

1 RACHEL VAN MULLEM, COUNTY COUNSEL
2 JENNIFER RICHARDSON, DIVISION CHIEF (Bar No. 280044)
3 COUNTY OF SANTA BARBARA
4 105 East Anapamu Street, Suite 201
5 Santa Barbara, California 93101
6 Telephone (805) 568-2950 / Facsimile (805) 568-2982
7 E-mail: jrichardson@countyofsb.org

8 Attorneys for SANTA BARBARA COUNTY AIR
9 POLLUTION CONTROL DISTRICT

10 BEFORE THE HEARING BOARD OF THE AIR POLLUTION
11 CONTROL DISTRICT, COUNTY OF SANTA BARBARA

12 AERON ARLIN GENET, Santa Barbara
13 County Air Pollution Control Officer

H.B Case No: 2023-03-A

14 v.

15 CENTRAL COAST AGRICULTURE,
16 INC.; CENTRAL COAST
17 AGRICULTURE, LLC; CENTRAL
18 COAST AG DISTRIBUTION, LLC;
19 CENTRAL COAST AG FARMING, LLC;
20 CENTRAL COAST AG PRODUCTS,
21 LLC

**PETITION FOR ORDER OF
22 ABATEMENT REGARDING CANNABIS
23 MANUFACTURING, EXTRACTION,
24 STORAGE, AND DISTRIBUTION
25 FACILITIES LOCATED AT 1201 WEST
26 CHESTNUT AVENUE AND 1200 WEST
27 LAUREL AVENUE, LOMPOC,
28 CALIFORNIA**

Date: October 4, 2023

Time: 9:30 a.m.

Place: Board of Supervisors Hearing Room,
511 East Lakeside Parkway, Santa Maria, CA
93455

INTRODUCTION

The Air Pollution Control Officer (“CONTROL OFFICER”) of the Santa Barbara County Air Pollution Control District (“District”) hereby requests that this Hearing Board issue an Order of Abatement pursuant to Health and Safety Code section 42450 *et seq.* against Respondent Central Coast Agriculture, Inc., Central Coast Agriculture, LLC, Central Coast Ag Distribution, LLC, Central Coast Ag Farming, LLC, and Central Coast Ag Products, LLC (collectively “CCA”) related to cannabis product manufacturing, volatile extraction, storage and distribution facilities located at 1201 West Chestnut Avenue and 1200 West Laurel Avenue in Lompoc, CA.

1 As demonstrated by the facts and evidence detailed in this Petition and enclosed as Exhibit
2 2, supported by affidavits, Respondent CCA operates cannabis product manufacturing, volatile
3 extraction, storage and distribution facilities at 1201 West Chestnut Avenue and 1200 West Laurel
4 Avenue in Lompoc, CA since November 2019 without the required District permits or required
5 best available control technology. This is a violation of District Rule 201.

6 The District has continually worked with CCA to move the application forward, but has
7 been unable to secure compliance after almost three years. The District notified CCA throughout
8 this process that construction of the facilities without District permits is a violation of District
9 rules and the Health and Safety Code and that each and every day is a violation subject to
10 penalties. Moreover, CCA has been warned multiple times that their continued installation and
11 operation of additional equipment is a willful and knowing violation of District regulations.
12 Willful and knowing violations carry a penalty of up to \$75,000 per day. (Health and Safety Code
13 § 42400.3.) The ongoing accrual of significant financial penalties has not been sufficient
14 motivation for CCA to achieve compliance.

15 CCA submitted incomplete information during the permit process, added equipment to the
16 facilities while in violation, significantly increased emissions, and changed the proposed project
17 description under review throughout the permit process. The scale of these facilities is significant.
18 Therefore, the CONTROL OFFICER finds it necessary to request an order of abatement to ensure
19 that the facilities stop operating, unless and until the required District permits are approved and
20 issued and the required control equipment is installed and operational. An order for abatement
21 pursuant to Health and Safety Code Section 42451 is appropriate in response to CCA's continuing
22 operation without the required District permits.

23 CONFIDENTIALITY

24 CCA considers many components of the proposed project and facilities to be confidential
25 trade secrets because they "produce the number one selling brand of Cannabis concentrates in
26 California." (APCD EXH. 2, 0075.). For instance, the Project Description states "Equipment
27 specifications are deemed confidential by the applicant. A redacted equipment list is attached. The
28 volatile extraction process is confidential. The solvents used in a volatile extraction machine are
confidential. Solvent usage amounts are confidential. The make and model of volatile and non-

1 volatile extraction equipment and machines are confidential. The post extraction refinement
2 process is confidential.” (APCD EXH. 2, 0149.)

3 For purposes of this Petition for Order of Abatement and associated evidence, some
4 documents are entirely excluded and some are heavily redacted. It is likely that some of the
5 information redacted or withheld in this Petition is not truly confidential, but this petition errs on
6 the side of caution given the nature of the operation. Moreover, the particular details of the
7 operation or facilities are not relevant to the issue at hand: that CCA continues to operate and
8 expand facilities that require District permits, without District permits.

9 The CONTROL OFFICER requests that the order of abatement not allow CCA to continue
10 operating while taking further steps towards obtaining District permits. Health and Safety Code
11 Section 42452 provides an order of abatement “shall not have the effect of permitting a variance
12 unless all the conditions for a variance, including limitation of time, are met.” Variances are not
13 authorized for the requirement to obtain a District permit: “an abatement order which has the
14 effect of a variance, may not be granted from the requirement for a permit to build, erect, alter, or
15 replace.” (Health and Safety Code § 42350(b)(1).)

