July 31, 2020

ALCOHOL & MARIJUANA CONTROL OFFICE (marijuana.licensing@alaska.gov)
550 W 7th Ave, Suite 1600
Anchorage, AK 99501

Matthew Shelton (msmatt02@gmail.com)
Mr. Happy Farms LLC. 17692
3900 N. Sierra St.
Wasilla, AK 99654

RE: Objection to License Renewal for Mr. Happy Farms LLC. #17692

Dear Board Members,

"With great power comes great responsibility." This is a quote directly from the State of Alaska Boards and Commissions website in a "welcome to the board" document. From the same website comes the following (emphasis added in **bold font**):

> *Board members must weigh the concerns of consumers, licensed professionals, and stakeholders without prejudice* ***and in the public interest****. A board member* ***serves the public****, and even where the member takes a seat specifically reserved for a particular constituency, the member's* ***obligation is always to do what is in the best interest of the public****.*

From the AMCO Enforcement Priorities comes the following expectations (emphasis added in **bold font**):

> *AMCO staff will continue to enforce all applicable statutes and regulations, relying on the language of the applicable statutes and regulations; the enforcement priorities set forth in this document are designed to assist AMCO staff with focusing resources to* ***meet their responsibilities to the board and the public****. AMCO uses information provided by the public, generally received by phone or email, to alert the enforcement team to potential threats to public health and safety.* ***All complaints received will be investigated and independently verified to establish whether or not violations of Title 4 or Chapter 17.38 have occurred.***

Today Mr. Happy Farms LLC (MHF LLC) is asking you to renew its license. MHF LLC has not demonstrated that it can operate in compliance with AMCO regulations.

> *3 AAC 306.400. (2) (A) must demonstrate to the board's satisfaction that the applicant will operate in compliance with each applicable provision of 3 AAC 306.400 - 3 AAC 306.480 and 3 AAC 306.700 - 3 AAC 306.770.*

AMCO Enforcement recorded 104 odor complaints, spent many hours on the phone with MHF LLC's neighbors, and received numerous letters from others that witnessed this odor. MHF LLC constructed their building solely for marijuana cultivation. Their actions and equipment upgrades, in response to a June 2019 Notice of Violation and a March 2020 Advisory Complaint, did not correct their odor issues. For 15 months odor has been emitted onto four neighboring properties and onto the street.

> *3 AAC 306.810. Suspension or revocation of license*
> *(b) The board may suspend or revoke a license issued under this chapter. . .*
> *(2) is following any practice or procedure* ***that is contrary to the best interests of the public****, including*
> *(3)* ***failed, within a reasonable time after receiving a notice of violation*** *from the director,* ***to correct*** *any defect that is the subject of the notice of violation of*
> *(5) failed to comply with any applicable public health, fire, safety, or tax statute, ordinance,* ***regulation****, or other law in the state;*

Anchorage, Juneau, and Fairbanks routinely uphold odor regulations (included in the MJ-04 Operation Plan) that fulfill State Regulations to not allow odor to leave a cultivation facility's property. Anchorage cultivation facilities have received over 30 NOVs for odor in two years; several receiving multiple NOV's. This is evidence that AMCO responds to odor complaints (at least in Anchorage). It is also evident that cultivation facilities have the capability of controlling odor emissions if properly regulated.

AMCO is the only organization in the Mat Su Borough who holds the responsibility to control Limited Cultivation Facility odor. The Matanuska Susitna Borough has currently no responsibility for enforcement over Limited Cultivation Facilities. AMCO is not adequately regulating Limited Cultivation Facilities in the Matanuska Susitna Borough.

MHF LLC's neighbors have been working with AMCO since June 2019. They have done everything asked; from identifying the wind speed, wind direction, date, and time. They were directed by AMCO to contact the Alaska State Troopers – the troopers have never responded.

The AMCO Board has heard me speak at the September 2019, January 2020, and June 2020 board meetings about MHF's noncompliance with this regulation.

On June 19th 2019 MHF LLC's owner Mr. Thomas D. Dicus thanked his neighbors for bringing the odor issue to his attention in a neighborhood Facebook post. Seven days later AMCO wrote a NOV for odor. At the September 11th 2019 AMCO Board Meeting MHF LLC's license was up for renewal. Your staff had received 22 new odor complaints since the June 25th NOV but did **NOT** share this important information with the board and deemed MHF LLC to be in compliance.

On March 9th, 2020, because there were 32 complaints submitted in January and February, James Hoelscher provided an Advisory Complaint to MHF LLC. James stated: "He has installed numerous "scrubbers" to mitigate any possibility of marijuana odor emitting from his licensed premises. He has provided photos of the work he has completed". These scrubbers have not resolved the problem as evidenced by 30 new complaints reported since March 9th, 2020.

Also on March 9th, 2020- AMCO Enforcement confirmed that MHF LLC dumped their dehumidifier reservoir waste water on the ground at the back of the facility. A NOV was not provided for improper waste disposal or their failure to follow their approved operating plan.

3 AAC 306.740. Waste disposal

(a) A marijuana establishment shall store, manage, and dispose of any solid or ***liquid waste, including wastewater generated during marijuana cultivation production****, processing, testing, or retail sales, in compliance with applicable federal, state, and local statutes, ordinances, regulations, and other law.*

MJ-04 MHF Operating Plan

4.7 "We will employ a hydroponic drip system in both our rooms…. This runoff will be collected and returned to the water reservoir if still viable. If not, ***the water will go into the hazardous waste barrel for proper disposal per waste management standards."***
5.2 "We will have two 30-gallon sealable drums, both will be labeled as "hazardous waste". All waste that can't be processed or recycled will be logged accordingly. ***Liquid waste will be recorded in our in-house records to accurately give Waste Management a content and quality list." …****. "The two will be thoroughly mixed and the drum sealed for transport,* ***liquid waste will be sealed for transportation as well. Once we get board approval to dispose of the waste it will be logged out of the system and transported to***

prearranged Waste Management facility and disposed of according to all local and state laws."

