

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
BEFORE THE ADMINISTRATOR

In re:)	
)	
Invernaderos Hidroponicos)	
La Bonita SAPI de CV)	
)	Administrator's Decision
)	APL-047-24
Colon, Queretaro, Mexico)	
)	

This Decision responds to an Appeal (APL-047-24) of Notices of Noncompliance and Proposed Suspension under the National Organic Program (NOP) issued to Invernaderos Hidroponicos La Bonita SAPI de CV (Bonita) of Colon, Queretaro, Mexico by USDA accredited certifier CCOF Certification Services, LLC (CCOF). The operation has been deemed not in compliance with the Organic Foods Production Act of 1990 (Act)¹ and the U.S. Department of Agriculture (USDA) organic regulations.²

BACKGROUND

The Act authorizes the Secretary to accredit agents to certify crop, livestock, wild crop, and/or handling operations to the USDA organic regulations (7 C.F.R. Part 205). Certifying agents also initiate compliance actions to enforce program requirements, as described in section 205.662, Noncompliance procedure for certified operations. The NOP may also initiate

¹ 7 U.S.C. 6501-6522

² 7 C.F.R. Part 205

compliance actions against operations and certifying agents to enforce program requirements.

Persons subject to the Act who believe they are adversely affected by a noncompliance decision of a certifying agent or the NOP may appeal such decision to the USDA Agricultural Marketing Service (AMS) pursuant to § 205.680 Adverse Action Appeals Process – General, and § 205.681, Appeals of the USDA organic regulations.

FINDINGS OF FACT

1. On November 17, 2015, CCOF certified Bonita for crops and handling.
2. On April 8, 2022, CCOF issued a Notice of Proposed Suspension based on findings of a prohibited substance on crops, after having issued Notices of Noncompliance on March 16, 2022 and March 30, 2022.
3. On May 6, 2022, Bonita requested mediation which was granted.
4. On July 19, 2022, CCOF issued another Notice of Noncompliance in its attempt to ascertain exactly how Bonita could determine which Greenhouses (GH) were contaminated.
5. On August 3, 2022, CCOF issued another Notice of Noncompliance citing numerous noncompliances and referencing the prior April 8, 2022 Notice of Proposed Suspension.
6. On September 7, 2022, CCOF issued a Notice of Proposed Suspension citing the August 3, 2022 noncompliance notice and numerous noncompliances including findings of prohibited substances in numerous GHs. Bonita requested mediation, and at least 2 mediation sessions were held.
7. On November 17, 2022, CCOF and Bonita entered into a Settlement Agreement whereby GHs 1, 2, and 3 were surrendered; Bonita agreed to conduct internal sampling; have

labels and inputs approved prior to use; maintain sufficient records for tracing products; and pay overdue fees of \$29,544.80. Additionally, along this time GHs 9.1, 9.2, and 9.3 were removed from certification.

8. On February 2, 2023, and October 5, 2023, CCOF conducted inspections of Bonita and found systemic failures in the operation, its compliance with the Organic System Plan (OSP), and the continued use of unapproved labels and unapproved inputs.
9. On November 16, 2023, CCOF issued a Notice of Noncompliance and Proposed Suspension to Bonita citing to the findings of the prior inspections and that Bonita had breached its Settlement Agreement with CCOF.
10. On December 7, 2023, CCOF conducted an unannounced inspection and found unapproved inputs, along with other noncompliances; and further, a sample of Persian cucumber from GH 6.2 tested positive for prohibited substances.
11. On December 12, 2023 and December 14, 2023, Bonita requested mediation.
12. On January 22, 2024, CCOF issued a Notice of Noncompliance and Proposed Suspension to Bonita citing to the finding of prohibited substance residue on sampled cucumber from GH 6.2 and other noncompliances.
13. On February 20, 2024, and again on February 24, 2024, Bonita submitted responses to the January 22, 2024 adverse action notice to CCOF.
14. On March 5, 2024, CCOF issued another Notice of Noncompliance and Proposed Suspension to Bonita citing to, among other noncompliances, the use of unapproved labels, an inaccurate materials list, the finding of prohibited substance residue on sampled cucumber from GH 6.2, the need to describe buffers, and insufficient records to conduct a successful traceability exercise.

