

**Ramirez, Angelica**

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**From:** Steinfeld, Amy <ASteinfeld@bhfs.com>  
**Sent:** Tuesday, March 10, 2020 9:24 AM  
**To:** 'sbcob@co.santa-barbara.ca.us'; 'dwilliams@countyofsb.org'; 'ghart@countyofsb.org';  
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**Cc:** Fisher, Cathy  
**Subject:** Busy Bee Response to AAC Letter re requested continuance of cannabis hearings  
**Attachments:** Busy Bee Response to AAC Letter.pdf

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Dear Honorable Supervisors:

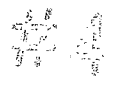
Please see attached letter on behalf of Busy Bee Organics regarding the Agricultural Advisory Committee’s request to continue this hearing.

Best regards, Amy Steinfeld

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March 9, 2020

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**VIA EMAIL TO [SBCOB@CO.SANTA-BARBARA.CA.US](mailto:SBCOB@CO.SANTA-BARBARA.CA.US)**

Santa Barbara County Board of Supervisors  
Attn: Clerk of the Board  
105 E. Anapamu Street  
Santa Barbara, CA 93101-2058

**SUBJECT: RESPONSE TO MARCH 6, 2020 AGRICULTURAL ADVISORY COMMITTEE  
LETTER RE BUSY BEE'S ORGANICS' CANNABIS LUP (18LUP-00000-00496)  
APPEAL**

Dear Chair Hart and Honorable Board Members:

We submit this letter on behalf of Busy Bee Organics (Busy Bee) in response to the County of Santa Barbara's (County) Agricultural Advisory Committee's (AAC) March 6, 2020 letter requesting a continuance of the appeal hearings for three cannabis projects until the County resolves potential amendments to the Cannabis Zoning Ordinance (Ordinance). This is a desperate attempt to delay the Board's consideration of three projects, just days before the scheduled hearings on March 10 and 17, and constitutes an end run around the appeal process.

First, we strongly oppose any continuance of the Busy Bee appeal because appellant is entitled to a timely hearing. Second, additional project conditions are unnecessary given that Busy Bee is a model project that has operated for over five years with no odor complaints, built strong community support and is working collaboratively with neighboring farmers to establish protocols that have successfully avoided pesticides from drifting onto Busy Bee's cannabis crop. Busy Bee has expended a significant amount of time and resources ensuring that its Project is well-designed, safe, and secure for its employees, neighbors, the community and the surrounding environment.

Third, four of the AAC members who voted in favor of this request should have recused themselves for failure to maintain fairness and objectivity in direct violation of the AAC's Rules of Procedure.<sup>1</sup> Lastly, AAC's letter overstates that "predictable conflicts have arisen in many situations in the County." When recently questioned by the Commissioners, a member of the AAC was unable to point to any specific conflicts between farmers. For these reasons, we request that the AAC's request be denied and that Busy Bee's project be heard on March 17 as scheduled.

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<sup>1</sup> Adopted by the Board of Supervisors on 3/18/2008 (See page 4, item IX, "Conflict of Interest" provision).

**I. A CONTINUANCE IS UNWARRANTED AND WOULD PREJUDICE THE APPLICANT**

Busy Bee's Land Use Permit was approved over 10 months ago (May 7, 2019) and appealed by Sharyne Merritt on May 16, 2019. Busy Bee accepted two continuances on this project, resulting in a 5+ month delay from the initial Planning Commission (PC) hearing date (July 31, 2019).

The County continued the PC hearing a third time, so that the Project could be heard following staff's presentation to the PC on the Cannabis Ordinance Programmatic EIR, which was scheduled for October 2, 2019. On October 30, 2019, the Commission held its first of two hearings on the appeal. After over seven hours of staff and consultant presentations, argument, and public comment, Chair Parke stated that he believed that the Project could be approved with certain conditions.

On November 7, 2019, the Commission held a second hearing on the appeal. After nearly three hours of additional staff presentations, argument, public comment, and deliberations, the Commission voted 5-0 to uphold P&D's approval of Busy Bee's LUP subject to thirty-five conditions of approval.