16 PARTIES

17 Petitioner Aeron Arlin Genet is the CONTROL OFFICER and is charged with the
18 responsibility pursuant to Health and Safety Code section 40752 of enforcing all provisions of
19 Parts 3 and 4 of Division 26 of the Health and Safety Code and all orders, rules and regulations
20 prescribed by the District Board. The CONTROL OFFICER’S office is located at 260 North San
21 Antonio Road, Suite A, Santa Barbara, CA 93110-1315 and her phone number is (805) 979-8282.

22 Respondent CCA is a cannabis company that, among other things, operates cannabis
23 product manufacturing, volatile extraction, storage and distribution facilities at 1201 West
24 Chestnut Avenue and 1200 West Laurel Avenue in Lompoc, CA.

25 VIOLATIONS

26 Health and Safety Code Section 42300, subsection (a) sets out that “every district board
27 may establish, by regulation, a permit system that requires ... that before any person builds, erects,
28 alters, replaces, operates, or uses any article, machine, equipment, or other contrivance which may

1 cause the issuance of air contaminants, the person obtain a permit to do so from the air pollution
2 control officer of the district.”

3 A permit system established pursuant to this section shall “[e]nsure that the article,
4 machine, equipment, or contrivance for which the permit was issued does not prevent or interfere
5 with the attainment or maintenance of any applicable air quality standard” and “[p]rohibit the
6 issuance of a permit unless the air pollution control officer is satisfied, on the basis of criteria
7 adopted by the district board, that the article, machine, equipment, or contrivance will comply
8 with” all applicable orders, rules, and regulations of the District and all applicable provisions of
9 the Health and Safety Code. (Health and Safety Code § 42301(a), (b).)

10 District Rule 201 was adopted by the District Board on October 18, 1971 and revised in
11 1972, 1978, 1979, 1997, and 2008. District Rule 201 requires “[a]ny person building, erecting,
12 altering, replacing, or using any article, machine, equipment or other contrivance, the use of which
13 may cause the issuance of air contaminants or the use of which may eliminate or reduce or control
14 the issuance of air contaminants, shall first obtain an Authority to Construct for such construction
15 or use from the Control Officer.” (District Rule 201.D; APCD EXH. 2, 0067-0069.) Additionally,
16 after issuance of an Authority to Construct, a Permit to Operate must be obtained from the Control
17 Officer “[b]efore any article, machine, equipment or other contrivance described in Rule 201(D)
18 may be operated or used.” (District Rule 201.E.2; APCD EXH. 2, 0067-0069) CCA does not have
19 the required District Authority to Construct nor Permit to Operate.

20 California Health and Safety Code section 42451, subsection (a) provides that an order for
21 abatement may be issued, after a notice and hearing, whenever it is found that “any person is
22 constructing or operating any article, machine, equipment, or other contrivance without a permit
23 required by this part, or is in violation of Section 41700 or 41701 or of any order, rule, or
24 regulation prohibiting or limiting the discharge of air contaminants into the air.” [emphasis
25 added.] An order for abatement pursuant to Health and Safety Code Section 42451 is appropriate
26 in response to CCA’s continued operation of the facilities without the required District permits.

27 **EVIDENCE ESTABLISHING VIOLATIONS**

28 The two elements of this Petition that the District documents with evidence below are: 1)
the facilities are operating; and 2) the facilities do not have the required District permits.

1 Additional evidence is described in this Petition and submitted by affidavits in order to
2 document the District’s continued efforts to achieve compliance before resorting to this Petition,
3 in light of CCA’s submittal of incomplete information, adding equipment to the facilities while in
4 violation, significantly increasing emissions, and changing the proposed project description under
5 District review throughout the permit process. The list of evidence provided below is a long - but
6 not exhaustive - list of interactions and exchanges of information, with noteworthy portions of the
7 evidence quoted.

8 ***A. CCA CONTINUES TO OPERATE THE FACILITIES***

9 In October 2020, the District first inspected the CCA cannabis manufacturing facilities and
10 determined that CCA had installed and operated cannabis manufacturing, storage, and distribution
11 processes and equipment that requires District permits without first obtaining such permits. This is
12 a violation of District Rule 201. Subsequent inspections, including one just days before filing this
13 Petition document that the facilities continue to operate. After the initial October 2020 inspection
14 of the facilities, the District has conducted five additional inspections, two of which identified the
15 addition of new equipment that was not present at the prior inspection.

16 **-2020-**

17 1. **October 7, 2020** – The District conducts an inspection of the facilities, documented in an
18 inspection report, observing the operation of cannabis manufacturing and processing
19 activities and associated solvent cleaning activities. (APCD EXH. 2, 0001-0002.)

- 20 • “I was also informed that this facility has been operating since the fall of 2019.”
21 (APCD EXH. 2, 0001 [emphasis added].)
- 22 • “We then ended the walkthrough with Supervisor Kett and I explaining that this
23 facility has many processes and equipment that would require a District permit. It
24 was advised that CCA contact our Engineering Division as soon as possible and
25 start the permitting process. CCA was also informed that a Notice of Violation
26 (NOV) would be issued to document non-compliance for not obtaining a District
27 permit for cannabis manufacturing, storage, and distribution facilities.” (APCD
28 EXH. 2, 0002 [emphasis added].)

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2. **October 26, 2020** – Notice of Violation (“NOV”) 12587 is issued for “operating cannabis extraction, storage and distribution facilities without the benefit of District permits” based on the October 7, 2020 inspection. (APCD EXH. 2, 0003-0004.)

