

Hayes, Kathy

F-1

From: Jerry Latsko <latsko.jerry@gmail.com>
Sent: Tuesday, June 27, 2023 12:01 PM
To: COB
Subject: Agenda item 23-865 June 27 2023

Caution: This email was sent from an EXTERNAL source. Please take care when clicking links or opening attachments.

This is Jerry Latsko in Garberville. I attempted to speak on this matter via Zoom but somehow was not able to get through. I want to comment on the initiative process. A representative of the Humboldt County Growers Association stated during an interview on KMUD that the initiative was written "behind closed doors" and not a public process. By their very nature, initiatives are a public process and it was an initiative process that was used when cannabis cultivation was de-criminalized. Growers did not object to that. It was the Board of Supervisors that ignored public process by not following its own resolution 18-43 which in 2018 promised annual in depth review of cannabis enforcement activities. The Board has yet to fulfill that promise with even one review. The HCGA seems to believe everything should be worked out between growers and the Board of Supervisors. That seems a lot less public of a process to me.

The Planning Commission has plainly demonstrated a bias favoring any proposed project that it thinks might

generate taxable money regardless of environmental effects. Supervisors do not frequently appoint commissioners with a bias toward protecting the environment. We should have learned by now that a boom and bust system has a negative long term outcome. This initiative, when passed, will have a positive effect on every citizen of Humboldt County and for every resource that has been feeling the impact of unrestrained growth.

I urge everybody to take the time to actually read what the initiative proposes and decide for themselves. Don't let people raising phony issues steer you wrong. We need truth and accuracy in reporting on this and we have not been getting it. Thank you.

June 26, 2023

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Mike.Wilson@co.humboldt.ca.us
smadrone@co.humboldt.ca.us
narroyo@co.humboldt.ca.us
RBohn@co.humboldt.ca.us
mbushnell@co.humboldt.ca.us
cob@co.humboldt.ca.us

Dear Humboldt County Board of Supervisors,

I support the Humboldt Cannabis Reform Initiative.

Initiatives, by law, cannot be changed without a vote of the people. In this case, I like that the initiative cannot be changed by politicians. Here's why this is important.

In May 2018, the Humboldt County Board of Supervisors passed resolution 18-43. This resolution established a countywide cap on the number of permits and acreage for commercial cannabis cultivation. The resolution also included a requirement for an annual review with a public hearing and report.

Resolution 18-43 states (emphasis by me):

...beginning in May of 2019, **the Board of Supervisors agrees to conduct an annual review of the limits and prescribed distribution of permitting and acreage allowances.... Review shall occur at a noticed public hearing** held during a meeting of the Board of Supervisors, during which **the Board shall receive and consider a report** providing an update on local permitting efforts. **The report shall provide information detailing the number and status of all applications received, permits approved, compliance agreements that have been executed, and code enforcement actions undertaken** by the Department.

In the past 5 years, there has been no annual review of cannabis cultivation permits. In the past 5 years, there has been no public hearing and no report detailing the number and status of cannabis cultivation permits.

The Board of Supervisors agreed to have annual reviews starting in 2019 and to make the review and cannabis cultivation report public, but this has never happened.

We need the Humboldt Cannabis Reform Initiative because it requires environmentally responsible cannabis cultivation, supports watershed health, ensures public involvement, and protects small-scale, environmentally-minded cannabis farmers.

Sincerely,

Ann Alter
Annalterfilm@gmail.com

Resolution 18-43: <https://humboldtgov.org/DocumentCenter/View/63738/Resolution-18-43-Countywide-Permit-Cap-PDF>

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SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

KEVIN P. BUNDY
Attorney
bundy@smwlaw.com

June 26, 2023

Via Electronic Mail

Steve Madrone, Chair, and Members
Board of Supervisors
County of Humboldt
825 5th Street
Eureka, CA 95501
E-mail: smadrone@co.humboldt.ca.us
rbohn@co.humboldt.ca.us
mbushnell@co.humboldt.ca.us
mike.wilson@co.humboldt.ca.us
narroyo@co.humboldt.ca.us

John Ford
Director
Humboldt County Planning and
Building Dept.
3015 H Street
Eureka, CA 95501
E-Mail: jford@co.humboldt.ca.us

Re: Amended Analysis of Humboldt Cannabis Reform Initiative

Dear Chair Madrone, Director Ford, and Members of the Board:

As you know, this firm represents the proponents of the Humboldt Cannabis Reform Initiative (the "Initiative"). We have reviewed the Amended Analysis and Recommendations regarding the Initiative ("Amended Analysis") prepared by the Humboldt County Planning and Building Department for the June 27, 2023 Board of Supervisors meeting.