15. On March 5, 2024, CCOF issued a Notice of Mediation Rejection, citing to the Notices of Noncompliance and Proposed Suspension issued on January 22, 2024 and March 5, 2024; Bonita's mediation requests of December 12, 2023 and December 14, 2023 filed in response to the November 16, 2023 adverse action notice; and Bonita's February 20, 2024 and February 24, 2024 responses to noncompliances; these appear to have been treated as mediation requests.
16. On April 3, 2024, Bonita filed an Appeal citing the various CCOF actions, which was deemed an appeal to all CCOF-issued adverse actions; and also acknowledged overdue certification fees of \$28,544.80 and requested to withdraw GH 6.2 from certification.
17. On May 8, 2024, CCOF issued another Notice of Noncompliance citing the numerous findings of prohibited substances, recordkeeping deficiencies, and non-payment of fees.
18. On October 28, 2024, NOP and Bonita entered into a Settlement Agreement which was a 'global resolution' of all the adverse actions; and whereby GHs 1, 2, 3, 9.1, 9.2, and 9.3 remained in transition due to prior prohibited substance findings, and GHs 6.1 and 6.2 were removed from certification and placed in transition due to contamination. Additionally, Bonita agreed not to use prohibited substances, unapproved inputs, and unapproved labels; and to comply with a payment plan to pay the overdue certification fees of \$40,376.97 over a 14-month period.
19. On December 3, 2024, CCOF reported to NOP that Bonita had breached several terms of the NOP Settlement Agreement, including failing to submit its 2025 renewal materials and make the agreed upon payments of overdue fees.

20. On January 7, 2025, CCOF reported additional breaches of the Settlement Agreement to NOP, including additional fees that had become delinquent since the December 3, 2024 report of breaches of the NOP Settlement Agreement.
21. On January 19, 2025, NOP issued a Notice of Noncompliance and Request for Corrective Action giving Bonita 30 days to fully come into compliance with the NOP Settlement Agreement, including payment of all delinquent fees.
22. On January 31, 2025, CCOF reported additional breaches of the Settlement Agreement, including Bonita's failure to schedule its 2024 required annual inspection.
23. On February 9, 2025, NOP issued a 2nd Notice of Noncompliance and Request for Corrective Action providing Bonita 20 days in which to schedule its 2024 annual inspection, submit its renewal materials, and pay all overdue fees per the agreed upon payment plan.
24. On March 4, 2025, and again on March 24, 2025, CCOF reported that additional breaches of the NOP Settlement Agreement have occurred as additional payments of delinquent fees had not been made, in addition to the annual inspection not being scheduled, and the renewal materials not being submitted.
25. On April 10, 2025, CCOF confirmed that Bonita has still not come into compliance, or taken corrective action as directed by NOP's prior noncompliance notices; and certification fees of \$52,833.22 remain unpaid with additional payments going unpaid each month.

REGULATORY CITATIONS

The USDA organic regulations at 7 C.F.R. §205.103, Recordkeeping by certified operations, state that, "(a) A certified operation must maintain records concerning the

production, harvesting, and handling of agricultural products that are or that are intended to be sold, labeled, or represented as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)).” (b) Such records must: ... (2) Fully disclose all activities and transactions of the certified operation, in sufficient detail as to be readily understood and audited ... (4) Be sufficient to demonstrate compliance with the Act and the regulations in this part ...”

The organic regulations at §205.105, Allowed and prohibited substances, methods, and ingredients in organic production and handling, state that, “To be sold or labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” the product must be produced and handled without the use of: (a) Synthetic substances and ingredients, except as provided in §205.601 or §205.603; (b) Nonsynthetic substances prohibited in §205.602 or §205.604 ...”