After the June 2020 AMCO Board meeting, where owner Matt Shelton spoke with you about his facility and the odor issues, seven more complaints have been reported. There are no personal grow operations in this area. The odors are coming from MHF LLC's operations. MHF LLC's odor has been witnessed by:

- three MTA linemen working on Sierra Street across from MHF,
- AMCO Enforcement (during NOV),
- on personal property located at 4000 N Sierra St.,
- on personal property located at 3850 N. Sierra St.,
- on personal property located at 3800 N. Sierra St.,
- on personal property located at 3901 N. Sierra St.,
- from residents walking in front of MHF's property on their way to lake, and
- by multiple guests who had to endure this odor while visiting neighbors (letters sent to AMCO over the past 6 months).

All of these individuals have provided written testimony to ongoing odor emissions (contained in this packet and neighbor's complaint packets).

MHF LLC started operating April 2019 with Matt Shelton at 75% and Thomas J. Dicus 25% ownership (financing from Shelton, land from Dicus per their Limited Liability Company Operating Agreement in this tab). In April 2019, Mr. Thomas J. Dicus's home (3900 Sierra N. Drive) was in foreclosure until July 2019. On August 6th 2019 Thomas J. Dicus was removed as an owner and his father, Thomas D. Dicus was added. Changing ownership of MHF LLC to Matt Shelton 80% and Thomas D. Dicus 20%. On May 18th 2020 Matt Shelton became the sole proprietor on his State Of Alaska Business license #10077535. The Dicus family is leaving Alaska and renting out 3900 N. Sierra Drive. There is nothing in the lease agreement providing MHF LLC with access to the house (the only bathroom on the property).

A public nuisance is an unreasonable interference with a right common to the general public, such as toxic fumes settling over a neighborhood. Any reasonable person that learned MHF LLC's neighborhood has been subject to marijuana odor for 15 months would deem this situation a public nuisance.

The AMCO Board has both the power and responsibility, provided to you, and expected of you, by the State of Alaska, to protect our public from any marijuana facility that is in noncompliance. I asked you in January 2020 and June 2020- "how many months would you put up with this on your property?". As reported 104 times, these neighbors had to avoid being outdoors on their own property and had to shut windows and doors to keep it out of their homes. This number does not count the two other residents who experienced odor on their property because they did not submit complaints. It also does not count the numerous visiting guests nor the families that had to endure this odor as they walk their children and dogs past MHF LLC's property.

AMCO Enforcement knows cultivation odor carries across major roads into neighborhoods. Fairbanks had one that reached over 1,000 feet. If MHF LLC was located in Anchorage, I do not believe there would be 104 complaints over a 15-month period. Enforcement would have had the ability to witness the odor the day it was called in, just like the other 28 NOV's that were addressed the same day they were called in. In Anchorage, this operation would have been forced to correct the odor problems or been shut down.

Mr. Happy Farms LLC has had ample time and opportunity to prove to AMCO that they know how to operate a limited marijuana cultivation facility in compliance with required regulations. Time is up.

Do not renew this license.

Sam A. Hanson
Alaska State Resident since 1959

cc: Senator Mike Shower

Attachments:

AMCO ENFORCEMENT PRIORITIES
MHF Facebook Posts
June Public Comments
August 2019 Letter to Board
MHF MJ-04 Odor Control
MHF Licensed Premises
MHF Odor in Neighborhood Diagram
MHF NOV Response
January Public Comments
Sept 2019 Public Comment
MHF MJ-04 Operating Plan/Waste Disposal
March 9, 2020 Letter to Ron/Linda Kuzina

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

AMCO ENFORCEMENT PRIORITIES

AMCO Mission Statement: Enforce alcohol and marijuana commerce laws and provide clear, consistent standards for licensure to protect the public health, safety, and welfare.

Purpose: Well-defined priorities and consistent enforcement ensure that legitimate, taxpaying business people will be the ones operating licenses in a manner that keeps alcohol and marijuana out of the hands of underage persons and degrades illegal markets. AMCO staff will continue to enforce all applicable statutes and regulations, relying on the language of the applicable statutes and regulations; the enforcement priorities set forth in this document are designed to assist AMCO staff with focusing resources to meet their responsibilities to the boards and the public.

Background: The Alcoholic Beverage Control Board and the Marijuana Control Board are regularly audited by the Division of Legislative Audit, prior to the Legislature determining whether or not there is a continuing public need for each board. In the 2017 audits of each of the two boards, the auditors recommended that the boards, the director, and the enforcement supervisor work together to establish an enforcement plan to make the best use of AMCO's limited enforcement resources.

The boards are vested with the authority to "control the manufacture, barter, possession, and sale of alcoholic beverages in the state" (Alcoholic Beverage Control Board) and "control the cultivation, manufacture, and sale of marijuana in the state" (Marijuana Control Board). The boards wield their authority in the public interest to protect the health and safety of the people of Alaska. The director is empowered to enforce Title 4 (AS 04.06.075) and Chapter 17.38 (AS 17.38.150). The enforcement staff exercise peace officer powers, granted by the boards with the concurrence of the commissioner of public safety (AS 04.06.110 and AS 17.38.131). AS 04.21.070 states, "Peace officers shall investigate and report to the board violations of this title." Similar direction is given in 3 AAC 306.800.

With regard to marijuana, the federal government has not contested the establishment of a commercial adult-use marijuana program in Alaska (and several other states) as long as there has been in place a robust and well-enforced regulatory system. While the Cole Memo, which outlined this framework, was rescinded, maintaining such a system is in the best interests of our citizens. Priorities expressed in the Cole Memo—and adopted by resolution of the Marijuana Control Board—include preventing 1) distribution of marijuana to minors, 2) diversion, and 3) criminal activity and violence related to marijuana businesses.