As a general matter, we are disappointed in the Amended Analysis, which fails to respond constructively to many of the clarifications and corrections we offered in our April 20, 2023 letter (the "April 20 Letter") regarding the County's original analysis. Rather than admit any error, the Amended Analysis either doubles down on erroneous interpretations or raises new, equally inaccurate objections to the Initiative. County staff appears to be looking for interpretations that harm growers, even where those interpretations are not supported (much less compelled) by the Initiative's text.

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Such an approach may reflect the political strategy of Initiative opponents like the Humboldt County Growers Alliance.¹ But it would be incredibly short-sighted and self-defeating for the County to commit to inaccurate interpretations of the Initiative just because the Growers Alliance believes such interpretations are politically expedient. Indeed, we strongly suspect that if the Initiative does pass, growers will be urging the County to adopt interpretations along the lines of those advanced by the Initiative's proponents, rather than the overblown and inaccurate readings advanced by the Growers Alliance.

By continuing to seek out problematic interpretations, the County may be limiting its own flexibility—flexibility that, as the April 20 Letter explains, the Initiative itself preserves. The County also is missing an opportunity to represent all of its residents, not just the most vocal proponents of a single industry.

Given the very short period of time the County allowed for review of the Amended Analysis, which was released at close of business on Friday, June 23, this letter addresses the errors in the analysis only briefly. Although we are not encouraged by County staff's approach to these issues thus far, we remain willing to talk with staff and members of the Board in an effort to clarify the Initiative's intent, purpose, and actual effects.

The Amended Analysis Mischaracterizes the Initiative's Effect on "Expanded" Operations

As our April 20 Letter explained, the Initiative would not prevent existing permit holders from making changes to their operations (such as adding solar panels and water tanks) that would improve the environment by reducing energy and water usage. The Amended Analysis responds by citing purportedly inconsistent statements on the Initiative proponent's website and in a letter to the editor of a local news site. Setting aside whether these statements are a proper guide to interpretation of the Initiative, there is no inconsistency.

The website and letter to the editor state that adding water tanks *could* be deemed an "expanded" use. This is true, insofar as adding water tanks for the purpose of increasing water usage or cultivation intensity or area would be an expanded use. However, consistent with the April 20 Letter, adding water tanks for the purpose of

¹ Many of the new arguments in the Amended Analysis bear an uncanny similarity to arguments raised by the Humboldt County Growers Alliance in a May 18, 2023 "policy analysis."

reducing surface diversions or groundwater usage without increasing overall resource use or intensity would not be an “expanded” use.

The Amended Analysis does not squarely address this point. Nor does it address the addition of solar panels. Instead, the Amended Analysis offers a slew of new objections based on what the analysis claims is the County’s different understanding of non-conforming uses. Specifically, the Amended Analysis expresses concern that “persons holding non-conforming permits cannot modify their permits to expand the activities on-site such as adding a nursery or processing, or distribution or expanding to a Micro-business. . . . Adding any of the activities identified would require additional resource usage.” (Amended Analysis at 16).

The Amended Analysis misses the point. The Initiative addresses new and expanded “commercial cannabis cultivation” activities, which are specifically defined in the text. (Initiative at 7.) Under this definition, adding a new nursery to an existing operation might be an “expanded” use if it results in a total cultivation area exceeding 10,000 square feet. But “processing,” “distribution,” and “Micro-business” are not “cannabis cultivation” activities within the Initiative’s definition. Nothing in the Initiative requires the County to treat them as such.

The Amended Analysis claims “this is not clear from the four corners of the HCRI.” (Amended Analysis at 16.) This is incorrect. The Initiative is clear on this point. The Initiative’s definition of “cannabis cultivation” includes only “planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.” (Initiative at 7.) References to processing, manufacturing, distribution, dispensing, delivery and sale in the definition are relevant only to the definition of “commercial” activities—that is, the commercial “intent” underlying the cultivation of cannabis. Accordingly, activities like processing, distribution, dispensing and sale may be “commercial,” but they are not part of the definition of “cannabis cultivation.”