The organic regulations at §205.201, Organic production and handling system plan, state that, “(a) The producer or handler of a production or handling operation ... intending to sell, label, or represent agricultural products as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent. An organic system plan must meet the requirements set forth in this section for organic production or handling. An organic production or handling system plan must include: (1) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed; (2) A list of each substance to be used as a production or handling input, indicating its composition, source, location(s) where it will be used, and documentation of commercial availability, as applicable; ... (4) A description of the recordkeeping system

implemented to comply with the requirements established in §205.103; (5) A description of the management practices and physical barriers established to prevent commingling of organic and nonorganic products on a split operation and to prevent contact of organic production and handling operations and products with prohibited substances; and (6) Additional information deemed necessary by the certifying agent to evaluate compliance with the regulations...”

The organic regulations at §205.202, Land requirements, state that, “Any field or farm parcel from which harvested crops are intended to be sold, labeled, or represented as “organic,” must: (a) Have been managed in accordance with the provisions of §§205.203 through 205.206; (b) Have had no prohibited substances, as listed in §205.105, applied to it for a period of 3 years immediately preceding harvest of the crop; and (c) Have distinct, defined boundaries and buffer zones such as runoff diversions to prevent the unintended application of a prohibited substance to the crop or contact with a prohibited substance applied to adjoining land that is not under organic management.”

The organic regulations at §205.400, General requirements for certification, state that, “A person seeking to receive or maintain organic certification under the regulations in this part must: (a) Comply with the Act and applicable organic production and handling regulations in this part; (b) Establish, implement, and update annually an organic production or handling system plan ... (c) Permit on-site inspections with complete access to the production or handling operation, including noncertified production and handling areas, structures, and offices by the certifying agent ... (e) Submit the applicable fees charged by the certifying agent; and (f) Immediately notify the certifying agent concerning any: (1) Application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an

operation; and (2) Change in a certified operation or any portion of a certified operation that may affects its compliance with the Act and the regulations in this part.”

The regulations at §205.406, Continuation of certification, states, that “(a) To continue certification, a certified operation must annually pay the certification fees and submit the following information, as applicable, to the certifying agent: (1) An updated organic production or handling system plan which includes: (i) A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year’s organic system plan during the previous year ... (4) Other information as deemed necessary by the certifying agent to determine compliance with the Act and the regulations in this part.”

The organic regulations in 7 C.F.R. Part 205 were amended on March 19, 2024; the substance of the above clauses was not affected by the amendment.

DISCUSSION

Evidence substantiates that Bonita was certified organic for crops and handling by CCOF on November 17, 2015. Bonita operates numerous greenhouses (GHs) in which it grows cucumbers, along with a handling operation. On February 14, 2022, CCOF conducted an inspection and took a sample from Parcel 6/GH 3, which tested positive for several prohibited substances. CCOF issued a Notice of Noncompliance on March 16, 2022 due to this finding. GH 3 was subsequently surrendered, along with GH 1 and GH 2, and removed from certification. A second Notice of Noncompliance was issued March 30, 2022 after Bonita revealed potential contamination by irrigation lines shared with a neighboring conventional farmer; and on April 8, 2022, CCOF issued a Notice of Proposed Suspension based on the irrigation lines contamination.

Bonita requested mediation on May 6, 2022, referencing the contaminated irrigation lines for GHs 1, 2, and 3. CCOF granted mediation on May 20, 2022.

Bonita sent numerous emails to CCOF in May 2022 addressing the cited noncompliances, and continued corresponding with CCOF during the summer of 2022, submitting production and input application records, information on surrounding operations and their input applications, and negative lab reports for tested samples taken by Bonita. CCOF issued another Notice of Noncompliance on July 19, 2022, asking Bonita exactly how it could determine which GHs were contaminated. On August 3, 2022, CCOF issued a Notice of Noncompliance citing the findings of prohibited substances in GH 9 and irrigation lines, and non-payment of fees, among other noncompliances. On September 7, 2022, CCOF issued a Notice of Proposed Suspension referencing the August 3, 2022 noncompliance notice, and additional GHs found to be contaminated with prohibited substances.

