

Lauren Davidson

From: Robert Johansen <robert.j.johansen@gmail.com>
Sent: Friday, April 15, 2016 1:40 PM
To: Planning
Subject: Re: Concerned Citizens of Windy Flats Plateau , Tonasket WA

Missed a section of my letter:

3. LIGHT EMISSION:

<http://lcb.wa.gov/mj2015/faqs-rules>

Growing Where can I grow?

- **Indoors/Greenhouse**
Fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.
- **Outdoor**
Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

Contact Enforcement Customer Service

Email	EnfCustomerService@lcb.wa.gov
Phone	(360) 664-9878

WAC 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a liquor control board statute or regulation?

- (1) When an enforcement officer believes that a licensee has violated a board statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent, or employee.
- (2) The AVN notice will include:

- (a) A complete narrative description of the violation(s) the officer is charging;
- (b) The date(s) of the violation(s);
- (c) A copy of the law(s) and/or regulation(s) allegedly violated;
- (d) An outline of the licensee's options as outlined in WAC [314-55-510](#); and
- (e) The recommended penalty.
- (i) If the recommended penalty is the standard penalty, see WAC [314-55-520](#) through [314-55-535](#) for licensees.
- (ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty.

WAC 314-55-506 What is the process once the board summarily suspends a marijuana license?

- (1) The board may summarily suspend any license after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.
- (2) Suspension of any license under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary suspension order unless otherwise provided in the order.
- (3) When a license has been summarily suspended by the board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing shall be held within ninety days of the effective date of the summary suspension ordered by the board.

WAC 314-55-160 Objections to marijuana license applications.

- (1) **How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a marijuana license?** Per RCW [69.50.331](#), the board will notify cities, counties, tribal governments, and port authorities of the following types of marijuana applications. In addition to these entities, any person or group may comment in writing to the board regarding an application.

WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license.

Following is a list of reasons the board may deny, suspend, or cancel a marijuana license application or license. Per RCW [69.50.331](#), the board has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

- (1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter [69.50](#) RCW.

On Fri, Apr 15, 2016 at 8:18 AM, Robert Johansen <robert.j.johansen@gmail.com> wrote:

Here is what we see

On Fri, Apr 15, 2016 at 8:15 AM, Robert Johansen <robert.j.johansen@gmail.com> wrote:

Dear Planning Committee,

Please consider this letter we will present to our friendly neighborhood marijuana grow operation.

Please review the OCC 17.90, the WAC, the LCB website and WA State Ecology website references at the bottom, we included these so they may know where we based our concerns. Please review the attached pictures for visual reference, we will be including these and more with our letter to them.

NOTE: We have yet to present this letter to them as we are collecting our neighbors signatures and taking night-time photos from their residential perspective to the grow operation.

April 18, 2016

TO: The Pine Creek / Rolling Hills Marijuana Grow Operation

FR: The Concerned Citizens of the Windy Flats Residential Neighborhood

RE: Water use and recent greenhouse addition with its excessive light emission

Dear Owner/Manager

WE, the neighboring residents on the Windy Flats plateau would like to first commend you on the visual aesthetics of your particular marijuana grow operation. When compared to others in our vicinity, WE feel fortunate that your grounds are well kept and the roadways accessing your lot are not littered with excessive trash, yard debris, unsightly construction waste, single wide trailers and railroad car storage containers.

There is however, a general concern amongst your neighboring residents regarding the general water table on the Windy Flats plateau with the recent influx of marijuana grow operations and the use of private well water to facilitate the growth and maintenance of your preferred crops. Specifically, your operation shares a well with other long-term residents. Some other immediate neighbors on Rolling Hills Drive have experienced increased well water sediment through our pipes, water heaters and water filters. This is consistent with the lowering of the private well well water levels. This in turn causes the water pumps to create turbulence within the water draft. This is itself agitates sediment and carries that sediment to our private homes. During our activities of daily living and water use, this sediment can be detrimental to our refrigerators, dishwashers, water filters, and water heaters. These appliances are costly to repair or maintain more frequently.

- WE, the undersigned concerned citizens of Windy Flats residential neighborhood politely ask that you consider the addition of a water cistern or other alternate water collection system to collect and store the summer's irrigation water. WE believe this may minimize the environmental impact on the winter and early spring water table that your year round grow

operation is reliant upon. This preserves our mutual water table and your shared well water during the greater calendar year that the Aeneas Lake Irrigation District is not in operation.

A more recent concern is with the debut of your new greenhouse additions. They emit an extraordinary amount of light. WE are each affected by this because we each chose to live and raise our families or retire in a rural community far away from city lights and bustle. On any given clear night we have full view of the Milky Way. For the residents who live beside, in front of, behind, across from and above your marijuana grow operation - These grow lights emanating from your clear greenhouse is an unwanted man-made distraction from the pure God-given heavens above. Your clear greenhouse cast constant and intrusive light through our windows and resembles a beacon on the Windy Flats plateau. Your current visual barrier choice for your fence is translucent for this particular light source and is essentially ineffective in stopping this light from escaping your grounds laterally to your immediate neighbors. It is on the South and East corners that this light is the brightest (secondary only to the sun as one neighbor put it jokingly).

