

UNITED STATES DEPARTMENT OF JUSTICE

Drug Enforcement Administration

In the Matter of

**Schedules of Controlled Substances:  
Proposed Rescheduling of Marijuana**

**DEA Docket No. 1362  
Hearing Docket No. 24-44**

**ORDER REGARDING THE GOVERNMENT’S PROPOSED EXHIBIT**

On January 3, 2025, the Government submitted copies of its proposed exhibits to this tribunal. A prehearing ruling (the Prehearing Ruling or PHR) issued after the preliminary hearing in this case instructed “each party [to] timely provide three (3) complete sets of *hard copies* of all proposed exhibits to the Hearing Clerk” no later than January 3, 2025. PHR at 4 (emphasis in original) (italics supplied). Further, the parties were explicitly warned that “[e]xclusive of audio/video recordings, exhibits provided in the form of compact disc (CD) . . . or other electronic versions will not be accepted” absent approval from the tribunal. *Id.* at 4 n.5. The Government subsequently filed a supplemental prehearing statement (SPHS) wherein it requested leave to file electronic copies of the comments (the Comments) received in response to the notice of proposed rulemaking that serves as the genesis for these proceedings. SPHS at 6-7. Inasmuch as no good cause was provided in support of that requested relief, an order issued in response to the Government’s Supplemental Prehearing Statement (Order Re SPHS) denied that request and noted that the Government would be subject to the same obligations imposed on all other parties involved in these proceedings. Ord. Re SPHS at 2-3.

Despite the clear (and repeated) directives contained in the Prehearing Ruling and the Order Re SPHS, the Government has elected to submit a compact disc (CD) containing copies of the Comments with its submission of proposed exhibits. The Government has not supplied the tribunal with a hard copy of the lengthy proposed exhibit (Gov’t Exh. 2 (ID)) which it represents as containing the Comments. In view of the fact that Government’s request for leave for an exception to the rules applicable to the rest of the Designated Participants was specifically denied, this action is clearly not a mistake borne of misunderstanding or inadvertence, but an

action taken in deliberate defiance of specific direction. Even among the numerous extraordinary and puzzling actions taken thus far by the Government during the course of this litigation, this disobedience of an unequivocal directive from the tribunal is unprecedented and astonishing.

Accordingly, Government's Proposed Exhibit 2 (ID) has **NOT BEEN TIMELY PROVIDED** as noticed in its current format. Based on the Government's deliberate failure to comply with the unequivocal and repeated directive of the tribunal, the issue of sanction is herein **RESERVED** for a determination to be made at such time during the hearing on the merits that the proposed exhibit is offered into the record.

Dated: January 13, 2025

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JOHN J. MULROONEY, II  
Chief Administrative Law Judge

### **CERTIFICATE OF SERVICE**

This is to certify that the undersigned, on January 13, 2025, caused a copy of the foregoing to be delivered to the following recipients: (1) Julie L. Hamilton, Esq., Counsel for the Government, via email at julie.l.hamilton@dea.gov; James J. Schwartz, Esq., Counsel for the Government, via email at james.j.schwartz@dea.gov; Jarrett T. Lonich, Esq., Counsel for the Government, via email at jarrett.t.lonich@dea.gov; and S. Taylor Johnston, Esq., Counsel for the Government, via email at stephen.t.johnston@dea.gov; (2) the DEA Government Mailbox, via email at dea.registration.litigation@dea.gov; (3) Shane Pennington, Esq., Counsel for Village Farms International, via email at spennington@porterwright.com; and Tristan Cavanaugh, Esq., Counsel for Village Farms International, via email at tcavanaugh@porterwright.com; (4) Nikolas S. Komyati, Esq., Counsel for National Cannabis Industry Association, via email at nkomyati@foxrothschild.com; William Bogot, Esq., Counsel for National Cannabis Industry Association, via email at wbogot@foxrothschild.com; and Khurshid Khoja, Esq., Counsel for National Cannabis Industry Association, via email at khurshid@greenbridgelaw.com; (5) Dante Picazo for Cannabis Bioscience International Holdings, via email at ir@cbih.net; (6) Andrew J. Kline, Esq., Counsel for Hemp for Victory, via email at AKline@perkinscoie.com; and Abdul Kallon, Esq., Counsel for Hemp for Victory, via email at and AKallon@perkinscoie.com; (7) Scheril Murray Powell, Esq., Counsel for Veteran's Initiative 22, via email at smpiresquire@outlook.com; and David C. Holland, Esq., Counsel for Veterans Initiative 22, via email at dch@hollandlitigation.com; (8) Kelly Fair, Esq., Counsel for The Commonwealth Project, via email at Kelly.Fair@dentons.com; Joanne Caceres, Esq., Counsel for The Commonwealth Project, via email at joanne.caceres@dentons.com; and Lauren M. Estevez, Esq., Counsel for The Commonwealth Project, via email at lauren.estevez@dentons.com; (9) Rafe Petersen, Esq., Counsel for Ari Kirshenbaum, via email at Rafe.Petersen@hklaw.com; (10)

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Tayonna Eubanks  
Secretary (CTR)  
Office of Administrative Law Judges