behalf of Mr. Nunes and all attempts to not only comply but be truthful and maintain integrity during this frustrating process with endless requests, curveballs, and setbacks.

We ask that your Commission extensively review our account of our interactions with the County Department since 2015 and offer a favorable baseline of one (1) acre of cultivation with an additional 25% of supported nursery area and all incidental proposals, and ultimately approve this project this evening.

Please also note, that considering the hardship and setbacks that my client has experienced, he will be pursuing, within his eligibility, an increase in cultivation area under the 1.0 application process to occupy 20% of his total parcel equaling 1.75 acres of total cultivation pursuant to the prime soils report we will be providing subsequent tonight's approval. We would like your commission to accept this as an option for this project and advise County Planning Staff of this option for Mr. Nunes as well. Thank you again. We appreciate your support.

All my Regards and Appreciation,

Teisha Mechetti of AgDynamix

Agent for Hawk Valley Farm

Teisha M. Mechetti

June 6, 2019

Honorable Commissioners,

RE: Application #11141, Hawk Valley Farms CUP for 1-acre of Outdoor Cannabis Cultivation

This project is located in Alton where agricultural activity is encouraged. This property is zoned AE with prime soils and adequate water for agricultural activities. The subject parcel has a 15 year history of ongoing agricultural activity. This is exactly the type of parcel where Commercial Cannabis is most appropriately located in Humboldt County and this project should be approved.

Our company met with the Planning Department on two occasions to clarify application of the ordinance to this project.

At the Planning meeting with Keenan Hilton on August 17, 2018 we discussed the 6/8/18 letter, which memorialized Mr. Nunes 5/24/18 meeting where it was agreed that:

- The project would be Noticed for 1-acre of Outdoor Cannabis Cultivation.
- Staff recommends 28,000 sq ft Outdoor Cannabis Cultivation. (Based on CDFW arbitrary means of analysis used in defining pre-existing activity.)

The letter went on to identify additional areas requiring clarification such as:

- Justification for Nursery space above 25% of total cultivation area. (We calculated that 41% was necessary for the project needs.)
- Airspace Certification (Determined to not be necessary based on height of the bluff where airport is located.)
- Traffic Management Plan (Use minimized by careful management in the Operations Plan.)

At the Planning meeting with Director Ford and Mr. Hilton on March 14, 2019 we discussed the project and focused on the Department definitions of "Greenhouse" versus "Protective hoops" and the application of square footage therein. Additionally we discussed the scope of nursery activity and the appropriate space necessary. Our discussion had the following outcomes:

Noetic Consulting LLC

June 6, 2019

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- Two hoops were to have skins removed. (Mr. Nunes removed 3 covers to further ensure compliance with sq footage.)
- Interim Permit to remain in effect while project is prepared for hearing.
- Nursery footprint to be reduced to 25% of total cultivation area.
- Determination that project is not eligible for RRR.

Subsequent discussions concerned the Dark Sky Standards for light shielding. Mr. Nunes had contracted with an electrician to install automatic tarp covers. This system had to be ordered and installed in dry weather. The timing of the installation took more time than allotted and Mr. Nunes looked to an alternate solution by purchasing blackout plastic. The applicant has implemented the temporary solution as the permanent system is being developed.

This site is not eligible for expansion under 2.0 or receivership of RRR under 1.0. This hearing will determine the potential scope of activity for this project. Mr. Nunes has worked hard to comply with the agencies and departments various and ever evolving requests for additional information and changes. On balance Mr. Nunes has substantially complied and taken appropriate action at each stage once rule clarification has been mutually agreed to. The approval of appropriately situated parcels for agricultural activities such as Hawk Valley Farms can demonstrate our commitment to sustainable land uses in Humboldt County. Approval of this project is warranted here.

Very Truly Yours,

Nathan Whittington

CEO, Noetic Consulting LLC

June 5, 2019

Honorable Planning Commission
Humboldt County Planning and Building Department
Cannabis Services Division
3015 H Street
Eureka, CA.

RE: Hawk Valley LLC, Cory Nunes, Permit App #11141 APN 204-091-012
Hearing on June 6, 2019

Dear Planning Commission Members:

I have personally walked the subject property, currently cultivated by Cory Nunes, prior to him taking over operations of the farm. Cory has substantially improved the property, and hauled off many loads of trash and garbage, to make this farm a going operation.

Prior to Cory taking over, the property was in a very run down condition. It was apparent to me that the majority of the parcel was, at one time, in flower field production. I have appraised a number of properties in this area both before and after Cory's operation.

Additionally, hoop houses were on this site in the early months of 2017 and Cory had cleaned up a substantial amount of garbage to make an organized and clean farm operation. From my dealings with him, Cory does not seem like a man trying to avoid regulations. In fact, the property is highly visible and from my perspective, Cory has been doing everything to make this a successful operation.

I hope this information is helpful.

Sincerely,



Gerald (Jerry) Rocha
Chief Appraiser/Owner
CAL-OR Appraisals
Ferndale Planning Commissioner
Ferndale, CA.