Finally the Amended Analysis claims that the Initiative’s “expressed goals” do not include protecting small-scale cultivators. (Amended Analysis at 18.) Once again, the Amended Analysis is incorrect. As we explained in our June 21, 2023 letter addressing an identical claim by the Sanders Political Law firm (at the behest of the Growers Alliance), controlling Supreme Court authority requires consideration of the whole text and context of the Initiative in determining its purpose. (*See Cal. Cannabis Coalition v. City of Upland* (2017) 3 Cal.5th 924, 933-34.) The Initiative’s *express* goals include “support[ing] small-scale, high-quality cannabis cultivation” and “encourag[ing] small-scale production.” (Initiative Goal CC-G1.) Other language in the Initiative’s findings and background section further support this purpose, as the Amended Analysis appears to

acknowledge. The Amended Analysis, like the Sanders firm's letter, is simply wrong about the Initiative's purposes.

The Amended Analysis Introduces New Errors Related to Light Deprivation and Mixed-Light Cultivation

We appreciate the Amended Analysis's correction of the statement in the original analysis that the Initiative would render all mixed-light cultivation non-conforming. Unfortunately, the Amended Analysis appears to introduce a new error in this section.

The Amended Analysis claims that because light deprivation does not involve the use of artificial light under the County's definition, "[f]armers who currently are permitted for outdoor cultivation and practice light deprivation would become non-conforming because they would no longer be defined as outdoor but would be Mixed Light." (Amended Analysis at 19.) This conclusion does not follow. The Initiative's "Mixed Light Tier 1" definition includes "Natural light and light deprivation . . . without the use of artificial light." (Initiative at 8.) Farmers using light deprivation without artificial light—consistent with how the Amended Analysis describes the County's definition of light deprivation—would be using Mixed Light Tier 1 methods, which would conform to the requirements of Policy CC-P2. The amended Analysis does not explain why the County would nonetheless consider these permits "non-conforming."

The Initiative Requires In-Person Inspections—Which the Amended Analysis Now Claims the County Is Already Planning on Conducting

The Amended Analysis states that although remote inspections have occurred in the past, starting this year the County will conduct in-person inspections on all permitted sites. Accordingly, the Initiative will simply provide legal support for—and ensure compliance with—a practice the County plans to undertake anyway. County staff has apparently decided that in-person inspections are worth the time and effort, and the Initiative's proponents agree.

The Initiative Does Not Add a New, Discretionary "Renewal" Process

The Amended Analysis claims that the Initiative creates "uncertainty" about the requirements for renewal of an expired permit. According to the analysis, the current ordinance says permits "expire" after one year, but it does not say those permits expire "unless renewed." The analysis claims that in "land use planning vernacular," a "renewal" requires "an application, a review, and a discretionary decision."

These contentions are puzzling for two reasons. First, the Amended Analysis seems to suggest that the County may not be enforcing the permit expiration requirement in the current ordinance. As our April 20 Letter pointed out, the fact that the County does not seem to have any process for addressing expired permits is the fault of the existing ordinance, not the Initiative. Second, the Amended Analysis does not cite anything in the County zoning ordinance that requires all “renewals” to be treated as discretionary decisions. Rather, it relies on “land use planning vernacular.” The County should be regulating land use based on its duly adopted ordinances, not a “vernacular” understanding of planning terms. Again, the problem appears to be a gap in the existing ordinance, not any ambiguity in the Initiative.

The Amended Analysis also suggests that under existing County practice, “expired” permits are considered not to have expired once an inspection occurs. (Amended Analysis at 20 [“The existing ordinance simply requires an inspection showing that the site complies with the Zoning Ordinance and permit conditions.”].) The initiative adds two requirements: (1) that inspections be conducted in person, and (2) that credible complaints be resolved. Nothing in the Initiative requires the County to alter its approach to expiration and renewal as a general matter.

Finally, any uncertainty about the need for “renewal” could be avoided if the County conducts inspections *before* annual permits expire. The Initiative does not add a new, discretionary “renewal” process, and any “uncertainty” about this is misplaced.

The Initiative Does Not Prevent Growers From Holding Multiple *Non-Cultivation* Permits

The Amended Analysis continues to claim that the Initiative would prevent permittees from holding both cultivation permits and other permits related to processing, distribution, sale, and tourism activities. Once again, this claim is incorrect. As we explained in the April 20 Letter, the reference to an “active permit” in the context of Policy CC-P5 must be understood as meaning an “active commercial cannabis cultivation permit.” Moreover, as discussed above, the Initiative’s definition of “cannabis cultivation” does not include processing, distribution, dispensing, and sales. Permits for these activities would not be subject to the restrictions of Policy CC-P5.