(Department of Commerce, Community, and Economic Development continued)

AMCO Enforcement Unit: AMCO has eight investigators (including one supervisor) and a criminal justice technician. Five investigators and the technician are located in Anchorage, two investigators are located in Fairbanks, and one investigator is based in Juneau. The alcohol program manages between 1,800 and 1,900 licenses; the marijuana program manages 225 licenses (as of mid-July 2018) and is growing steadily. Licenses, particularly alcohol licenses, are spread throughout the 663,300 square miles of the state. Many alcohol licensees and several marijuana licensees are located in communities that are accessible only by boat or plane.

Enforcement Priorities

Enforcement priorities include both topics and processes. They are listed here in no particular order.

Health and Safety: For the health and safety of Alaskans, a clear regulatory structure and consistent enforcement of alcohol and marijuana laws is critical. AMCO Enforcement will prioritize investigations relating to alcohol or marijuana coming from illegal sources, potential over-service of alcohol, bootlegging, criminal involvement in licensed businesses, and marijuana testing violations. Aligned with this priority, staff is committed to collaborating to the maximum extent possible with state and local law enforcement, as well as with other state agencies whose health regulations apply to alcohol and marijuana businesses.

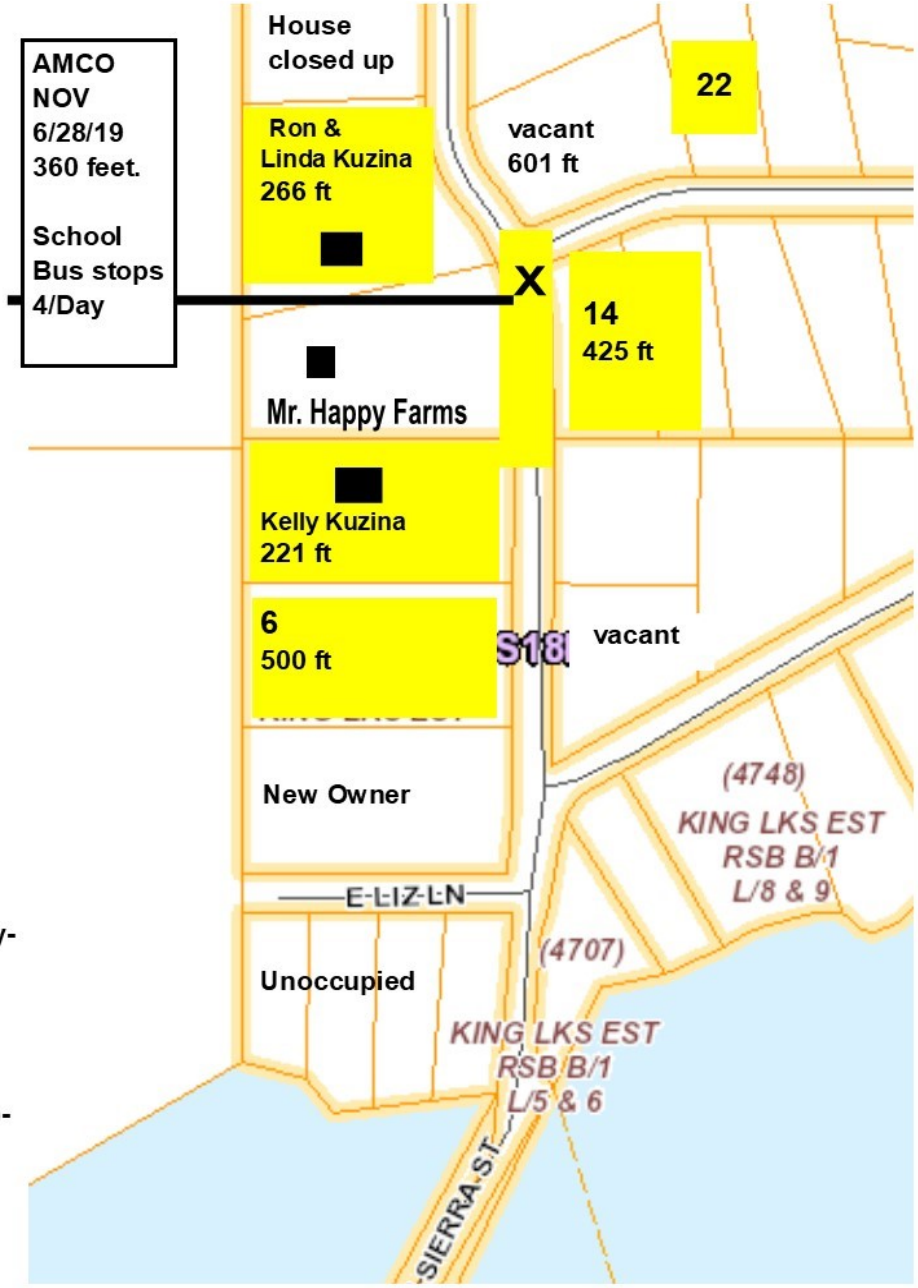
Preventing Access by Underage Persons: A primary purpose of regulating alcohol and marijuana is to prevent the substances from being consumed by individuals under the age of 21. Access by minors to licensed premises is strictly limited by statute. AMCO Enforcement will perform compliance check and shoulder tap operations to evaluate licensed businesses' performance in preventing access by minors to alcohol and marijuana. Investigations of businesses suspected of allowing or providing access to alcohol or marijuana to minors will be prioritized.

Diversion and Introduction: This priority relates primarily to marijuana. AMCO is committed to ensuring that marijuana in the legal market is tracked from seed-to-sale as part of the regulated system. AMCO is committed to focusing all available resources to preventing marijuana from exiting the regulated system to be sold on the black market, and preventing black market marijuana from being brought into the regulated system, as necessary to protect licensed marijuana businesses and the consuming public.

Inspections: No license will be issued for a location unless the premises has been inspected. While AMCO Enforcement physically inspects most premises, in some less easily accessible areas, AMCO may request that local law enforcement assist with an inspection or may arrange with the licensee for a photographic or video inspection. By being diligent with initial inspections, AMCO strengthens public safety while also helping licensees to pre-empt situations that could possibly result in violations, fines, or license revocation.