- WE, the undersigned concerned citizens of Windy Flats residential neighborhood politely ask that you consider the addition of a blind, a shutter and or overlaying a visual barrier (such as a tarp) across the top of your outdoor greenhouse.
- In consideration of your immediate and parallel neighbors to the South and East fence perimeter - Would you consider changing the visual barrier attached to the fence line into something that is less transparent that can actually obstruct the lateral light emissions?
- In anticipation that your pole buildings with their clear roofs will also be used for indoor grow houses... WE will preemptively ask that you consider some sort of visual barrier be affixed to those roofs structures to minimize the significant, excessive and unwanted light burden affecting your neighbors emanating from their clear roofs. This would be of great benefit and appreciation to your neighbors who live upon the hill directly behind your marijuana grow operation on the North, as well as those residents located on the adjacent hillside to your South and West

WE thank you for the opportunity to review the concerns that we have outlined above. We hope that you give sincere consideration for these concerns and act on them in a manner that is neighborly, if not timely.

Sincerely;

The undersigned concerned citizens of the Windy Flats residential neighborhood.

REFERENCES:

1. OCC TITLE 17A.290 Marijuana Operations

17A-290.060 – OTHER PERMITS

All other associated permits must be obtained and maintained in good standing throughout the duration of the project. Associated permits include but are not limited to building permits, zoning or critical areas per minutes, access permits etc.

- *As discussed below regarding well water, WE, the concerned citizens of Windy Flats residential neighborhood believe that although your shared well is permit exempt, your industrial use may adversely affect our wintertime and early spring water table in the long term, and as such would fall under the jurisdiction of the ecology department to investigate and make final determination if these concerns are not addressed to the satisfaction of your surrounding neighbors. Although there are larger marijuana grow operations than yours on our plateau, we hope that you serve as a liaison amongst your peers regarding our limited water resource in the surrounding Aeneas Water District.*

17A-290.070 – LIGHTING

All outdoor lighting, including but not limited to security lighting and elimination of signs shall be downcast and shielded from neighboring properties.

- *We believe this applies to your particular marijuana grow operation as discussed below regarding greenhouse light emissions.*

17A.290.080 – NEIGHBORHOOD CHARACTER

Marijuana operations shall be compatible with the character of the surrounding neighborhood. Factors upon which compatibility will be evaluated include but are not limited to noise, traffic, **light and glare**. Dilated and verified complaints from neighbors may be considered as possible reasons for revocation of a permanent, or modification of the permitted conditions of approval.

- *As discussed above, we again applaud you for having a visually anesthetic grow operation. Your operation, above all others, yours blends well into the surrounding landscape of alfalfa fields in our residential neighborhood.*
- *That being said, we have respectfully and clearly communicated our concerns and asked that you consider our suggestions in areas where we believe that you may improve upon. These are based upon our interpretation of the current Okanogan County codes, WA State Ecology water use regulations, applicable WAC's and LCB FAQ's regarding marijuana grow operations requirements referenced below for your information.*

2. WELL WATER:

http://www.ecy.wa.gov/programs/wr/comp_enforce/gwpe.html

State Water Use Laws: The Groundwater Permit Exemption RCW 90.44.050

In Washington State, prospective water users must obtain authorization in the form of a water right permit or certificate from the Department of Ecology (Ecology) before withdrawing groundwater. The groundwater permit exemption allows the users of small quantities of groundwater to construct wells and develop their water supplies without first obtaining a water right permit from Ecology.

The only exceptions to the permit requirement is for withdrawals of groundwater for:

- Providing water for livestock (no gallon per day limit).
- Watering a non-commercial lawn or garden one-half acre in size or less (no gallon per day limit, however limited to reasonable use).
- Providing water for a single home or groups of homes (limited to 5,000 gallons per day).
- Providing water for industrial purposes, including irrigation (limited to 5,000 gallons per day but no acre limit).

Restrictions on Permit Exempt Wells

Water use of any sort is subject to the "first in time, first in right" clause, originally established in historical western water law and now part of Washington State law. This means that a senior right cannot be impaired by a junior right. **Seniority is established by priority date - the date an application was filed for a permitted or certificated water right or the date that water was first put to beneficial use in the case of claims and exempt groundwater withdrawals.**

One groundwater exemption is allowed for any one project regardless of size. It is important to note that all wells for a given project apply toward the limits of the exemption. If you wish to develop land and supply the industrial or domestic development with water from several wells, all the wells of the development together must pump 5,000 gallons a day or less to be covered under this exemption. ***For example, under the Exemption, a project that includes multiple homes, such as a small subdivision, can legally use the Exemption as long as the homes collectively will use no more than 5,000 gpd for their domestic water needs.*** Still, in some cases, a small proposed development—or even a single home—can be considered part of a larger project requiring a water right permit. If so, the project cannot rely on using the Exemption. If the cumulative total of withdrawn groundwater for an industrial or domestic project exceeds 5,000 gallons a day, a water right is required.

Although permit exempt groundwater withdrawals don't require a water right permit, to the extent the groundwater is beneficially used, the water user withdrawing groundwater under the exemption establishes a water right that is subject to the same privileges and restrictions as a water right permit or certificate obtained directly from Ecology. **Although exempt groundwater withdrawals don't require a water right permit, they are always subject to state water law. In some instances, Ecology has had to regulate, stop or reduce groundwater withdrawals when they interfere with prior or "senior" water rights, including instream flow rules.**

- FYI: Your Marijuana Grow Operation shares a well with 3 other residential plots, which mathematically equates to a maximum industrial use of 1,250 gpd. A sustained use of more than this, on a daily basis, is concerning for the general Windy Flat plateau as discussed and shared with you above.

I want to....

Report an environmental problem: [1-509-575-2490](tel:1-509-575-2490) | [E-mail](#) | [Online Form](#) |

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Samaritan Riders of Washington Founder

www.SamaritanRiders.org

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