- “In order to bring this facility into compliance, please work with the District’s Engineering Division to obtain the necessary permits as soon as possible.” (APCD EXH. 2, 0003 [emphasis added].)

3. **November 4, 2020** - CCA responds to the NOV, indicating they have known since September 9, 2020 that District permits for the facilities are required. (APCD EXH. 2, 0005-0006.)

- “I spoke to Kevin Brown [District employee] via telephone on September 9, and it was at that time he informed me that our facility would need to obtain a District permit due to the fact that we were operating a cannabis manufacturing facility within the City of Lompoc, and he referred me to the District’s website to fill out Form 104.” (APCD EXH. 2, 0006.)

-2021-

4. **July 8, 2021** - The District conducts an inspection of the facilities, documented in an inspection report. No new equipment is documented during the inspection, but the District observes the operation of cannabis manufacturing and processing activities and associated solvent cleaning activities while onsite. (APCD EXH. 2, 0007-0009)

5. **December 10, 2021** - The District conducts an inspection of the facilities, documented in an inspection report. No new equipment is documented during the inspection, but the District observes the operation of cannabis manufacturing and processing activities and associated solvent cleaning activities while onsite. (APCD EXH. 2, 0010-0012.)

- “It should be noted that NOV 12587 was issued 10/26/2020 for operation of this facility without a permit and the facility has not yet returned to compliance due to the final permit not having been issued at the time of inspection.” (APCD EXH. 2, 0011 [emphasis added].)
- “Installation of additional equipment prior to issuance of a District permit may result in further enforcement action at this time.” (APCD EXH. 2, 0011.)

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6. **December 22, 2021** - The District sends a request for information (“RFI”) about the amount of raw cannabis processed, purchase records for all solvent materials, and the amount of make-up solvent transferred to each extraction tank. (APCD EXH. 2, 0013-0014.)

-2022-

7. **January 3 -13, 2022** - CCA requests an extension to respond to the RFI; the District grants an extension, but shorter than requested by CCA; later the District grants an additional week for CCA to respond to the RFI. (APCD EXH. 2, 0015-0018.)

8. **January 21, 2022** - CCA submits partial information to the District in response to the RFI. (APCD EXH. 2, 0019-0022.)

9. **February 25, 2022** - The District sends an email to CCA making clear how the violation can be abated and that continuing to operate is a violation. (APCD EXH. 2, 0023)

- “As for the violation (NOV 12587) for operating cannabis manufacturing, distribution and storage facilities located at 1201 W. Chestnut in Lompoc without a District permit, the violation has not been complied with, and each day or portion of a day which the violation continues is considered a separate violation. As I stated in our phone call, you may comply with this violation by stopping operations until you receive a final District permit. Just reducing the emissions does not constitute compliance with the violation, however it would be taken into consideration when negotiating the civil penalties for the violation. We would need to see records and documentation to show that emissions were in fact reduced.” (APCD EXH. 2, 0023 [emphasis added].)

10. **May 11, 2022** - The District submits an RFI to CCA re-requesting information from the December 22, 2021 RFI for purchase records for all solvent materials containing Reactive Organic Compounds (“ROCs”) and the makeup solvent transferred to each extraction tank. (APCD EXH. 2, 0036-0037.)

11. **May 23, 2022** - The District conducts an inspection of the facilities, documented in an inspection report, discovering new equipment and observing the operation of cannabis

1 manufacturing and processing activities and associated solvent cleaning activities while
2 onsite. (APCD EXH. 2, 0029-0031.)

- 3 • “Booth 4 is the newest and largest booth. The equipment in this booth was not
4 operating during my inspection but I observed brown residue in some of the glass
5 vessels in the booth, suggesting that it had been used for cannabis oil extraction
6 previously. Per Andriana Villalpando in an email received on May 24, 2022, the
7 equipment in the booth was first operated (“tested”) on April 29, 2022[.]” (APCD
8 EXH. 2, 0029.)
- 9 • “This equipment was not onsite during my last inspection...None of the cannabis
10 processing equipment onsite is currently permitted by the District.” (APCD EXH.
11 2, 0031 [emphasis added.]

12 12. **May 24, 2022** - CCA responds to the District’s request for information with generator
13 information, hazardous waste manifests, and equipment installation and operation date.
14 (APCD EXH. 2, 0032.)

15 13. **June 3, 2022** - The District requests information from CCA about when particular
16 equipment was installed and operated. (APCD EXH. 2, 0035-0036.)

17 14. **June 8, 2022** - The District requests information from CCA about installation and
18 operation dates of certain equipment and activities. (APCD EXH. 2, 0034-0035.)

19 15. **June 16, 2022** - CCA responds to the District’s request for information including
20 providing the dates the newly-discovered equipment was installed: November 2021 and
21 March-May 2022. (APCD EXH. 2, 0033-0034.) This equipment was installed after NOV’s
22 were already in place and CCA was aware it was in violation of District rules.

23 16. **June 24, 2022** - Notices of Violation 12987, 12988, 12989 and 12990 are issued for the
24 installation and operation of additional cannabis processing and manufacturing equipment
25 without a District permit, which were installed since NOV 12587 was issued in October
26 2020 (November 5, 2021, April 29, 2022, March 31, 2022, May 18, 2022). (APCD EXH.
27 2, 0043-0047.)

- 28 • “Rule 201 was violated by the installation and operation of cannabis processing
equipment without the benefit of a District permit;” (APCD EXH. 2, 0043.)

- “Please note that each day or portion of a day in which a violation occurs may be considered a separate violation. In addition, the installation and operation of these unpermitted pieces of equipment is considered a willful and knowing violation of District regulations.” (APCD EXH. 2, 0043.)