The Amended Analysis also objects to our suggestion that the County may have flexibility to combine activities into a single permit. But the objection misses the point that permitting structure and processing largely remain within the County’s control and are not dictated by the terms of the Initiative. Because the Initiative does not address or regulate non-cultivation activities, holding multiple separate permits for non-cultivation

activities would not violate CC-P5. But to the extent that combining activities into single permits offers the County flexibility consistent with the Initiative's purposes, the County could use that flexibility.

The Initiative Supports and Improves Coordination with Other Agencies

The Amended Analysis claims that the County already does more than the minimum required by ordinance in terms of coordinating with other agencies. If this is correct, then this is another example of the Initiative codifying and providing legal support for a current practice that the ordinance does not clearly require.

The Initiative Ensures Public Hearings Are Not Waived

The Amended Analysis asserts that in practice, the County never waives public hearings for discretionary cannabis cultivation permits; according to the analysis, "the public and all stakeholders understand that discretionary cannabis projects go to a public hearing." (Amended Analysis at 25.) If this is true, then it is difficult to understand why County staff would object to a provision ensuring that this remains the case. Again, the Initiative apparently codifies an existing practice that the ordinance doesn't presently require.

The Initiative Guarantees Hydrologic Analysis of the Impact of New Water Wells

The Amended Analysis objects to the Initiative's hydrologic analysis requirement on two grounds: (1) that the language of Initiative is "not specific," which purportedly creates uncertainty, and (2) that the County "has required analysis from a hydrogeologist to document that the water is not from a diversionary source, spring or impacting an existing well." Both objections are unfounded.

First, the language of the Initiative *is* specific. The Amended Analysis ignores Standard CC-S1, which gives specific effect to the policy language quoted in the analysis. Standard CC-S1 requires a hydrologic study that meets particular requirements. There is no ambiguity or uncertainty.

The Amended Analysis does not seriously dispute that groundwater withdrawal can affect springs and watercourses. Rather, staff's concern seems to be that "[s]ome people" believe water wells always affect surface flows and that "[m]embers of the public have disagreed with" hydrogeologic studies. (Amended Analysis at 25-26.) But the Initiative simply requires that the studies themselves confirm no impact on streams, watercourses, or other wells, not that "some people" or all "members of the public" agree

with those conclusions. Once again, there is no uncertainty in the Initiative itself on this point.

Second, the County claims that it is already requiring analysis of new water wells to ensure no such effect occurs. Once again, the Initiative provides explicit support for what the County claims it is already doing, which hardly seems a valid ground for objection.

The Initiative Prohibits Self-Certification of Category 4 Road Standards—And That’s All It Does

Advancing another new argument, the Amended Analysis claims the Initiative would eliminate the County’s discretion to approve cultivation on roads not meeting Category 4 standards with a Special Permit.

The Amended Analysis once again misses the key point. The Initiative does not impose *any* new substantive requirement that roads meet Category 4 standards. Rather, where Category 4 standards (or the “same practical effect”) are *already otherwise required* for new or expanded permits, the Initiative would require an engineer’s report to support a conclusion that a road actually meets that standard. This would eliminate County’s staff’s ability to accept “self-certified” evaluations. But it does not eliminate the County’s discretion to determine where Category 4 road standards apply in the first place.

The Initiative Ensures Residents Receive Notice of Projects Affecting Them

The Amended Analysis claims that the County should not have to provide public notice of discretionary applications for farms over 3,000 square feet because “there are very few complaints” about “sites that are outdoor, use light deprivation, and are less than 10,000 square feet in area.” (Amended Analysis at 29-30.) The analysis thus asserts that requiring public notice is overly onerous.

The Amended Analysis here offers only a policy argument, albeit one that makes clear County staff favors the narrow interests of growers over the broader interests of residents who may be affected by cultivation operations. The Initiative’s public notice provisions are not onerous. Notice would be required “in a variety of forms so as to ensure that all persons who may be affected by proposed cultivation operations are reasonably likely to receive actual notice.” (Policy CC-P7.) The Amended Analysis presents no evidence that the specific steps required by the Initiative in CC-S4 are impracticable. Rather, the Amended Analysis here simply argues that the burden on a

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single applicant of providing public notice outweighs the interests of everyone who may be affected by cultivation. This is a policy judgment, not a presentation of facts.