Bonita requested mediation and at least 2 mediation sessions were held. On November 17, 2022, the parties entered into a Settlement Agreement. Per the agreement, Bonita was to pay overdue fees, which totaled \$29,544.80 at that time; comply with policies and procedures in its Organic System Plan (OSP); and have labels and inputs approved prior to use. There was also an agreement on January 13, 2023, whereby Bonita agreed to conduct internal sampling and testing; and maintain sufficient records for tracing products. Per this agreement, GHs 1 and 2, in addition to GH 3, were surrendered. Further, GHs 9.1, 9.2 and 9.3 were removed from certification.

On February 2, 2023, CCOF conducted the 2022 inspection and found systemic failures in the operation and its compliance with the OSP. CCOF cited to the use of unapproved labels and an unapproved coconut fiber input; and failure to follow its crop rotation plan in the OSP.

Bonita responded to CCOF on May 27, 2023, stating that it would cease using the identified labels, and wouldn't use inputs without approval. However, on October 5, 2023, CCOF conducted the 2023 inspection, and found the previously cited unapproved labels were still in use, and that another input had been used without approval. On October 23, 2023, Bonita requested mediation. However, CCOF replied that this was premature as a proposed suspension hadn't yet been issued but told Bonita that payment of the overdue fees was required per the prior settlement.

CCOF subsequently issued a Notice of Noncompliance and Proposed Suspension on November 16, 2023, citing the findings of the October 5, 2023 annual inspection for 2023, and stating that Bonita had breached the prior November 17, 2022 Settlement Agreement with CCOF. Bonita had only paid \$1,000.00 of the \$29,544.80 owed and hadn't yet submitted its 2024 renewal application. CCOF also found that while mass balance exercises were successful, the auditor couldn't conduct a successful traceability audit. Also, Bonita needed to submit information on inputs, failed to meet requirements for labeling products, and was still using unapproved labels and inputs that Bonita stated it would have approved prior to use.

CCOF conducted an unannounced inspection on December 7, 2023, at which the inspector saw Bonita using an unapproved input in GH 6.2; and a sample of Persian cucumber taken from GH 6.2 tested positive for prohibited substances, specifically Dimethomorph, Propamocarb, Thiophanate-methyl, Carbendazim and Benomyl, and Metalaxyl-M (Mefenoxam) as seen on the January 17, 2024 report from (b) (4). CCOF also found Bonita wasn't following its OSP regarding the storage and labeling of stored products risking cross contamination; and needed to describe the buffers and inputs for Parcel 1 which includes GH

6.2. This GH is in the corner of the operation and hence close to neighboring farms. Bonita requested mediation on December 12, 2023, and again on December 14, 2023.

However, on January 22, 2024, CCOF issued another Notice of Noncompliance and Proposed Suspension, citing to the finding of prohibited substance residue on Persian Cucumber sampled from GH 6.2 at the December 7, 2023 unannounced inspection, along with the other findings of that inspection stated above, including the failure to pay overdue fees. CCOF concluded that Bonita had breached its prior settlement with CCOF. On February 20, 2024 and on February 24, 2024, Bonita submitted responses to CCOF regarding the January 22, 2024 adverse action notice.

On March 5, 2024, CCOF issued another Notice of Noncompliance and Proposed Suspension, citing to the use of the same unapproved labels cited in the November 16, 2023 Notice of Noncompliance and Proposed Suspension; the use of the same unapproved input previously cited; not maintaining an accurate materials list; the finding of prohibited substance residue on sampled Persian cucumber from the December 7, 2023 unannounced inspection cited in the January 22, 2024 Notice of Noncompliance and Proposed Suspension; the need to describe buffers around Parcel 1/GH 6.2 cited in the January 2024 notice; the need to maintain records that fully disclose all activities and transactions so that successful traceability exercises can be conducted; and the need to follow the crop rotation plan.

On March 5, 2024, CCOF issued a Notice of Mediation Rejection citing to the Notices of Noncompliance and Proposed Suspension issued on January 22, 2024 and March 5, 2024; Bonita's mediation requests of December 12, 2023, and December 14, 2023, which were filed in response to the November 16, 2023 adverse action notice; and Bonita's February 20, 2024 and

February 24, 2024 responses to noncompliances which appear were treated as mediation requests.