-2023-

17. **May 30, 2023** - The District conducts an inspection of the facilities, documented in an inspection report, discovering new equipment and observing the operation of cannabis manufacturing and processing activities and associated solvent cleaning activities while onsite. (APCD EXH. 2, 0048-0050.)

- “[A]ll of the cannabis processing and manufacturing activities at this facility are currently unpermitted and occurring in violation of District rules.” (APCD EXH. 2, 0048.)
- “[T]he facility still does not have a main emissions control device;” (APCD EXH. 2, 0048.)
- “The equipment onsite is often moved around, e.g. between solvent extraction booths in the Chestnut Ave. building. The location of manufacturing activities within the building is also subject to change.” (APCD EXH. 2, 0048.)
- “Note that at the beginning of my inspection I requested a list of the equipment onsite which required a District permit and for which one had been applied; I was supplied a 40 page spreadsheet which I attempted to reference during my inspection. I observed several discrepancies between the amount of equipment onsite and what was listed in the spreadsheet; Lindsay and Carlos stated that some of the equipment onsite was not installed but was kept elsewhere in storage as ‘backup’ should the equipment onsite fail, including:...” (APCD EXH. 2, 0049 [emphasis added].)
- “Note: The above lists of backup equipment and equipment added since my most recent inspection should not be considered comprehensive. Several factors have contributed to the difficulty of cataloging equipment onsite: the sheer volume of equipment onsite; lack of finalized and transparent equipment list; nature of

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operations at the facility which entail frequent relocation of equipment throughout the facility; and my historical willingness to acquiesce to the facility’s preference that I do not take photos during my inspection. Further, in her response to my Request for Information (discussed below), Lindsay Cokeley declined to provide an equipment list showing installation dates for all equipment onsite, stating that that information is not available at this time. This matter will continue to be investigated during future inspections.” (APCD EXH. 2, 0049 [emphasis added].)

- “Conclusion: My inspection and subsequent review of the RFI response in combination with information previously provided to other District staff as part of the permitting process, suggest a significant expansion of activities at the facility from what was has (sic) been observed there historically.” (APCD EXH. 2, 0050[emphasis added].)

18. **June 2, 2023** - The District sends RFI to CCA about installation dates for multiple pieces of equipment, solvent information, hazardous waste manifests, and throughput of cannabis processed on site. (APCD EXH. 2, 0051-0052.)

- “Please be aware that having applied for a permit for equipment/ processes onsite does not mean that the operation of said equipment is compliant. Each and every day in which equipment requiring a District permit is operated without one may be considered a separate violation.” (APCD EXH. 2, 0051.)

19. **June 23, 2023** - CCA responds to the request for information, providing installation dates for equipment, almost all after NOVs were already in place and CCA was aware it was in violation of District rules. (APCD EXH. 2, 0053-0055.)

20. **July 25, 2023** - Notices of Violation 13462, 13463, and 13464 are issued for the installation and operation of the cannabis manufacturing equipment installed since the last inspection (July 5, 2022, September 30, 2022, and December 2, 2022). (APCD EXH. 2, 0056-0059.)

- “Rule 201 was violated by the installation and operation of cannabis processing equipment without the benefit of a District permit;” (APCD EXH. 2, 0056.)

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- “Please note that each day or portion of a day in which a violation occurs may be considered a separate violation.” (APCD EXH. 2, 0056.)

21. **August 9, 2023** - CCA sends a letter in response to Notices of Violation 12987, 12988, 12989, 12990, 13462, 13463, and 13464 with arguments why the NOVs should be rescinded. (APCD EXH. 2, 0060-0062.)

22. **August 30, 2023** - The District conducts an inspection of the facilities, documenting that the cannabis manufacturing and processing equipment for which Notices of Violation were previously issued is still operating onsite. No new equipment is observed onsite at the time of inspection, but the District observes the operation of cannabis manufacturing and processing activities and associated solvent cleaning activities while onsite. (APCD EXH. 2, 0289.)

23. **August 31, 2023** – The District replies to CCA’s August 9, 2023 letter documenting why the District Rules cited by CCA are not applicable. (APCD EXH. 2, 0287-0288.)

24. **August 31, 2023** - The District sends a separate request for follow-up information from the August 30, 2023 inspection which is necessary to determine compliance with applicable District rules and the current scale of operations. (APCD EXH. 2, 0286.)

B. CCA DOES NOT HAVE THE NECESSARY DISTRICT PERMITS TO OPERATE THE FACILITIES

At these facilities, CCA produces “various products from raw cannabis plant material. These products include live resin, live sauce, diamonds, vape cartridges, whole flower, and pre-rolls. The facility uses both volatile and non-volatile extraction methods in addition to trimming, sorting, packaging, labeling and storage...Odors generated from the process are controlled by multiple carbon air filters which are installed throughout the facility to prevent odors from escaping from the building envelope. Solvent emissions are controlled with various technologies including closed-loop volatile extraction booths and cold traps with additional carbon capture systems.” (APCD EXH. 2, 0149.)

The equipment in the CCA facilities is used in cannabis processing and manufacturing, including but not limited to: flower trimming; curing; volatile extraction; mechanical extraction; post extraction refinement; post refinement recovery; vessel cleaning; vacuum purging; packaging;

1 and storage. (APCD EXH. 2, 0113-0114.) A general description and non-exhaustive list of some
2 of the equipment in the facilities includes closed-loop hydrocarbon extractors, rotary evaporators,
3 centrifuge, distillation equipment, vacuum ovens, solvent recovery system, bake out ovens,
4 homogenizers, cartridge filling machines, freezers, ultrasonic washer, tunnel dryer, liquid
5 accumulation drum, shell and tube heat exchanger, solvents/solute holding cauldron, and chillers.
6 (APCD EXH. 2, 0151-0153.)