Complaints: AMCO uses information provided by the public, generally received by phone or email, to alert the enforcement team to potential threats to public health and safety. All complaints received will be investigated and independently verified to establish whether or not violations of Title 4 or Chapter 17.38 have occurred.

Mr. Happy Farms LLC
And his neighborhood



14
3901 Sierra St.
Witnessed odor on his property several times. (below)

22
4315 Echo Ave.
Witnessed odor when walking with children in front of MHF several times– everyone walks to the lake area (below)

6
3800 Sierra St
Witnessed odor several time on her property- (letter in Kelly Kuzina's objection)

OWNER	ADDRESS	Distance	Grow Pot	Witnessed Odor	Date/Signature
14. CORNEJO RICARDO J & JENEI	~~3601~~ 3901 N SIERRA ST	435	___Y ✓N	✓Y ___N	7-30-2020
22. ALLTON NATHAN & KRISTEN	4315 E ECHO AVE	601	___Y ✓N	✓Y ___N	

(3) June 19, 2019 FACEBOOK post stating when building was built

AT&T LTE 8:48 PM

facebook.com

Thomas James Dicus

David Frost

My business, Mr happy farms, is run from the 850 square foot building I spent $40,000 building last summer.

(3) June 19, 2019 FACEBOOK post acknowledging odor issue and asking neighbors to file an official odor complaint

AT&T 10:02 PM

facebook.com

Rebekah AL replied · 1 reply

Thomas James Dicus

We are definitely legal, through and through. Anyone can pull our license information, and damn near everything except(luckily, as of recently) our interior room design. For a while, anyone could see your exact building layout. Where product is locked, where the CASH is locked(we can only deal cash, but uncle Sam still wants their fat chunk, illegal federally or not), etc.
So we have nothing to hide, I assure you of that.
The 24/7 camera recording is for watching US, in our own business, not for theft.
We accepted all of it. Every regulation, no matter how unconstitutional or absurd, because we wanted to endeavor into an up and coming industry.
I love plants, all of them, they're incredibly fascinating, and now I get the amazing opportunity to make a living(we wont be getting rich, that is simple fact, just in case anyone thinks otherwise) doing something I ******* LOVE!
For any American, that is the dream come true.
And I will gladly do anything and everything to keep this business out of everyone's lives.

We have representation for discussing

AT&T 10:02 PM

facebook.com

everyone's lives.

We have representation for discussing the legalities, and if anyone feels inclined to engage in their right to protest(which will strictly be in court, in front of a judge at this point, because the 3 month long period of protesting is longggg gone) then I'll happily get you in touch with her.
She represents most of the cannabis businesses in the state, with a fantastic record.
But I will not argue and banter over any legalities on here, most of you know my tendency to use 4 letter words and be 'less than professional', on here.
My family and I cant afford that from me.
With that being said, thank you for bringing the odor issue to my attention, I will address it now(rather than waiting for an official complaint to be recorded, and go through months of talking to amco and such, which you're more than welcome to do if you havent already) so at least nobody is smelling something unpleasant to them.
The junk car issue has been fixed, I hope?
Anyone interested in checking it out, can message me and I'd be glad to talk about plants for hours.
Thanks for all the wonderful support here, I for one feel very good with the neighbors that surround😁!

14

Matt Shelton's Response to June 25, 2019 NOV

July 6, 2019

RE: License 17692; MJ 20 Supplemental Information

On June 26, 2019, a notice of violation was issued on our license. The violation was a result of odor complaints submitted by our two neighbors on either side of the property, both family related to each other. The AMCO investigators came to the licensed property to investigate the complaint, they spoke with myself, entered the facility and checked the surrounding area. Investigator Hamilton stated in his report that he "could not get a distinct smell of marijuana south of the residence." A copy of his report is attached here.

Please let me know if there are further questions regarding this issue.

Thank you-

Matthew Shelton
Co-Owner

(907) 854-2257
mrhappyfarmsAK@gmail.com

June Meeting Public Comments– From Sam Hanson

Good Morning AMCO Board and staff. My name is Sam Hanson– a mat su Borough resident.

At your January meeting I shared with you that Mr. Happy Farms (a limited cultivation facility in the Valley) had been emitting odor onto his neighbor's residential property for eight months.

I also shared that Anchorage has zoning and the MSB does not There are now 37 cultivation facilities operating or awaiting inspection in Anchorage. And 80 in the msb

LAST YEAR ON June 19th 2019
Owner Mr. Dicus of Mr. Happy Farms stated on our 451 residential member Facebook website

"Thank you for bringing the odor issue to my attention, I will address it now (rather than waiting for an official complaint to be recorded, and go through months of talking to AMCO and such,) which you're more than welcome to do if you haven't already) so at least nobody is smelling something unpleasant to them".

A week later Mr. Happy Farms received a NOV for odor– witnessed 360 feet from his facility.

March 9th of this year, your enforcement office emailed Mr. Happy Farms neighbors–
Siting they provided Mr. Happy Farms with an Advisory – the first and only advisory in 365 days.

James said he had 32 complaints for odor from January and February 2020.
And that Mr. Happy Farms provided them photos of newly installed "Scrubbers".

James said he met with the Mat Su Borough– only to find that they do not enforce odor for Limited Facilities.

James contacted the Mat Su Trooper stating "They have agreed that they would report any odor of marijuana they detect from any repeated complaints we received and passed on to them."

These residents called the Troopers on numerous occasions– they never showed up.
Now– the troopers just tell them- "we will make a record of your call"

Neither the MSB or State Troopers are responsible to enforce AMCO odor regulations!

James said "we have established enforcement to continue to check for odor and assigned someone to check on it during **the evening and weekend**, as **this seems to be the time we receive complaints**."

Please know that many complaints came to AMCO during their working hours.

These families can not be outside on their own property, and Can not leave their windows or doors open when Mr. Happy Farms odor is present.

You are the only obligated organization that can make this stop.
James can tell you that Mr. Happy Farms is not the only cultivation facility in the msb
That is not in compliance with odor emissions.

Today is day 365 since AMCO started receiving complaints.