On April 3, 2024, Bonita filed an Appeal citing the adverse action notices, its mediation requests, its responses to CCOF, and the mediation denial. Bonita said it had no problems from 2015 to 2021, but in 2022, one of the owners, who was the operations manager, stepped away from managing the operation, and the son of the other owner took over. There was a quick decline in productivity and other problems when Bonita's OSP wasn't followed. This resulted in that individual's termination, and the return of the original operations manager. Bonita said it has been working to correct the problems and bring productivity back up, but that its biggest customer also owes Bonita (b) (4). Bonita said a new contract with a large greenhouse grower and distributor should help bring things back. Further, Bonita stated it had retained an organic consultant, would do employee training, would obtain pre-approval for labels and inputs, and would follow their crop rotation plan. Bonita acknowledged it owed CCOF \$28,544.80, after having only paid \$1,000.00; but proposed paying \$5,000.00 per month until the total is paid off. CCOF informed NOP that it had entered into settlements with Bonita on four prior occasions to require payment of overdue fees, without success. Each time CCOF pursued the matter, Bonita would plead hardship. CCOF also detailed Bonita's history of other noncompliances.

In conjunction with the Appeal, Bonita also submitted a request to withdraw GH 6.2 from its certification; a sample had been found to have prohibited substance residue. Bonita stated that there had been a flood on October 23, 2023, resulting in contamination from a neighboring conventional operation. Bonita states the product from GH 6.2 was sold as conventional and

submitted invoices showing this. Bonita submitted a lab report from February 2024, for a sample from GH 6.2 which tested negative.

On May 8, 2024, CCOF issued another Notice of Noncompliance reiterating the previously cited noncompliances involving prohibited substance findings and non-payment of fees. In a May 17, 2024 letter to NOP, CCOF stated that Bonita has supplied conflicting information. Per CCOF, Bonita said on April 5, 2022 that GH 7 had a positive residue finding without distinguishing GH 7.1 or GH 7.2; but then on May 6, 2022, said it was GH 1. Then, on April 5, 2022, Bonita also said all parcels were contaminated by irrigation water, but on May 6, 2022, said it was only GHs 1, 2, and 3. Bonita further said a rogue employee applied prohibited substances to GH 9, but didn't distinguish between GH 9.1, GH 9.2, or GH 9.3. Bonita also identified one employee but later identified another employee. The July 29, 2022 input application records show several employees had applied inputs to GH 9. Lab reports submitted by Bonita show prohibited substances in a March 26, 2022 sample from GH 9 without distinguishing which GH 9. However, Parcel 10 with GHs 9.1, 9.2 and 9.3 were already returned to transition in 2022, though the exact date can't be pinpointed. Further, other lab reports for GHs 1, 2, 4, 6, 7, and 9 were negative. However, these lab reports are all from March and April 2022.

AMS finds that Bonita has had serious and repeated noncompliances including the finding of prohibited substances on organic crops and contamination of at least three GHs by a flood and irrigation water shared with a conventional neighboring farm, which resulted in removal of those GHs from certification. CCOF has provided ample opportunities for Bonita to come into compliance with the organic regulations. This has resulted in a myriad of adverse

action notices, mediation requests, settlement agreements mostly for fee issues, and continued problems with labels and inputs.

In reviewing the case, NOP acknowledged that Bonita had taken some actions to act on the noncompliances. Parcel 10, with GHs 9.1, 9.2, and 9.3 had been placed back in transition, and wasn't eligible for certification until March 26, 2025, which is 3 years after the March 26, 2022 lab report showing residue on a sample from GH 9. Since the lab report didn't identify whether it was GH 9.1, GH 9.2 or GH 9.3, the entire Parcel 10 was removed. This also 'resolved' the conflict between one rogue employee versus several employees applying inputs to GH 9. Further, Bonita already surrendered certification on January 13, 2023 for GHs 1, 2, and 3. The February 14, 2022 sample which tested positive for prohibited substances, as seen on a lab report, was only for GH 3; however, the contaminated irrigation lines affected GHs 1, 2, and 3, and therefore, they were all removed from certification until February 13, 2025, after which they would be eligible for re-certification. Additionally, Bonita surrendered GHs 6.1, 6.2, 7.1, and 7.2, which were affected by flooding, though the sample of cucumber found to have prohibited substance residues was from GH 6.2. Those GHs aren't eligible for certification until October 24, 2026, which is 3 years after the flooding. This also resolved the conflict between whether GH 1 or GH 7, which actually has 2 GHs, was contaminated, since GH 1 was already surrendered, and Bonita has asked to surrender GH 7. It is noted that no noncompliances were found regarding Parcel 2 and GHs 4, 5, 8.1, 8.2, and 8.3.