7 The scale of the facilities is significant. The operating schedule is 24 hours per day 7 days
8 a week for 16 weeks of the year (“peak season”) and 24 hours per day 5 days per week for the
9 remaining 36 weeks of the year. (APCD EXH. 2, 0276.) The facilities have a total of 244
10 personnel (161 CCA and 83 temporary employees) across three shifts. (APCD EXH. 2, 0211.)
11 CCA considers solvent usage amounts to be confidential; however, Reactive Organic Compounds
12 (ROCs) emitted by the facilities are not confidential. ROC emissions were self-reported by CCA
13 for the majority of solvents used at the facilities, and while not all-inclusive, depicts the magnitude
14 of emissions occurring at the facilities. The facilities emitted 9 tons of ROC per year in 2019;
15 increasing to 135 tons ROC per year in 2020; and 119 tons of ROC per year in 2021. (APCD
16 EXH. 2, 0139.) This large magnitude of emissions, which correlates to operations, all occurred
17 while in violation of District rules. To put these emissions into context, stationary sources with
18 emissions greater than or equal to 100 tons per year are defined as Major Stationary Sources per
19 District Rule 102, and are subject to federally enforceable requirements, as identified in District
20 Regulation XIII.

21 The facilities require District permits because they cause the issuance of air contaminants.
22 Best Available Control Technology is required to be applied to the proposed project because the
23 ROCs potential to emit from the stationary source exceeds the 25 pound per day threshold in
24 District Rule 802. (APCD EXH. 2, 0290-0296.) Self-reported ROC emissions of the proposed
25 project anticipate 110.05 pounds per day of ROC emissions. (APCD EXH. 2, 0140.) Past
26 operations of the facilities self-report 651 pounds per day of ROC emissions in 2021 and 740
27 pounds per day in 2020 based on solvent extraction and cleaning. (APCD EXH. 2, 00141-00142.)

28 CCA applied for Authority to Construct (ATC) 15634 on November 23, 2020. That
application was deemed incomplete five times, eventually being determined to be complete on

1 August 12, 2022, almost two years after submittal. Then on April 7, 2023, eight months after
2 being deemed complete and while the project was undergoing environmental analysis under the
3 California Environmental Quality Act (“CEQA”), CCA informed the District that the control
4 equipment in the proposed project was not feasible because the control equipment was no longer
5 expected to meet the emission limits and capture and control efficiencies described as part of the
6 application.

7 On May 2, 2023, CCA applied for a new Authority to Construct (“ATC”) 16090, starting
8 the permit process over again. The revised project proposes a different control technology than
9 previously evaluated by the District. As such, control equipment, full facility equipment list,
10 facility process flow, designed control efficiencies, potential to emit, and applicable New Source
11 Review requirements require review and confirmation. The current application remains
12 incomplete, with CCA recently requesting an extension to submit information.

13 **-2020-**

14 25. **November 23, 2020** - CCA submits an application for ATC 15634. (APCD EXH. 2,
15 0070.)

16 26. **December 22, 2020** - The District sends incompleteness letter #1 requiring more
17 information about the proposed BACT, solvent emissions calculations, and equipment
18 lists, among other items. At this time, the application proposes a cold trap system to
19 control solvent emissions. (APCD EXH. 2, 0071-0074.)

- 20 • “Please be advised that construction of your facility without a **final** ATC is a
21 violation of District rules and the California Health and Safety Code.” (APCD
22 EXH. 2, 0071.)
- 23 • “Please note that District permits equipment that contains solvents, cannabis, and
24 cannabis byproducts as well as control systems.” (APCD EXH. 2, 0071.)

25 **-2021-**

26 27. **February 10, 2021** - CCA submits information in response to incompleteness letter #1.
27 (APCD EXH. 2, 0075-0081.)
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28. **March 12, 2021** - The District sends incompleteness letter #2 requiring more information about the proposed Best Available Control Technology (“BACT”), manufacturer specifications, and details about where volatile extraction will occur, among other items. (APCD EXH. 2, 0082-0084.)

- “Please be advised that construction of your facility without a **final** ATC is a violation of District rules and the California Health and Safety Code.” (APCD EXH. 2, 0082.)

29. **October 6, 2021** - CCA submits information in response to incompleteness letter #2:

- “New equipment lists and an updated Manufacturing Business Process Description are not available for the Chestnut and Laurel Buildings.” (APCD EXH. 2, 0085-0087.)

30. **November 2, 2021** - The District sends incompleteness letter #3 requiring more information about the facility process description given CCA’s addition of newly proposed equipment in the October 5, 2021 response to incompleteness letter #2, the proposed BACT, and the equipment list. (APCD EXH. 2, 0088-0092.)

- “Please be advised that construction of your facility without a **final** ATC is a violation of District rules and the California Health and Safety Code.” (APCD EXH. 2, 0088.)
- “With the addition of newly proposed equipment, submit an updated facility process description.” (APCD EXH. 2, 0088.)

31. **December 2, 2021** - CCA submits information in response to incompleteness letter #3. (APCD EXH. 2, 0093-0101.)

32. **December 23, 2021** - The District sends incompleteness letter #4 requiring more information of historical pollutant and greenhouse gas emission estimates, and historical solvent usage, among other items. (APCD EXH. 2, 0102-0105.)

