



## MEMORANDUM

TO: Peter Mlynarik, Chair, and Members of the Marijuana Control Board      DATE: September 14, 2017

FROM: Erika McConnell, Director      RE: Request for Retest from Rosie Creek Farm #10005, Standard Cultivation Facility

On July 5, 2017, a regulation change became effective, amending 3 AAC 306.660 to authorize the director (as well as the board) to approve retests when marijuana or marijuana product has failed a required test.

On that date, I sent a notice to all cultivation and product manufacturing licensees, indicating that requests for retests should include evidence to support a claim that the failed test was wrong and a retest is needed. In my opinion, if retests are performed and result in a passed test, then there is one failed test and one passed test and who knows which one is correct. I believe that the first test results should stand unless there is a solid reason to doubt their validity. (In Colorado, licensees may have marijuana tested at three different labs and any two similar results stand. Unfortunately we do not yet have three different labs to use.)

On August 25, 2017, Mr. Emers of Rosie Creek Farms emailed the attached letter to me, requesting a retest of harvest batch "WW 9 Aug." As he provided no reason to doubt the results of the first test, other than this being the first failed test from his farm, I denied his request.

Mr. Emers is requesting that the board approve his request to retest "WW 9 Aug."



**August 25, 2017**

Director Erika McConnell  
The Atwood Building  
550 West 7th Ave., Suite 1600  
Anchorage, AK 99501

Dear Director McConnell,

We are petitioning, per 3 AAC 306.660(c), to request the Board allow us to have a retest of the harvest batch “WW 9 Aug”, which had a failed test due to the presence of *Aspergillus flavus*. As you can see on the attached results, this was the only failure of the test results. Of the 7 harvest batches from this one small planting of this strain (from both before and after August 9<sup>th</sup>), is the only batch that failed any of the testing categories. This is also the first test ever from our farm that has failed after testing dozens of harvest batches overall. After talking to the lab scientists from CANNTTEST about the result from the August 9<sup>th</sup> batch I have a better understanding of the sensitivity of the test, which will result in a positive result if only one spore is present. While I do not dismiss the importance of testing for *Aspergillus flavus*, I want to make certain that the presence of this mold is indeed from the planting in general or if the spore was not picked up from somewhere else in the process of trimming, drying and curing.

Thank you for your consideration of this petition and for your hard work.

Sincerely,

Michael Emers  
Managing Member – RCFC, LLC



620 E Whitney Ave.  
Anchorage, AK 99501  
Phone: 907-258-6878

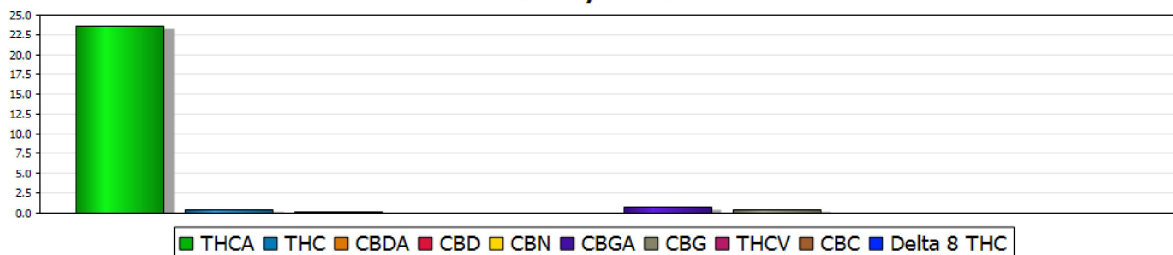
Sample ID: 3121  
Company: Rosie Creek Farm  
METRC ID: 0000094403  
Transport ID: 1A40203000000CA000000194  
Harvest Name: WW 9 Aug  
Date Received: 2017-08-14

Moisture Content: 4.58%

Strain: White Widow

Matrix: Dried Flower

### Potency Profile



Total THC %: 21.07

Total CBD %: 0.06

Total Cannabinoid %: 25.12

THCA %: 23.59

CBDA %: 0.06

THC %: 0.38

CBD %: <0.01

CBN %: <0.01

THCV %: <0.01

CBGA %: 0.65

CBG %: 0.43

D-8 THC %: <0.01

CBC %: <0.01

### TERPENES RESULTS

Alpha Pinene %:	N/A	Beta Pinene %:	N/A	Beta Myrcene %:	N/A
Camphene %:	N/A	D 3 Carene %:	N/A	A-Terpinene %:	N/A
P Cymene %:	N/A	Limonene %:	N/A	Ocimene %:	N/A
G-Terpinene %:	N/A	Terpinolene %:	N/A	Linalool %:	N/A
Isopulegol %:	N/A	Geraniol %:	N/A	B-Caryophyllene %:	N/A
A-Humulene %:	N/A	IsoNerolidol %:	N/A	TransNerolidol %:	N/A
A- Bisabolol %:	N/A	Guaiol %:	N/A		