Therefore, given the surrender and removal from certification of affected GHs, and acknowledgment that many of the noncompliances occurred under the oversight of the former/now terminated manager, NOP entered into a Settlement Agreement with Bonita on October 28, 2024 to resolve all the adverse action notices. The agreement contains numerous

very detailed terms, reiterates the GHs surrendered or to be surrendered, calls for 2 unannounced inspections with sampling, and addresses other cited noncompliances by requiring Bonita to comply with its OSP, submit its certification renewal, obtain approval for labels and inputs prior to use, not use prohibited substances, train employees, and pay all overdue fees, totaling \$40,376.97, pursuant to a set payment plan requiring payments over a 14 month period. It is noted that during the pendency of the appeal, Bonita applied to another certifier for certification and under a different name, which would have included GHs slated for surrender. Bonita wasn't granted certification by this other certifier.

On December 3, 2024, CCOF reported to NOP that Bonita had breached several terms of the NOP Settlement Agreement. Specifically, Bonita still hadn't submitted its 2025 certification renewal materials and fees; hadn't updated its OSP; and failed to make all agreed upon payments. On January 7, 2025, CCOF reported another breach of the NOP Settlement Agreement, specifically, that additional certification fees had become delinquent as Bonita failed to comply with the payment plan. Therefore, NOP issued a Notice of Noncompliance and Request for Corrective Action to Bonita on January 19, 2025, giving it 30 days to resolve the cited noncompliances and come into compliance with the terms of the Settlement Agreement and the organic regulations. On January 28, 2025, Bonita wrote CCOF that it wasn't renewing its certification with CCOF as it was applying for certification with another certifier. On January 31, 2025, CCOF reported to NOP that Bonita had breached additional terms of the Settlement Agreement, having still not scheduled their 2024 annual inspection.

NOP issued another Notice of Noncompliance and Request for Corrective Action on February 9, 2025, giving Bonita 20 days to resolve the noncompliances, by scheduling its annual inspection and paying agreed upon fees it had failed to pay per the Settlement Agreement. On

February 19, 2025, Bonita emailed NOP stating that it was changing its certifier, and that the new certifier would conduct an inspection. Bonita also asked for an extension to pay its overdue fees; and noted it also was no longer represented by legal counsel. NOP replied to Bonita that no additional extension will be granted to La Bonita to pay fees to which it previously agreed to pay on time, or the fees with a specific payment schedule set forth in the Settlement Agreement that La Bonita had agreed to. La Bonita was instructed to pay all overdue certification fees to CCOF, specifically that missed payments per the Settlement Agreement, within 10 days; and to submit a complete renewal application to CCOF. NOP told Bonita that until it becomes certified by another certifier, it is certified by CCOF and must comply with all requirements, including the timely submission of its certification renewal materials and fees to CCOF. Operations can't circumvent this by saying they are seeking a new certifier. Further, Bonita will still owe fees to CCOF, regardless of whether it switches to a new certifier; and those debts won't be erased by switching certifiers.

On March 4, 2025, and again on March 24, 2025, CCOF reported to NOP that additional fees have not been paid per the agreement. CCOF also stated that Bonita submitted a surrender of certification form, though it didn't intend to surrender its CCOF certification until becoming certified by a new certifier. Bonita would not tell CCOF who the new prospective certifier is, but subsequently that certifier contacted CCOF for information on Bonita. The prospective certifier also has informed NOP that it will not grant certification to Bonita, which failed to disclose the prior adverse action notices issued by CCOF or the NOP Settlement Agreement.