- “Please be advised that construction of your facility without a **final** ATC is a violation of District rules and the California Health and Safety Code.” (APCD EXH. 2, 0102.)

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2 33. **March 4, 2022** - CCA submits partial information in response to incompleteness letter #4.

3 At this time, CCA revised the proposed method of emissions control and instead of a cold
4 trap system, is designing its own cryogenic condenser as a solvent emission control.

5 (APCD EXH. 2, 0106-0114.)

6 34. **April 25, 2022** - CCA submits information in response to incompleteness letter #4. (APCD
7 EXH. 2, 0118.)

8 35. **May 16, 2022** - CCA submits information in response to incompleteness letter #4. (APCD
9 EXH. 2, 0015.)

10 36. **May 20, 2022** - The District sends incompleteness letter #5 requiring more information on
11 solvent documentation that had still not been submitted, utility statements, and electricity
12 consumption, among other items. (APCD EXH. 2, 0122-0125.)

- 13 • “Please be advised that construction of your facility without a **final** ATC is a
14 violation of District rules and the California Health and Safety Code.” (APCD
15 EXH. 2, 0122.)

16 37. **July 1, 2022** - The District requests baseline information to determine what CEQA
17 document is appropriate for the permit application because the information submitted to
18 date is insufficient to determine historical or current operations. (APCD EXH. 2, 0126-
19 0128.)

- 20 • “On December 23, 2021 and again on May 18, 2022, the District requested
21 information (see attached) regarding the existing and proposed operations of your
22 project, in order to quantify all sources of air pollutant emissions and to determine
23 the environmental baseline of the existing operations at the facility. To date, the
24 District has not received an adequate response to this request. The purpose of this
25 letter is to notify you that if adequate information related to the facility’s
26 environmental baseline is not received by July 14, 2022, the District will proceed
27 with review of the project’s environmental effects based on an assumption of no
28 previous operations (i.e. “zero” air pollutant emissions baseline).” (APCD EXH. 2,
0126.)

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38. **July 13, 2022** - CCA submits partial information in response to incompleteness letter #5, but fails to provide complete solvent use and purchase records as requested and revises proposed equipment. (APCD EXH. 2, 0129-0143.)

- “This submittal serves two purposes: 1. Respond to the matters addressed in your May 18 incompleteness letter; and 2. Incorporate additional revisions CCA is proposing as a result of further refinement of needed equipment and processing efficiencies.” (APCD EXH. 2, 0129 [emphasis added].)

39. **July 27, 2022** - CCA submits information in response to incompleteness letter #5. (APCD EXH. 2, 0144-0145.)

40. **August 12, 2022** - The District determines the ATC 15634 application is complete. (APCD EXH. 2, 0146.)

- “Please be advised that proceeding with the construction of your project without an ATC permit violates District Rule 201 and may result in penalties.” (APCD EXH. 2, 0146.)

41. **September 23, 2022** - The District initiates CEQA review. (APCD EXH. 2, 0147-0153.)

- “Please be aware that substantial revisions to submitted information may affect the time, cost, and level of review for your project.” (APCD EXH. 2, 0148.)

42. **October 21, 2022** - The District proposes a CEQA consultant. (APCD EXH. 2, 0154-0175.)

43. **November 1, 2022** - CCA accepts the CEQA consultant. (APCD EXH. 2, 0176.)

44. **December 12, 2022** - Contract with CEQA consultant signed. (APCD EXH. 2, 0178-0179.)

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45. **January 4, 2023** - CEQA kick-off meeting with District, CCA, and consultant is held. (APCD EXH. 2, 0180.)

46. **January 11, 2023** - CCA emails about increasing production. (APCD EXH. 2, 0181.)

- “Should we need to phase in an increase in production and need to add additional BACT equipment to keep the emission levels down to what we proposed as a part

1 of the project, how could we revise the project to include a future scale-up and
2 subsequent BACT for emission control down to the levels proposed?” (APCD
3 EXH. 2, 0181 [emphasis added].)

4 47. **January 20, 2023** - The District sends an RFI to CCA related to environmental review.
5 (APCD EXH. 2, 0191-0192.)

- 6 • “Provide an existing and proposed equipment list for the facility absent any
7 confidential information. Note that the existing equipment list should include the
8 currently installed and operating equipment as of January 2023. The proposed
9 equipment list should include any and all equipment that you are requesting to be
10 permitted as part of ATC 15634. Please identify which equipment is existing and
11 which is proposed. The equipment list should also indicate the equipment size,
12 throughput and other pertinent characteristics.” (APCD EXH. 2, 0192.)

13 48. **January 25, 2023** - CCA emails the District asking about equipment, again indicating
14 additional equipment may be added, indicating the proposed equipment is still in flux.
15 (APCD EXH. 2, 0191.)

- 16 • “Regarding the ‘proposed’ equipment – does it make sense for us to list equipment
17 that we may not ever purchase but is simply being explored by our R&D team?”
18 (APCD EXH. 2, 0191.)

19 49. **January 27, 2023** - The District sends a CEQA data request to CCA on a number of
20 issues, including asking for confirmation of the project description. (APCD EXH. 2, 0183-
21 0188.)

22 50. **January 31, 2023** - CCA emails the District to ask details about a further expansion.
23 (APCD EXH. 2, 0189-0190.)

- 24 • “Carly is looking for us to have a final project description for her as soon as
25 possible in order to keep the CEQA review going. We discussed with her and
26 David last week that we may want to include expanded operations in the CEQA
27 review as a phased project, but obviously if we are still incurring daily violations,
28 we may need to pursue the current project and then immediately turn around to do
the expansion CEQA review.” (APCD EXH. 2, 0189 [emphasis added].)