Again, I ask the board again- How many months would you put up with odor on your property?
Thank you for allowing me to speak.

January Meeting Public Comments From Sam Hanson

Below– Approved January minutes

Open phone: Sam Hanson requested meeting with director. Matsu issue with odor control/violation. AMCO responded to more Anchorage odor issues than Matsu. (more information is found in the marijuana mailbox) The board members asks questions regarding Happy Farms. Status of regulation..? Director Klinkhart addresses the working groups. Community councils are voluntary. Should be 60 days not 30 days.

Good morning AMCO Board, My name is Sam Hanson I **have been** an Alaskan resident since 1959 and Serve on the NLCC board in the msb.

I requested a meeting **with your acting Director in Nov**– and after reading his director's report for this meeting
I can see that he has been busy **with Staff** and **AMCO operations**– his suggestions for **new directors** will be **very good** for AMCO– **and very timely**. You are very lucky to have him on board.

I shared to you in September about AMCO's inability to service the Mat-Su Valley with Odor Control.

Anchorage has 28 cultivation facilities. The Mat Su borough has 61 .

During the last 28 Months- 27 Odor violations were given out—only 2 were for the MSB

Of these 27 - 17 were written during 2019. Two cultivation facilities were in front of you at your September meeting for odor violations – they had 12 odor violations between them– this was not shared with you.

AMCO responded to all 25 Anchorage odor complaints on **the day they were called in** (except for two which were drive buys)

In April of 2019– Mr. Happy Farms (a limited Cultivation facility) started operating.
The owner stated on social media in May that he would address his odor complaints because he did not want an AMCO NOV.

In June- they received an violation for odor . It shared that:
An MTA crew witnessed marijuana odor throughout the day
while working across the street from this facility
This is the exact location where our school bus stops 4 times a day.

During your September Board meeting– Mr. Happy Farms owner **Mathew Shelton** stated he did many wonderful things to correct odor for the June violation. **That did not fix the odor problem**.
Your staff did not share with you at that time- they had **4 months of odor complaints** for Mr. Happy Farms
he was considered in compliance for renewal
On his application for odor control: it states they would **install an HVAC system**
and **nothing else to address odor emissions**.

your enforcement office received odor complaints for Mr. Happy Farms during–
June, July, August, September, October, November, December and for this month– consistently.

This Odor has been so strong it burns your eyes, engulfs their lots
where they had to shut their doors and windows to not be outside on their own property,
they don't even **want to open their garage door** to park inside **because it would come into their home**.
They can not be outside on their own property during these times–
and if that's the case Mr. Happy Farms has to know he has an odor problem.

You were contacted with complaints during working hours - only to send an enforcement officer out the next day.
In October AMCO asked these residents to document the wind and the strength of the odor. So they have been.
An enforcement officer actually said that **if they**
"wait for Mr. Happy Farms renewal in September- they would have a good concern **to bring forward**" .

In January of 2019, during your board meeting, James stated that he was getting a lot of odor complaints.

In your September 2019 meeting minutes after I shared this issue with you
"James states that he doesn't find it to be a secret he's been an advocate for those suffering from odor complaints.
This is one of the biggest concerns from non-marijuana users.
Odor complaints are investigated as possible
but it's about **what's important to spend time on**. He is **more concerned with diversion**, **METRC issues** and **that type of problem** ."

January Meeting Public Comments Continued From Sam Hanson

You were contacted with complaints during working hours - only to send an enforcement officer out the next day.
In October AMCO asked these residents to document the wind and the strength of the odor. So they have been.
An enforcement officer actually said that **if they**
"wait for Mr. Happy Farms renewal in September- **they would have a good concern to bring forward**" .

In January of 2019, during your board meeting, James stated that he was getting a lot of odor complaints.

In your September 2019 meeting minutes after I shared this issue with you
"James states that he doesn't find it to be a secret he's been an advocate for those suffering from odor complaints.
This is one of the biggest concerns from non-marijuana users.
Odor complaints are investigated as possible
but it's about **what's important to spend time on**.
He is **more concerned with diversion**, **METRC issues** and **that type of problem** ."

So **if you are** Prioritizing complaints – why did you provide 17 Odor violations in anchorage last year?
Are you only prioritizing complaints coming from the msb?

AMCO is the **only organization** that has the **responsibility** to control odor from cultivation facilities .

In May of 2019 you tabled **your proposed Fine Schedule**– please revisit this.
This is a tool that can assist your enforcement staff with ALL license violations.

Our 61 cultivation facilities are located next to families and not on commercial property-
They experience odor after your 4pm hours and on weekends when you are closed.
You can not respond to **us** with these parameters–
because odor can not be followed up on after-the-fact.

After AMCO **inspects the waiting licenses**-
the valley will have **72 cultivation** facilities and Anchorage will **have 33** .

Ask yourself
How long would you put up with a odor from a cultivation facility next to YOUR home?.

How may calls to AMCO would you consider acceptable?

As of today
These residents have been putting up with odor that engulfs their property
and affects their quality of life **for 252 Days**.

This is unacceptable.

August 23, 2019

AMCO Board of Directors
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501

AMCO BOARD MEETING SEPTEMBER 11-13, 2109

Dear AMCO Board.

This reaches you with concerns addressing AMCOs ability to enforce your Marijuana Cultivation and Limited Marijuana Cultivation license requirement for odor control. As of today, there are 34 (combined) operating licenses in Anchorage, and 78 operating licenses in the Mat-Su Borough. After the licenses waiting for approval the numbers will be– Anchorage with 42 active facilities and the Mat-Su Borough with 98. These numbers will only grow over time. Your enforcement department has only five employees which need to cover both Anchorage and the Mat-Su Borough– for all of four of your licenses and their many compliances. You currently can not keep up on complaints for odor control.