On April 10, 2025, CCOF confirmed that Bonita has still not submitted its 2025 renewal materials nor scheduled its 2024 inspection, and currently has \$52,833.22 in overdue fees, with

additional monies becoming overdue each month as Bonita fails to make the agreed upon payments.

Therefore, AMS finds that Bonita has breached its Settlement Agreement of October 28, 2024 with NOP. NOP entered into the agreement in good faith despite Bonita's numerous noncompliances, as contaminated GHs were removed from certification; and provided Bonita an opportunity to continue organic certification by agreeing to numerous terms and the payment of overdue certification fees pursuant to a set payment plan. However, Bonita has failed to comply with several of the Settlement Agreement terms, including submitting its certification renewal materials to CCOF, scheduling and undergoing its required annual inspection by CCOF, and making the agreed upon payments of delinquent certification fees. Bonita's noncompliances have continued despite reminders by Bonita and NOP, and NOP's issuance of 2 Notices of Noncompliance and Request for Corrective Action.

The NOP Settlement Agreement states in Term 4W that, "Bonita agrees that the failure to abide by the terms of paragraphs immediately above shall result in USDA, AMS possibly pursuing administrative action against Bonita." Clause 3F of the Settlement Agreement states that, "Bonita withdraws its appeal and waives further appeal rights in this matter. Failure to comply with the Settlement Agreement shall automatically void paragraph 2 above." Paragraph 2 states, "USDA, AMS agrees not to issue a formal Administrator's Decision charging Bonita with alleged violations of the OFPA and the USDA organic regulations for any actions disclosed by the investigation which gave rise to this agreement." A closure letter sent to Bonita on October 28, 2024 with the executed agreement also stated that, "... failure to abide by the terms of the agreement shall automatically void the Settlement Agreement and USDA, AMS may

pursue an administrative hearing process.” AMS finds that Bonita has breached its Settlement Agreement with NOP.

CONCLUSION

The evidence substantiates that Bonita violated the organic regulations at 7 C.F.R. §205.103, Recordkeeping by certified operations; 7 C.F.R. §205.105, Allowed and prohibited substances, methods, and ingredients in organic production and handling; 7 C.F.R. §205.201, Organic production and handling system plan; 7 C.F.R. §205.202, Land requirements; 7 C.F.R. §205.400, General requirements for certification; and 7 C.F.R. §205.406, Continuation of certification. Bonita allowed the use of prohibited substances on organic crops; used an irrigation system shared by a conventional neighboring farm thereby contaminating organic crops; and also had organic crops affected by flooding, causing contamination. Additionally, accurate records weren’t maintained on the use of prohibited substances, and/or contained conflicting information. Bonita also has failed to submit its certification renewal materials to its current certifier, schedule its 2024 inspection, and has failed to timely pay its certifications for at least 3 years, including failing to make agreed upon payments for overdue certification fees pursuant to a Settlement Agreement with NOP. Therefore, Bonita may not remain certified.

DECISION

Bonita’s April 3, 2024 Appeal of the January 22, 2024 and March 5, 2024 Notices of Noncompliance and Proposed Suspension of Certification is denied. Bonita’s certification is suspended in its entirety to include all GHs and facilities. Pursuant to the organic regulations at 7 C.F.R. §205.665(g)(1), Bonita may apply for reinstatement of its certification upon payment of

all delinquent certification-related fees, as well as any additional incurred fees, and substantiation that it is compliant with all organic regulations.

Additionally, attached to this formal Administrator's Decision denying Bonita's Appeal is a Request for Hearing form. Should Bonita wish to appeal this matter further, Bonita has thirty (30) days to request an administrative hearing before an Administrative Law Judge.

Done at Washington, D.C., on this 2nd
day of May, 2025.

BRUCE
SUMMERS

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SUMMERS
Date: 2025.05.02 08:55:53 -04'00'

Bruce Summers
Administrator
Agricultural Marketing Service