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51. **February 10, 2023** - The District responds to CCA’s question about further expansion question. (APCD EXH. 2, 0189.)

- “In regards to your decision about what project to pursue, you should take into consideration that CCA’s manufacturing facility located at 1201 West Chestnut in Lompoc is currently and will continue to be in violation until the final APCD permit is issued. Furthermore, each and every day is considered a separate violation and is subject to additional daily penalties. Therefore, from a compliance perspective, it is in CCA’s best interest to get a final permit as soon as possible.” (APCD EXH. 2, 0189 [emphasis added].)

52. **February 16, 2023** - CCA submits partial information in response to CEQA data request. (APCD EXH. 2, 0205.)

53. **February 22, 2023** - CCA submits information in response to CEQA data request. (APCD EXH. 2, 0210-0217.)

54. **February 23, 2023** - The District confirms the project description with CCA because it has been revised so many times. (APCD EXH. 2, 0219.)

- “Since there was some discussion of increasing CCA’s operations beyond what’s been currently applied for, we wanted to confirm that the proposed daily and annual usage we have calculated in the attached spreadsheet remains accurate.” (APCD EXH. 2, 0219.)

55. **February 28, 2023** - CCA response with revisions to the project description. (APCD EXH. 2, 0221)

- “We have included all the equipment (including additional emission control equipment) that would be needed should we need to expand operations as part of the permit. We are working to get new proposed daily and annual usage, however, the control technology will likely have to change should we increase annual usage, and therefore we do not have number to input into columns 3-6 at this time. We are hoping to have the CEQA analysis done to permit up to 240 lbs/day of ROC in order to avoid the need for ERCs in this phased approach. Let me know what your thoughts are on this.” (APCD EXH. 2, 0221 [emphasis added].)

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56. **March 3, 2023** - The District identifies that CCA has changed their proposed project from that which was originally applied for and may wish to permit (and conduct CEQA analysis for) an expanded project. (APCD EXH. 2, 0233-0234.)

- “The email you sent Carly on 2/28 with a revised project that increases usage beyond what’s currently been applied for a potential emissions up to 240 lb/day also drastically changes the Compliance Agreement that we have been working on.” (APCD EXH. 2, 0234 [emphasis added].)

57. **March 23, 2023** - The District sends a CEQA data request to CCA. (APCD EXH. 2, 0225-0226.)

58. **March 24, 2023** - As it appears the project is moving forward, the District sends CCA a proposed Compliance Agreement that includes the following statements in the cover email and draft Agreement, emphasizing the need to move quickly as well as other enforcement options. (APCD EXH. 2, 0232; 0243-0250.)

- “Each day or portion of a day in which the violation exists is considered a separate violation and such violations continue to accrue during the term of this Compliance Agreement.” (APCD EXH. 2, 0243.)
- “Please note that this Compliance Agreement assumes CCA will move forward with the project as specified in the complete application for ATC 15634, and that the project is exempt from CEQA. However, the District has not been able to make this CEQA determination yet, based on the information CCA has provided to date – more information is needed from CCA. Lastly, I want to point out that this Compliance Agreement does not include willful and intentional penalties (up to \$75,000 per day) for NOVs 12987, 12988, 12989, and 12990, even though these violations are considered willful and intentional and would normally be subject to these additional penalties.” (APCD EXH. 2, 0232 [emphasis added].)
- “If CCA is not interested in entertaining this Compliance Agreement and reaching compliance with the District’s rules and regulations in an expeditious fashion, the District would instead need to evaluate other enforcement options including seeking an abatement order. If granted by the Hearing Board, an abatement order

1 would require CCA to take specific actions or shut down its operations until
2 compliance is achieved; a severe remedy reserved for serious violators.” (APCD
3 EXH. 2, 0232 [emphasis added].)

- 4 • “If CCA decides to proceed with a revised project description instead of the current
5 application for ATC 15634, due to the expanded CEQA evaluation necessary for
6 this option we would expect an additional 1-2 years before CCA achieves
7 compliance. In this scenario, the District would not enter into a Compliance
8 Agreement and the penalties would be on a much higher scale (At least 10 times
9 higher than the penalties included in the attached Compliance Agreement). The
10 penalties would be higher due to the additional amount of time CCA would be in
11 violation and because willful and intentional penalties would be included.” (APCD
12 EXH. 2, 0232 [emphasis added].)

13 59. **April 7, 2023** - CCA informs the District the solvent emissions control equipment
14 proposed in the ATC 15634 application is no longer feasible as it is no longer expected to
15 meet emission limits and capture and control efficiencies described in the application.
16 (APCD EXH. 2, 0251.)

17 60. **April 13, 2023** - The District sets out next steps and the urgency of moving forward,
18 including the possibility of an order of abatement. (APCD EXH. 2, 0251.)

- 19 • “During our meeting last Friday, you informed us that you do not expect the control
20 equipment proposed in ATC 15634 to meet the emission limits and capture and
21 control efficiencies that will be required in the ATC....The new permit application
22 must remain at the same production levels that were applied for in ATC
23 15634....The District’s goal is for CCA to achieve compliance as expeditiously as
24 possible, so time is of the essence.” (APCD EXH. 2, 0251 [emphasis added].)
- 25 • “If you would like the District to consider a Compliance Agreement for the new
26 permit application, we would need to receive the submittals listed above by April
27 27, 2023.” (APCD EXH. 2, 0251.)