The Initiative's proponents believe that the County's policy judgment—in this and many other areas—is incorrect. That is exactly why they've proposed an initiative. The final policy judgment will be made by the voters.

The Amended Analysis Fails to Remove Argumentative Language

Finally, as discussed in our April 20 Letter, the original Analysis contained a substantial amount of argumentative language characterizing the Initiative's findings as "false" or "misleading" without any factual support. The Amended Analysis neither responds to nor corrects these deficiencies in the original Analysis.

The Board Should Direct Staff to Correct the Analysis

For all of the foregoing reasons, and for the reasons stated in our April 20 Letter and our response to the Sanders Political Law letter, we respectfully request that the Board direct staff to examine the Amended Analysis again and to correct the errors and deficiencies we have identified.

Thank you for your consideration.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Kevin P. Bundy

cc: Kathy Hayes, Clerk of the Board of Supervisors (via email)
Natalie Duke, County Counsel's Office (via email)

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Sanders Political Law
1121 L Street, Suite 105, Sacramento, CA 95814

June 26, 2023

VIA EMAIL ONLY

Chair Steve Madrone and Members
Humboldt County Board of Supervisors
825 5th Street
Eureka, CA 95501

John Ford, Director
Humboldt County Planning and Building Department
6015 H Street
Eureka, CA 95501

RE: Surreply to June 21, 2023 Letter from Kevin P. Bundy

Dear Chair Madrone, Members of the Board, and Director Ford:

On behalf of my client, the Humboldt County Growers Alliance (“HCGA”), I write to provide a surreply to the June 21, 2023 letter to the Board of Supervisors from Kevin P. Bundy (the “Bundy Letter”). Though surreplies are not typical, HCGA wishes to provide a comment based on what it perceives as an improper potential motive in the “Humboldt Cannabis Reform Initiative” (“HCRI” or the “Initiative”) proponents’ actions. Specifically, HCGA is concerned that the Initiative proponents’ true goal is to stop all public debate regarding the Initiative’s infirmities. The County cannot and should not acquiesce to their demands.

The Initiative raises serious concerns for the County, and its proponents’ own claims demonstrate that there is disagreement and confusion about its implementation. In April, the Initiative proponents alleged inaccuracies in the “Humboldt Cannabis Reform Initiative Analysis and Recommendations” (the “Analysis”), and HCGA provided a substantive response to each of the proponents’ allegations. The Initiative proponents have failed to respond in any way. If there remains any disagreement over the accuracy of the Analysis, then those disagreements warrant public consideration, as does the Analysis itself. However, instead of participating in any substantive discussions, the Initiative proponents have tried to halt all debate by asking their attorney to issue another letter claiming that the Analysis and its discussion violate the law. However, the Bundy Letter’s attempts to do so fall short.

In responding to my clarifications on election laws related to public discussion of voter initiatives, the Bundy Letter agrees that none of the activity highlighted in a prior April 20, 2023 letter constitutes a violation of the law. Instead, it claims that in some *other* circumstances the County *could* violate the law. Justice Jackson recently summarized this universal truth in the law by

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stating, "Other cases presenting different allegations and different records may lead to different conclusions." (*Twitter v. Taamneh* (2023) 143 S.Ct. 1206, 1231.) Unfortunately, that piece of trivia provides no substance, guidance, or information for the County. The Bundy Letter is not a reply to my May 18, 2023 letter, and it contains no serious allegations. Instead, it seems aimed at stoking fear and doubt in the County so that the County halts all discussion about the Initiative.

The Bundy Letter also merely ignores my specific statutory interpretation argument regarding the limits of the Initiative's Section 7.F – that the limiting language used in the Initiative clearly limits the capacity of Supervisors to pass implementing ordinances – and instead points to a case with entirely different factual records, analyzing an initiative with no similar limiting language or issues, to stand for the proposition that a Court will agree with their unfounded position. (See also, *Twitter*, at 1231 ["Other cases presenting different allegations and different records may lead to different conclusions."].)