Reddaway

P.O. BOX 1300 TUALATIN, OREGON 97062
 PHONE (888) 420-8960
Portland
888-420-8960

Reddaway

501-7951086 0

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DATE: _____

PAGE _____ of _____

1

STRAIGHT BILL OF LADING
 SHORT FORM

ORIGINAL-NOT NEG

PURCHASE ORDER NO.		PHONE NO. 707 599 0524
CONSIGNEE NAME Cory Nunes		
ADDRESS 1492 Riverbar Rd		
DESTINATION CITY Fortuna	STATE CA	ZIP 95540

SHIPPER NO. 0077140		PHONE NO. 50367827
SHIPPER NAME OREGON VALLEY GREENHOUSES INC		
ADDRESS 20357 HIGHWAY 99 E		
CITY AURORA	STATE OR	ZIP 97006

THIRD PARTY BILLING		
BILL TO:		
ADDRESS		
CITY	STATE	ZIP

CHARGES ARE PREPAID		<input type="checkbox"/> COLLECT (NOTE)
UNLESS MARKED COLLECT		
ROUTE	TRAILER #	
SPECIAL INSTRUCTIONS		

HAZARDOUS MATERIALS SECTION	MSDS PROVIDED <input type="checkbox"/> YES <input type="checkbox"/> NO	HM EMERGENCY CONTACT
	MARK "X" IN "HM" COLUMN FOR HAZARDOUS MATERIALS	PHONE: _____ NAME: _____ CONTRACT #: _____
ALL HM SHIPMENTS REQUIRE EMERGENCY RESPONSE 24-HOUR CONTACT TELEPHONE NUMBER		

HANDLING UNIT NO. TYPE	PACKAGE NO. TYPE	HM	DESCRIPTION OF ARTICLES, SPECIAL MARKS AND EXCEPTIONS (DESCRIPTION HEREON SUBJECT TO REDDaway 100 RULES TARIFF ITEM 420 LIABILITY)	TOTAL QUANTITY (Weight, Volume, Gallons, etc.)	WEIGHT (LBS) (Subject to correction)	CLASS	NM
			Steel Pipe			05	52
			Pipe Fittings			60	95
	1 Pallet		Film or Sheeting		581 LBS	55	15
			Fan			110	61
			Heater/Furnace				26
			48" 100" L 25"				

COD \$ _____ X	C.O.D. FEE TO BE PAID BY <input type="checkbox"/> SHIPPER <input type="checkbox"/> CONSIGNEE <input type="checkbox"/> 3RD PARTY	<input type="checkbox"/> COMPANY CHECK OK <input type="checkbox"/> CASH OR CERTIFIED FUNDS	REMIT C.O.D. TO NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____
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NOTE (1) Liability Limitation for loss or damage on this shipment may be applicable. See 49 U.S.C. §14708(a)(1)(A) and (B).
 NOTE (2) Commodities requiring special or additional care or attention in handling or stowing must be so marked and packaged as to ensure safe transportation with ordinary care. See Sec. 2(a) of NMFC Item 360.
 NOTE (3) Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of property as follows:
 The agreed or declared value of the property is specifically stated by the shipper to be not exceeding

Note (4) If this shipment is to be delivered to the consignee, without recourse on the consignor shall sign the following statement:

The carrier may decline to make delivery of this shipment without payment of freight and all other charges.

S _____ per _____

(Signature of Consignor)

Received, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper. If applicable, otherwise to the rates, classifications and rules that have been by the carrier and are available to the shipper on request. The property described above, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, or destined as shown below, which said carrier agrees to carry to destination, if on its route, or otherwise to deliver to another carrier on the route to destination. Every service to be performed hereunder subject to the terms and conditions of the Uniform Bill of Lading set forth in the National Motor Freight Classification in effect on date of shipment, as well as the conditions on the face hereof, which are agreed to by the shipper and accepted for himself and his assigns.

HANDLING UNITS: 1



(503) 678-2700

OREGON VALLEY GREENHOUSES, INC.

IVAN F. SCHUENING & SONS
Greenhouse Manufacturing
P.O. Box 220 / 20357 Hwy. 99E
Aurora, Oregon 97002
FAX (503) 678-2789 / www.ovg.com

INVOICE #

NO 66283

DATE: 4/10/19

SOLD TO: Cory Nunes
P O Box 1343
Ferndale CA 95536

SHIP TO:
1492 River Bar Rd
Fortuna CA 95540

PHONE: 707-599 0524

PHONE: corynunes2@pt.net

CUST. P.O. NO.	SHIP VIA	F.O.B.	TERMS	PAYMENT TO BE
	Reelaway		Net	<input type="checkbox"/> CASH <input type="checkbox"/> CHARGE <input type="checkbox"/> C.O.D.

ORDERED	SHIPPED	BACKORDERED	DESCRIPTION	UNIT PRICE	TOTAL
2	2		50X100 B/W 5mil 1yr	292.50	585
3	3		40X100 B/W 5mil 1yr	234.00	702
1	1		shipping to 95540		270
				total	1557

OREGON VALLEY GREENHOUSE
20357 HWY 99E
AURORA, OR 97002
(503) 678-2700

SALE

MID: 000075307504

TID: 001

Batch #: 100001

04/10/19

AVS: Z

ORDER#: 00001403

APPR CODE: 017975

REF#: 00001404

RRN: 610100003

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CVC: M