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- “Please note, even if this information is received by the deadline, the District may still need to evaluate other enforcement options including seeking an abatement order or DA referral for an injunction.” (APCD EXH. 2, 0251 [emphasis added].)
61. **May 2, 2023** - CCA submits an application for ATC 16090, beyond the deadline set forth above. CCA states that no increases in production levels over “current production levels” are proposed (APCD EXH. 2,0253-0255); however, this is because CCA has been installing new equipment during the permit process.
62. **May 5, 2023** - CCA submits information in response to the District’s March 23, 2023 CEQA data request for ATC 15634. (APCD EXH. 2, 0256-0263.)
63. **May 11-18, 2023** - Emails are sent between District and CCA clarifying the project description. (APCD EXH. 2, 0264-0267.)
64. **June 1, 2023** - The District sends incompleteness letter #1. (APCD EXH. 2, 0270-0273.)
- “Please be advised that construction of your facility without a **final** ATC is a violation of District rules and the California Health and Safety Code.” (APCD EXH. 2, 0270.)
65. **June 2, 2023** - The District emails CCA following issuance of the incompleteness letter to emphasize the urgency in moving the application forward and other enforcement options. (APCD EXH. 2, 0274.)
- “If you would like the District to continue considering a Compliance Agreement for the new permit application, items 1-6 in the attached incompleteness letter need to be addressed as soon as possible and no later than Monday, June 12.” (APCD EXH. 2, 0274.)
 - “Please note, even if this information is received by the deadline, the District may still need to evaluate other enforcement options including seeking an abatement order or DA referral for an injunction.” (APCD EXH. 2, 0274 [emphasis added].)
66. **June 15, 2023** - CCA submits partial information in response to incompleteness letter #1, beyond the deadline set forth above. (APCD EXH. 2, 0276-0278.)
67. **August 9, 2023** - CCA requests an extension to October 1 to respond on remaining incompleteness items. (APCD EXH. 2, 0280.)

1 68. **August 15, 2023** - The District responds to the extension request. (APCD EXH. 2, 0279.)

- 2 • “The District encourages you to submit the remaining information as soon as
3 possible. The original permit application was submitted on November 23, 2020 and
4 a revised permit application was submitted on May 2, 2023. The District and CCA
5 have been negotiating and working on a compliance agreement since March 24,
6 2023. As we have continued to emphasize, time is of the essence on this application
7 and facility because it continues to operate without a permit or control technology.”
8 (APCD EXH. 2, 0279 [emphasis added].)

9 69. **August 16, 2023** - CCA requests confirmation of whether the District is approving an
10 extension to submit information. (APCD EXH. 2, 0279.)

11 **RELIEF REQUESTED**

- 12 1. Based on the long history of CCA submitting incomplete information, adding equipment to the
13 facilities while in violation, significantly increasing emissions, and changing the proposed
14 project description under review throughout the permit process, the CONTROL OFFICER
15 finds it necessary to request an order of abatement to ensure that the facilities stop operating
16 unless and until the required District permits are approved and issued and the required control
17 equipment is installed and operational. An order for abatement pursuant to Health and Safety
18 Code Section 42451 is appropriate in response to CCA’s continuing operations and failure to
19 obtain District permits, in violation of District Rule 201.
- 20 2. NOW, THEREFORE, the CONTROL OFFICER requests an order of abatement from the
21 Hearing Board that CCA be enjoined from doing any of the following after 5:00 p.m. on
22 Thursday October 5, 2023:
- 23 a. Building, erecting, altering, replacing, operating or using any cannabis processing,
24 manufacturing, or extraction (both solvent and solventless) equipment or performing
25 related activities subject to District permits at the facilities located at 1201 West
26 Chestnut Avenue and 1200 West Laurel Avenue in Lompoc, CA unless and until: 1)
27 the required District permits are approved and issued; and 2) the required control
28 equipment is installed and operational.


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- b. Storing or purchasing any solvents at or for 1201 West Chestnut Avenue and 1200 West Laurel Avenue in Lompoc, CA unless and until: 1) the required District permits for the facilities are approved and issued; and 2) the required control equipment is installed and operational.
- 3. A Proposed Order of Abatement is enclosed as Exhibit 1.
- 4. Satisfaction of this Order of Abatement shall be demonstrated by refraining from the above actions, completing a District inspection on Friday October 6, 2023 to document compliance, and consenting to subsequent District inspections to ensure continued compliance unless and until the required District permits are approved and issued and the required control equipment is installed and operational.
- 5. District Rule 518 provides that a decision shall become effective 15 days after delivering or mailing a copy of the decision, “or the Hearing Board may order that the decision shall become effective sooner.” The CONTROL OFFICER requests that the Order of Abatement shall become effective immediately and shall remain in full force and effect until and unless modified or rescinded by further order of this Hearing Board.
- 6. The CONTROL OFFICER further requests that this Hearing Board shall maintain continuing jurisdiction over this matter.
- 7. Violation of an Order of Abatement may be subject to civil penalties of not more than \$25,000 for each day of violation. (Health and Safety Code § 42401.)

I declare, under the penalty of perjury, under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge.

Dated: September 5, 2023

Respectfully submitted,


Petitioner, AERON ARLIN GENET
AIR POLLUTION CONTROL OFFICER
SANTA BARBARA COUNTY AIR
POLLUTION CONTROL DISTRICT

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Dated: September 5, 2023

RACHEL VAN MULLEM
COUNTY COUNSEL

By: 
JENNIFER RICHARDSON
DIVISION CHIEF

Attorneys for CONTROL OFFICER, SANTA
BARBARA COUNTY AIR POLLUTION
CONTROL DISTRICT