Marijuana Cultivation and Limited Marijuana Cultivation licenses' main compliance enforcement need is for odor control. Because these licenses operate 24 hours a day- odor violations can occur at anytime. Your office takes calls from 9am-12n and 1pm-4pm, Monday thru Friday. If called in during your 6 hours of operations– compliance officers take about an hour to reach the MSB license location (Willow and Talkeenta will take longer). A complaint reported at any other time becomes "after-the-fact" – where you do not qualify this as "enforceable" because you didn't smell it. MSB does not regulate Limited Marijuana Cultivation Facilities- so they can be located in a residential area, unlike Anchorage with its zoning restrictions. It is important you note this, because you will have more odor complaints from the MSB. Your tracking of this difference should hold true.

The need to have enforcement employees located in the Mat-Su Valley is in front of you. You currently can not fulfill the compliance requests with a staff of 5– as shared by a current staff employee. Also shared– a compliance officer has to smell marijuana upon their visit to write a violation. An on-call employee, that can handle complaints in real time, is something you need to consider. Remember you are only open for 6 hours Monday– Friday. Without this ability to meet a resident when a complaint is called in, you are wasting time and effort in following up if odor is not present.

The AMCO allows four odor compliance violations, within a three year period, before you rescind a license. This indicates to me that there is current technology available to keep odor contained. You currently have a license operating with complaints submitted for the months of June, July, and August. I sincerely hope this is not considered a typical situation. Both residents (that abut its' property) have had to close their windows, close their doors and not be outside due to the amount of stench that engulfs their personal property – occurring on numerous occasions. They put up with odor on their property for an entire month of May before they realized they could file a complaint. So, for four months this license holder has been operating and allowing odor off his property– if the residents smelt it so did the license holder. How long would you put up with this abuse and violation of your personal property? How many months will the AMCO allow this continue? Six months, a year?

How many complaints do you need before you investigate? To date there are 11 complaints and two violations on file. Are these residents paying the price because you are under staffed? Why doesn't this license have appropriate odor control equipment? Have you confirmed any upgrade in equipment since the first violation was provided in June?

On one of the two AMCO enforcement follow-ups- the compliance officer spoke to several individuals working directly across from this license (approximately 350 feet from the facility). They shared that they had smelt marijuana throughout the day. Your enforcement officer submitted a violation for that visit even though he did not smell it. Be mindful, these individuals were standing at the exact location where our children catch the school bus four times a day for the past 10 years and school has started– all shared with the AMCO. Does it take a third party to experience odor (along with the resident) to produce a violation– as it did in the above situation? If so, please let our residents know this so they can have a third party present when marijuana odor is engulfing their property so they too can testify to that fact.

Detecting odor and complying with regulations for a marijuana cultivation facilities is not new. Other states and cities compliance officers and police departments have been using a tool called Nasal Ranger. It is an olfactometer, or smell-o-scope designed to determine the strength of marijuana. This can be provided to residents where there is continuous abuse of odor– after 4pm when your office is closed and on weekends when no one can respond. This tool will allow you to verify odor and assist with a cultivation facilities ability to maintain their compliance requirements with the AMCO. It will stop the abuse to residual landowners who deserve to live on their property without a neighbor affecting their quality of life. More importantly, you are not wasting time investigating odor after the fact. You are playing cat and mouse without a tool to assist you in documenting odor emissions when you do not accept a residents word for it.

The AMCO is still in its infancy. You are fine tuning your regulations and requirements to meet your goals and requirements at every meeting you hold. My concerns with current enforcement shortcomings and my suggestions come to you on behalf of residents and in the anticipation of your growth.

I ask you to consider my suggestions in hopes that they will assist you with the success of the AMCO's obligations to the State of Alaska, who's statutes are in place to protect our residents.

Sincerely,

Sam A. Hanson
Alaskan Resident since 1959
Residential Homeowner- Shaw's Tri-Lakes Core Area

cc: Alaska Senator Mike Showers, MSB, Assemblyman Jessie Somner

September Meeting Public Comments By Sam Hanson

Below– Approved September minutes

Sam Hanson testifies via phone. Regarding the Matanuska-Susitna she borough discusses 2017 comments by Mark Springer and his opinion that NOVs are a Fix it Ticket. She discusses odor violations and how they are only issued NOVs when the odor is observed by the enforcement staff. She discusses the numbers of cultivation facilities and proximity to homes, the disparity between the number of NOVs issued in the Matanuska-Susitna Borough versus the number issued in Anchorage. She states that AMCO has no ability to enforce things in the valley and urges the board to create an on-call compliance officer position in the valley.

Below– What I said at the September Meeting under public testimony.

Sept. 11 Board Meeting– Public Comments

Good Afternoon, name is Sam Hanson and I live in the Mat-Su Borough
Welcome back board member Schulte

I provided you with a letter outlining my concerns for Cultivation facilities' odor enforcement on August 23rd.

September 14, 2017 *Board member Springer said: The majority of NOVs are the equivalent of a fix-it ticket.*
It is to help them remain or come into compliance with the regulations, and to help the industry to be successful.

7 months ago- At your Feb. 20th meeting- James Hoelscher shared with you that odor complaints are becoming a large problem.

Odor violations are given out only if it's witness by you - without a violation- nothing gets fixed and complaints will continue to come in.

When you approve the Inspections and Delignated Licenses on your books . There will be a total 102 licenses In Anchorage — 40 are cultivation facilities (all located on commercial property)
The MSB will have105- 83 are cultivation facilities (only 5 are located on commercial property)
There are 204 families living in proximity to our cultivation facilities.

21 license are on less than an acre (with 5 on less than 1/2 acres) 43 are on 1-2 acres 16 on 2-5 acres and 18 on over 5 acres.

The Valley does not have zoning– we allow limited cultivation facilities anywhere with no setback requirements or restrictions.

From April 2018 thru June 2019- 18 violations were given to cultivation facilities in anchorage– all but one was written on the day of the complaint- by a code compliance officer.

During that same 14 month period only 3 were written In the MSB - One witnessed by a third party-not your enforcer , 1 written by a Mat-Su Drug Investigator and 1 written by a Palmer Trouper. Remember– we have twice as many facilities than anchorage does -. This reflects on your inability to enforce cultivation facilities in the Valley.