The AAC is now asking the Board to further delay three hearings to an indefinite date in the future because the Commission is continuing to hold hearings on potential amendments to the Ordinance. This is a clear attempt to delay all cannabis projects because it is unclear whether County staff's activities will be funded, and when, if ever, any recommended changes to the Ordinance will be presented to and approved by the Board. We cannot let the AAC holdup applicants that have diligently worked to satisfy the County's and State's robust cannabis requirements. If the AAC members have comments on a particular project, they can attend and offer comments to the Board.

**A. Busy Bee Would be Adversely Impacted if Hearing is Continued to an Unknown Date**

The applicant has received over 36 signed letters of support from neighbors and members of the Buellton community, including from the City of Buellton. Busy Bee has requested these supporters (many of them are hands-on farmers with family obligations and demands) to set aside time to attend the hearings and support the project in person. Rescheduling the hearing this close to the hearing poses a significant challenge of physically getting supporters to attend the hearing. Rescheduling the hearing would also pose a significant challenge for the Applicant because she has already scheduled multiple consultants including a biologist, odor and air quality specialists, land use planners and legal counsel to attend the scheduled hearing date.

Continuing these hearings until the PC "resolve amendments to the Cannabis Zoning Ordinance" would violate Busy Bee's constitutional due process rights to have this appeal resolved in a timely manner. If the AAC's request was granted based on its logic that laws could change in the future, the County could never act on any project over concerns that zoning laws could change in the future. This is a thinly veiled attempt to stop all cannabis projects and is based on speculation on what could happen over the next year. What is clear is that Busy Bee has spent years and millions of dollars complying with the County's and State's stringent cannabis regulations. A further delay is unwarranted.

**II. NO ADDITIONAL PROJECT CONDITIONS ARE NEEDED**

Busy Bee is a model cannabis farmer as expressed numerous times by the PC and confirmed by the Agriculture Commissioner's own findings re pesticide application best practice and its good-neighbor policies. There is no basis to apply the AAC's requested conditions to Busy Bee's permit. On November 7, 2019, the PC approved Busy Bee's project with thirty-five conditions. Busy Bee has accepted the large majority of the conditions imposed on the project, with the exception of a handful of specific conditions, which are infeasible or inconsistent and will be discussed with the Board on March 17.

**A. Pesticide Overspray is Illegal and Not an Issue**

California law is clear that pesticide and herbicide application cannot be continued when there is a reasonable possibility of damage to non-target crops or a reasonable possibility of damage to or contamination of non-target private property. The State law regime that has been in place for over 40 years is robust. This also isn't solely a cannabis issue. Notwithstanding existing law, the AAC appear convinced that pesticide overspray is inevitable and cannot be contained or prevented even when pesticides are lawfully applied. This is not the reality.

Busy Bee has worked closely with its neighbors to implement mitigation measures that have eliminated any pesticide issues with its neighbors. Its current site plan and farming practices and operations eliminate the need for additional conditions. In over five years of cultivating cannabis, Busy Bee's crops have never been contaminated with pesticides from neighboring farms.

Over the past five years there was only one exchange with a neighboring tenant farmer, but this was resolved in a manner that could serve as a model to prevent future ag-to-ag conflicts. On June 13, 2019, Busy Bee sent Mr. Ray Amboy, the owner of the abutting property a letter agreeing not to hold the neighbor, tenant, or pesticide applicator liable for any overspray, provided that the spray was applied consistently with State and County laws and regulations. The collaboration has been a complete success — no illegal spraying and no resulting conflict. This type of neighbor-to-neighbor agreement gives assurances to neighboring conventional farmers and allows all crops to co-exist peacefully. It also encourages responsible pesticide application.

**B. No Additional Odor Conditions are Needed**

Busy Bee retained three independent odor experts to study odor and air quality as it might apply to the Project. No odors were detected at any of the test locations throughout the Buellton community. The Odor Study concluded that odor from the Project should not adversely affect the surrounding community. In keeping with its good-neighbor policies, Busy Bee also submitted an Odor Abatement Plan (OAP) that goes above and beyond the requirements of the County Ordinance and the Santa Ynez Valley Community Plan. P&D compliance staff will inspect the Project site to confirm that all components of the OAP are installed, operated, and maintained as detailed in the approved OAP. Upon implementation of the OAP and twice per year thereafter for one year, Permit Compliance staff will conduct an inspection of the OAP to assess its compliance with the SYVCP. As part of each inspection, the County will retain a certified industrial hygienist, at Busy Bee's expense, to certify that the OAP meets the requirements of this condition and the SYVCP.