The facts and law here are simple. The County is permitted under all laws and judicial interpretations to produce the Analysis, disseminate the Analysis, and discuss the Analysis and the Initiative at public hearings. That is true even for the portions of the Analysis which point out legal problems with the Initiative. And if the Initiative were to pass, then the Initiative's limiting language likely precludes the Board of Supervisors from providing any sort of relief for the purpose of helping small Humboldt County cultivators. The Bundy Letter does not actually rebut these facts or legal conclusions, and instead merely adds confusion to the process. The Board of Supervisors should be confident that they are doing their job properly, and HCGA encourages them to continue doing so.

I. The Bundy Letter Concedes That the County Has Not Violated Any Law, and It May Continue to Disseminate the Analysis Under All Relevant Laws.

At the outset, it is most important to note that the Bundy Letter specifically concedes that the County has not engaged in any activity which violates the law – instead stating that its admonitions are "simply caution[s]" that some undetailed future action "could be unlawful." (Bundy Letter, page 3; emphasis original.) The County could of course violate the law if it engaged in some action which violates the law, but that is a remarkably unhelpful tautology. What the County needs to understand is the law and facts here, and the law and facts clearly show that it will not violate the law if it continues to disseminate the Analysis and conduct hearings which discuss informational aspects of the Initiative.

My May 18, 2023 letter provided the legal background necessary and applied the facts which appear to exist in the County. The Bundy Letter concedes that there has been no legal violation and provides no basis to conclude that any specific actions taken or contemplated violate the law. Instead, the Bundy Letter

and its predecessor seem to be an attempt to confuse (perhaps scare) the County into avoiding any and all discussion of the Initiative – even the purely informational aspects which the Bundy Letter concedes are perfectly legal. Apart from this concession, the Bundy Letter can be ignored for two reasons.

First, the Bundy Letter's claims that the Analysis and/or discussion of the Analysis somehow violate the law relies on its claim that the Analysis is factually incorrect, and that all informational discussions flowing from the alleged errors therefore constitute a legal violation. However, no one has shown that the Analysis contains any inaccuracies. The Bundy Letter and its predecessor assert that there are errors, but HCGA provided specific rebuttals demonstrating the veracity of the Analysis. HCRI proponents and representatives have failed to reply. At best, there seems to be disagreement about the substantive aspects of the Initiative, with HCRI supporters representing a small but vocal group which believes there may be errors in the Analysis. This type of discussion provides a strong basis to continue holding hearings about the Analysis, not stop such discussions – if the HCRI proponents are correct, then it is vitally important for the County to know where it may be wrong. But even apart from those issues, the Analysis points out serious problems with what the Initiative says on its face, and the County has an obligation to resolve those problems prior to the March 2024 election. Instead of participating in public discussions about HCRI, the Initiative's proponents have ignored it, and instead merely perpetuate their misguided claims that the Analysis and its discussion somehow violates the law. In other words, they want the County to be quiet about the Initiative's problems, rather than try to resolve them. No law and no policy support their position.

Which brings us to the second reason the Bundy Letter can be ignored. It claims that my prior letter "fails to provide a complete account of governing law" related to the County's actions, but it does not address my arguments, provide any additional context, or discuss how any of its claims are substantiated by merely showing the County more statutes. As I mentioned in my prior letter, *Vargas v. City of Salinas* (2009) 46 Cal.4th 1 is the most relevant case for the County's analysis. The *Vargas* Court dealt with a statutorily contemplated report like the Analysis, and analyzed the permissibility of different actions taken at public hearings held to discuss a voter initiative. I provided specific quotes of holdings from that case which are relevant to the County's previous and potential actions, and tied those holdings to those actions. Those quotes show how *Vargas* applied the vaguer *Stanson v. Mott* (1976) 17 Cal.3d 206, and include specific citations to *Stanson* which can assist the County's analysis in specific contexts. *Vargas* is also particularly helpful, because its relevant analysis is almost entirely based on Government Code section 54964, a statute which the Bundy Letter claims I do not mention. I did not ignore the statute; I simply used the Court's analysis of it in an on-point context to provide the County with more information. Under section 54964, as analyzed by the *Vargas* Court, the County is well within its rights to produce and disseminate the Analysis, and none of the other statutes

cited in the Bundy Letter provide any additional information for the County's consideration. At best, the Bundy Letter properly notes that the County could at some point violate the law if it engages in impermissible activity. But it provides no examples, guidelines or analysis describing what activity might constitute impermissible activity.