Your office is open for six hours a day and not on weekends– this prohibits you from enforcing odor complaint in the Valley in real time– these 204 families work during the day and are at home on weekends when they report violations. Leaving you to deal with them after-the -fact and where witnessing an odor becomes a “hit or miss” situation for validating the complaint. This is a waste of your time and man power.

Here is just ones example of what we are dealing with in the valley:
We have a limited license on a 2 acre lot- with 3 months of complaints, 1 violation was given and complaints were called in for two more months after that violation. Windows and doors had to be shut, they couldn’t be outside on their own property on at least four of the worst occasions. It spewed across streets (just like in anchorage where it crossed Tudor reaching your residential neighborhoods).

The MSB will soon have more licenses than Anchorage.
An on-call compliance officer is needed in the Valley . Or you are playing cat and Mouse for keeping cultivation licenses in compliance at the expense of our residents .

Please consider these statistics and appreciate there is a difference between Anchorage and the Valley when it comes to proximity to our residents. Also remember that Valley licenses are located from Sutton to Talkeena– hours away from Anchorage.

You have the funds and the enforcement responsibility to make sure all licenses are in compliance.
Thank you for allowing me to speak.

Section 6 – Odor Control

Review the requirements under 3 AAC 306.430.

Answer "Yes" or "No" to the following question:	Yes	No
6.1. Have you received an exemption from your local government for the odor control requirement set forth in 3 AAC 306.430(c)(2)?	☐	☑

If "Yes", you must be able to certify the statement below. Read the following and then sign your initials in the box:	Initials
I am attaching to this form documentation of my odor control exemption from the local government.	MS

If "No" to question 6.1., describe the odor control method(s) to be used and how the marijuana cultivation facility will ensure that any marijuana at the facility does not emit an odor that is detectable by the public from outside the facility:

The facility will have a fully sealed HVAC system that will recirculate within the building and nothing exhausted to the outside without first passing through filters. This will comply with all guidelines set forth by AMCO, that the facility will not emit an odor detectable outside the building.

Section 7 – Testing Procedure and Protocols

Review the requirements under 3 AAC 306.455 and 3 AAC 306.465.

You must be able to certify each statement below. Read the following and then sign your initials in the corresponding box:	Initials
7.1. I understand and agree that the board or director will, from time to time, require the marijuana cultivation facility to provide samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks.	MS
7.2. I will ensure that any individual responsible for collecting random, homogenous samples for required laboratory testing under 3 AAC 306.455 will prepare the necessary accompanying signed statement, provide the signed statement to the marijuana testing facility, and maintain a copy as a business record under 3 AAC 306.755.	MS

7.3. Describe the testing procedures and protocols the marijuana cultivation facility will follow:

Once buds are ready, the designated owner will follow proper sample standards and retrieve a sample and prepare a signed statement to that effect. He will carry the statement with him to the testing facility as well as retain a copy for company records. A transportation manifest will be printed and the sample will be delivered to the testing facility. The batch the sample came from will be stored in a cool dry place to remain in inventory until results come back. The test results will then be added to our secure records.

4.7. Describe the marijuana cultivation facility's irrigation and waste water systems to be used:

We will employ a hydroponic drip system in both our rooms. This is a slow application with little runoff, our tables will have a waterproof membrane to catch extra runoff. This runoff will be collected and returned to the water reservoir if still viable. If not, the water will go into the hazardous waste barrel for proper disoposal per waste managment standards.

Section 5 – Waste Disposal

Review the requirements under 3 AAC 306.740.

You must be able to certify the statement below. Read the following and then sign your initials in the box to the right: Initials

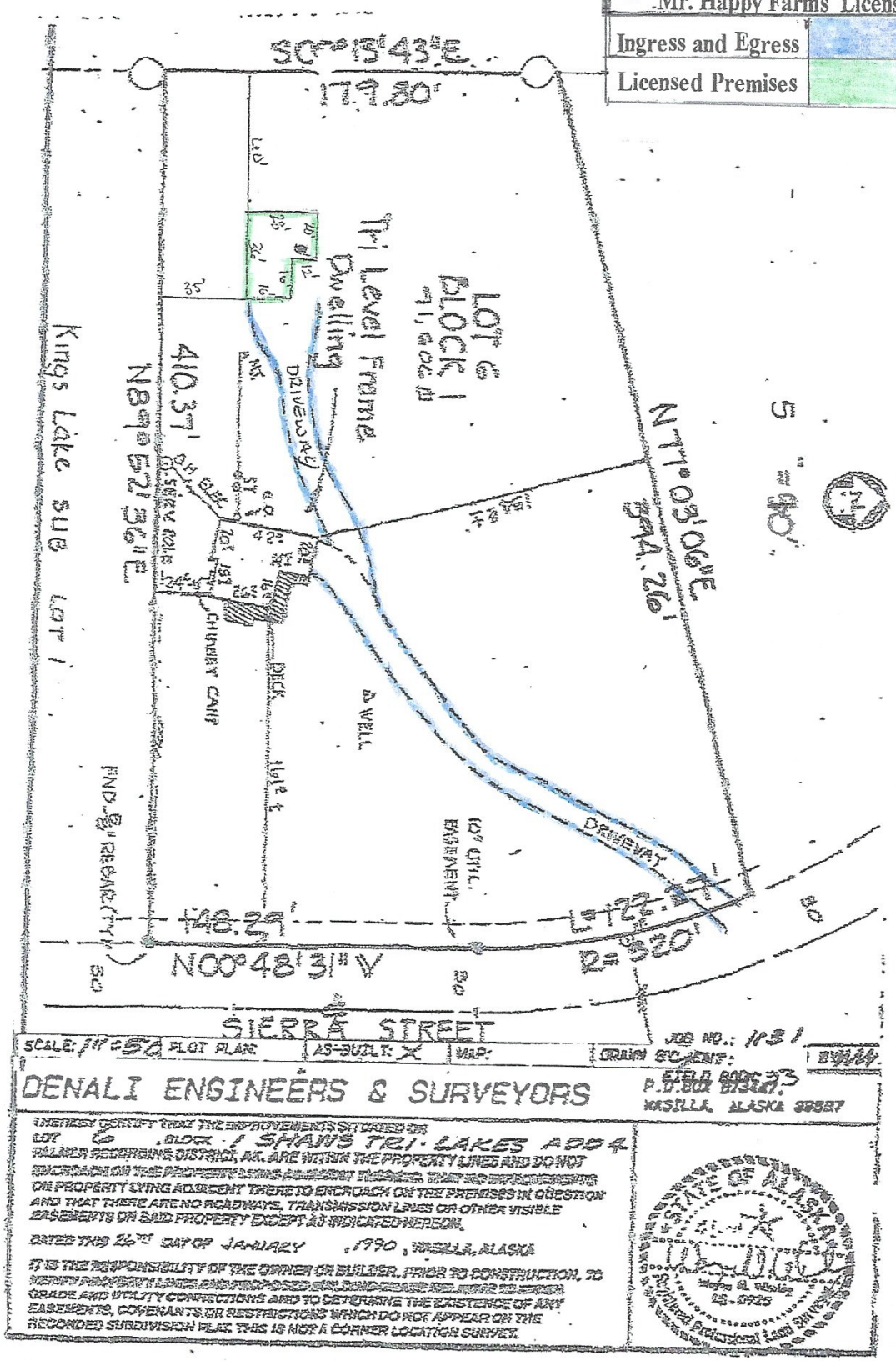
5.1. The marijuana cultivation facility shall give the board at least three days written notice required under 3 AAC 306.740(c) before making marijuana waste unusable and disposing of it. MS