Further, there has been no incidence of "terpene taint" in this County, no evidence of potential "terpene taint," and a recent scientific study demonstrated that the level at which terpenes must be present in wine grapes for sensory detection is far greater than the levels at which airborne terpenes from cannabis cultivation activities could become deposited on wine grapes. Further, wine that has been grown near cannabis has been tested and no cannabis terpenes were detected.

**C. A Term Limit on the LUP is Unnecessary**

**1. Cannabis Business License Review Occurs Annually**

On May 1, 2018, the Board adopted the Cannabis Business License Ordinance, which added a local commercial cannabis business license to the County Code. The stated intent of the Cannabis Business License regulations is to: (1) Encourage a well-regulated cannabis industry; (2) Eliminate illegal cannabis operations and access to illegal and untested cannabis, and, (3) Protect the health, life, safety and general welfare of residents.

In addition to obtaining a Land Use Permit, "permittees of commercial cannabis activities must also obtain and maintain in good status a valid County business license, as required by the County Code, and a valid State cannabis license, as required by the California Business and Professions Code." The County Executive Office oversees business licensing and has broad authority to revoke or deny permits.

Each cannabis business license expires one year after its issuance date. A business license may be renewed only if "[t]he licensee has allowed any County staff necessary to determine compliance with [the Cannabis Business License Chapter] to conduct site inspections of the cannabis operation to verify licensee's compliance." Any application for Business License renewal must provide authorization "for an onsite inspection of the premises during standard business hours." All applicants and licensees are responsible for the costs of any inspections and investigations.

Pursuant to the Business License Application requirements, on September 26, 2019, Busy Bee submitted a business license application to the County CEO's office for review and approval. Busy Bee's Business License was deemed complete and it was added to the County's eligibility list. In order to obtain a Business License, the County Sheriff, Agricultural Commissioner, Fire Department, Planning Department, and Environmental Health and Safety Department each must conduct a site visit of Busy Bee's farm to confirm that the Project complies with the LUP and the Business License requirements.

In sum, the conditions imposed on the LUP, coupled with the Business License process, are more than adequate to demonstrate that this Project meets (and exceeds) all County Ordinance requirements and is operating in compliance with the conditions of the LUP now and on an annual basis.

### **III. THE AAC'S LETTER IS BIASED BECAUSE PARTICIPATION BY SEVERAL MEMBERS VIOLATES THE COUNTY'S RULES OF PROCEDURE**

The Board's minute order establishing the AAC provides that the members represent the agricultural industry whose interests may be affected by actions taken by decision-makers on matters addressed by the AAC. In response, on March 18, 2008, the Board adopted "Rules of Procedure: Guidelines for Agricultural Advisory Committee" which expressly provide:


It is recognized that the AAC is intended to represent the interests of the agricultural industry. Nevertheless, AAC members should remove themselves from all discussions and votes on matters in which they have a direct personal financial interest, or where the member's professional allegiance and/or personal bias cannot be set aside to allow the member's fair consideration of the issues(s) at hand. In gauging such extra-legal conflicts of interest and/or duty, each member shall exercise careful judgment and introspection in giving priority to the interests of fairness and objectivity; if there is any reasonable doubt that the member has a conflict, the member shall refrain from participation in the committee's deliberations and vote(s).

It is without a reasonable doubt that three of the AAC members that voted in favor of the requested continuance— Sharyne Merritt, Claire Wineman, and Tyler Thomas—have consistently appeared at Busy Bee's hearings to oppose the Project. Moreover, Sharyne Merritt was the original appellant in Busy Bee's appeal to the PC. Based on their official opposition to Busy Bee's Project and to cannabis in general, clearly these members did not uphold the objectivity and fairness standard in their deliberations and votes, and thus their votes should not be considered.

We appreciate your review of these issues, and ask that the March 17 hearing date remain on calendar, as scheduled. Please contact me with any questions.

Santa Barbara County Board of Supervisors  
March 9, 2020  
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Sincerely,

A handwritten signature in black ink, appearing to read "Amy M. Steinfeld". The signature is fluid and cursive, with a large loop at the end.

Amy M. Steinfeld

CC: Agricultural Advisory Committee