### MICROBIAL RESULTS:

Overall Result: Failed E-Coli (STEC): Passed

Salmonella Result: Passed

Aspergillus Fumigatus Result: Passed

Aspergillus Flavus Result: Failed

Aspergillus Niger Result: Passed

### MICROSCOPE EVALUATION:

Observations:



**From:** Jana Weltzin  
**To:** [McConnell, Erika B \(CED\)](#)  
**Subject:** RE: appeal to redo test on harvest batch  
**Date:** Friday, September 01, 2017 3:09:48 PM

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Thanks and sorry, I meant to say 3AAC 306.660 not 360 – jana

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**From:** McConnell, Erika B (CED) [<mailto:erika.mcconnell@alaska.gov>]  
**Sent:** Friday, September 01, 2017 3:09 PM  
**To:** Jana Weltzin <[jana@jdwcounsel.com](mailto:jana@jdwcounsel.com)>; Mike Emers <[mike@rosiecreekfarm.com](mailto:mike@rosiecreekfarm.com)>  
**Cc:** Hoelscher, James C (CED) <[james.hoelscher@alaska.gov](mailto:james.hoelscher@alaska.gov)>; Stonecipher, Amanda M (CED) <[amanda.stonecipher@alaska.gov](mailto:amanda.stonecipher@alaska.gov)>; Valerie Mastolier <[valerie@jdwcounsel.com](mailto:valerie@jdwcounsel.com)>; Christina Thibodeaux <[christina@jdwcounsel.com](mailto:christina@jdwcounsel.com)>  
**Subject:** RE: appeal to redo test on harvest batch

Will do.

*Erika McConnell*

Director  
Alcohol & Marijuana Control Office  
State of Alaska

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**From:** Jana Weltzin [<mailto:jana@jdwcounsel.com>]  
**Sent:** Friday, September 01, 2017 3:07 PM  
**To:** McConnell, Erika B (CED) <[erika.mcconnell@alaska.gov](mailto:erika.mcconnell@alaska.gov)>; Mike Emers <[mike@rosiecreekfarm.com](mailto:mike@rosiecreekfarm.com)>  
**Cc:** Hoelscher, James C (CED) <[james.hoelscher@alaska.gov](mailto:james.hoelscher@alaska.gov)>; Stonecipher, Amanda M (CED) <[amanda.stonecipher@alaska.gov](mailto:amanda.stonecipher@alaska.gov)>; Valerie Mastolier <[valerie@jdwcounsel.com](mailto:valerie@jdwcounsel.com)>; Christina Thibodeaux <[christina@jdwcounsel.com](mailto:christina@jdwcounsel.com)>; Jana Weltzin <[jana@jdwcounsel.com](mailto:jana@jdwcounsel.com)>  
**Subject:** RE: appeal to redo test on harvest batch

Erika – please consider this our formal request to have this petition be heard by the board, per regulation 3AAC 306.360(c). Please add this item on the board’s agenda for the September meeting.

Thank you,

Jana

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**From:** McConnell, Erika B (CED) [<mailto:erika.mcconnell@alaska.gov>]  
**Sent:** Friday, September 01, 2017 2:58 PM  
**To:** Mike Emers <[mike@rosiecreekfarm.com](mailto:mike@rosiecreekfarm.com)>  
**Cc:** Hoelscher, James C (CED) <[james.hoelscher@alaska.gov](mailto:james.hoelscher@alaska.gov)>; Stonecipher, Amanda M (CED) <[amanda.stonecipher@alaska.gov](mailto:amanda.stonecipher@alaska.gov)>; Jana Weltzin <[jana@jdwcounsel.com](mailto:jana@jdwcounsel.com)>; Valerie Mastolier <[valerie@jdwcounsel.com](mailto:valerie@jdwcounsel.com)>

**Subject:** RE: appeal to redo test on harvest batch

Mr. Emers,

Thank you for your letter, but I see no reason to think that the test of "WW 9 Aug" was flawed. Your request to retest is denied.

*Erika McConnell*

Director  
Alcohol & Marijuana Control Office  
State of Alaska

**From:** Mike Emers [<mailto:mike@rosiecreekfarm.com>]

**Sent:** Friday, August 25, 2017 11:02 AM

**To:** McConnell, Erika B (CED) <[erika.mcconnell@alaska.gov](mailto:erika.mcconnell@alaska.gov)>

**Cc:** Hoelscher, James C (CED) <[james.hoelscher@alaska.gov](mailto:james.hoelscher@alaska.gov)>; Stonecipher, Amanda M (CED) <[amanda.stonecipher@alaska.gov](mailto:amanda.stonecipher@alaska.gov)>; Jana Weltzin <[jana@jdwounsel.com](mailto:jana@jdwounsel.com)>; Valerie Mastolier <[valerie@jdwounsel.com](mailto:valerie@jdwounsel.com)>

**Subject:** appeal to redo test on harvest batch