5.2. Describe how you will store, manage, and dispose of any solid or liquid marijuana waste, including wastewater generated during marijuana cultivation, in compliance with any applicable laws. Include details about the material(s) you will mix with ground marijuana waste and the processes that you will use to make the marijuana waste unusable for any purpose for which it was grown:

We will have two 30-gallon sealable drums, both will be labled as "hazardous waste". All waste that can't be processed or recycled will be logged accordingly. Liquid waste will be recorded in our inhouse records to accurately give Waste Management a content and quantity list. All solid waste will be logged in the tracking system and ground by hand or machine prior to going in the drum. Liquids will be placed in their corresponding drum. Once the soild waste drum meets our criteria for disposal we will notify the board at least 3 days prior to taking waste in for disposal, the waste will be weighed and we shall add an equal amount of weight in clean soil, paper waste or cardboard waste. The two will be thoroughly mixed and the drum sealed for transport, liquid waste will be sealed for transportation as well. Once we get board approval to dispose of the waste it will be logged out of the system and transported to prearranged Waste Managment facility and disposed of according to all local and state laws.

Diagram 3

Mr. Happy Farms License # 17692	
Ingress and Egress	
Licensed Premises	



From: Hoelscher, James C (CED)
To: Ron And Linda Kuzina
Sent: Monday, March 9, 2020 8:40 AM
Cc: Davies, Jason M (CED) ; CED AMCO Enforcement (CED sponsored) ; Klinkhart, Glen Edward (CED) ; Marijuana Licensing (CED sponsored)

Subject: Odor Complaints - Mr. Happy Farms 17692

Mr and Mrs. Kuzina,

I know we have not spoken in a while and wanted to touch base with you and let you know that your complaints aren't just falling into a black hole. I wanted you to know that enforcement has taken proactive steps regarding the reported odors for Mr. Happy Farms.

We have contacted the licensee, Mr. Happy Farms LLC, license 17692, and informed him of the odor complaints we are receiving. The licensee has been very receptive and responsive to the complaints. He has installed numerous "scrubbers" to mitigate any possibility of marijuana odor emitting from his licensed premises. He has provided photos of the work he has completed.

In the past two months, AMCO Enforcement has done the following:

- investigated the complaints of the odor. To the point that we will drive in the neighborhood when we are in the MSB, near that area. Of which, we have not smelled the odor of marijuana.
- investigated the complaints of the dumping of the liquid, which turned out to be dehumidifier reservoir water.
- Investigated the complaints of an illegal grow at the residence, to which we have no probable cause to verify as it is legal to grow up to 12 marijuana plants, of which 6 can be flowering. We did inquire twice, to which the response was that there was no plants at the residence and the licensee verified with the home owner, who he leases from, so he would not be receiving complaints of odor emitting from a personal grow.
- we have met with the Troopers and they have agreed that they would reports any odor of marijuana they detect from any repeated complaints we received and passed on to them. SO far, the complaints of Mr. Happy Farms have been the only ones forwarded to them at this time.
- we have contacted the MSB and they informed us that they do not enforce an violations on limited cultivations.
  issued an advisory to the licensee informing him that we have received 32 complaints total in January and February. All these complaints were from three complainants.
- Met with the licensee and informed him of the repeated odor complaints. He informed us of the things he has done in hopes of preventing odor from emitting from his licensed premises, he is firm that his building does not emit odor as reported and says that he has spent a lot of money on the filters and ventilation. He said that in doing so, his marijuana crops have suffered due to the temperature and humidity instability, basically turning a negative pressure building into a positive pressure building has the potential of creating more problems. The licensee pointed out that there were numerous neighbors who have not filed any complaints of odor and he suspects that one or more may have personal marijuana growing in their residences.

We have established that enforcement will continue to check for marijuana odor at this licensed premises and have assigned someone to check on it during the evening and weekend, as this seems to be the time we receive any complaints.

As for the operations near a school, I just want to make a point of calcification that the operation is approximately 60 feet from the school boundary line, however the premises is over 2,100 feet to the playground and over 2,300 feet to the building.

We have no control over that issue and have made the Director aware of your complaints.

I know this information will be of little comfort as your reported problem still is affecting you, but I hope that you do see AMCO Enforcement is doing all that is possible in trying to narrow any odor directly to this licensee.

Please let me know you received this and I am more than happy to answer any questions.

Respectfully,

James