Simply put, the County has acted, and is acting, appropriately by producing and disseminating the Analysis, and engaging with its contents. The Bundy Letter concedes that the County has not violated the law, and the County may continue to engage in dissemination of the Analysis and hold hearings discussing the informational aspects of the Analysis. When considering whether and how to determine whether a discussion is "informational," the *Vargas* Court's analysis is incredibly helpful to the County. It seems – based on the Bundy Letter's concession – that everyone agrees with these points. The Initiative proponents' now-rebutted claims regarding the contents of the Analysis are exactly the type of informational discussion which demands County hearings and action, and HCGA applauds the County's willingness to engage in those discussions.

II. The Bundy Letter Fails to Address the Specific Statutory Interpretation Argument Which Prohibits Supervisors from Enacting Implementing Ordinances to Help Small Cultivators.

There is little to rebut in the Bundy Letter's discussion regarding the Board of Supervisors' capacity to enact implementing ordinances, because the Bundy Letter simply does not engage with the statutory interpretation argument I presented in my May 18 letter. It instead points to a case cited in my previous letter and uses that Court's consideration of a different initiative without any limiting language to make the unfounded claim that the entire Initiative text should somehow constitute its "purpose." (Bundy Letter, pages 4-5.) In doing so, the Bundy Letter simply ignores the Initiative's plain language and my argument, and adds nothing for the County's consideration.

The Initiative permits the Board of Supervisors to enact implementing ordinances "to further the purposes of th[e] Initiative," and that specific language differs from other sections which permit amendment to certain Initiative provisions "in a manner consistent with the purpose, intent, goals, policies, standards and implementation measures." (Initiative, Section 7F & Initiative, Section 2.A.2.) The fact that the Initiative uses different, more limited words in providing the Board of Supervisors with the capacity to enact implementing ordinances means that a Court must treat the Board of Supervisors' capacity in that regard to be different and more limited. There must be a difference between "purposes" and "purpose, intent, goals, policies, standards and implementation measures," and the Bundy Letter provides no satisfactory discussion about that difference.

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As I detailed in (perhaps excruciating) detail in my May 18, 2023 letter, it would seem that this difference precludes the Board of Supervisors from enacting implementing ordinances in order to protect small farmers. The County must consider what capacity the Board of Supervisors has to enact implementing ordinances, and HCGA encourages the Board to do so at public hearings so that these issues can be resolved prior to the March 2024 election.

* * *

Thank you for your consideration of these important issues. HCGA remains committed to a robust public discussion about the Initiative, and hopes that the County will continue to engage with the difficult issues implicated by the Initiative. Please let me know if you have any questions about the information contained in this letter.

Sincerely,



Nicholas L. Sanders

cc:
Kathy Hayes, Clerk of the Board
Scott A. Miles, Interim County Counsel
Natalie Duke, Office of County Counsel

NLS
#1055



F-1

June 20, 2023

Humboldt County Board of Supervisors
825 5th Street, Eureka, CA 95501

Dear Supervisors,

On behalf of the Southern Humboldt Chamber of Commerce and Visitors Center Board, we express our strong opposition to the "Humboldt Cannabis Reform Initiative." Our Chamber's primary goal is to establish a thriving economic foundation in Southern Humboldt while improving our community's quality of life and environment. We achieve this goal by promoting tourism as a sustainable industry, assisting local businesses in their growth and success, and advocating for Southern Humboldt's economic interests at the County, State, and Federal levels. This includes issues that may impact the cannabis community, which is an integral part of our local economy. The economic decline of Garberville and Redway, which also affects the cannabis industry, is a significant concern for us.

Humboldt County's cannabis industry comprises over 800 individuals, legal entities, and homestead farms, making it a vital component of our local economy. This industry supports existing businesses, generates employment opportunities, and promotes economic development throughout our diverse rural landscape.

We oppose the "Humboldt Cannabis Reform Initiative" as it poses a threat to the economic development that has been achieved through the legal cannabis industry. Implementing this initiative would cause irreversible harm to a crucial aspect of our community's economy.

The legal cannabis industry has shown its dedication to responsible practices and compliance. Regulations have been established to guarantee the public's safety, promote environmental stewardship, and encourage social responsibility. Cannabis businesses in the area are actively working with community organizations and authorities to maintain high standards and address any concerns.

The Southern Humboldt Chamber of Commerce respectfully requests decision-makers to acknowledge the valuable contribution of the legal cannabis industry to our local economy. We strongly believe that supporting and fostering this sector is essential for the benefit of our community as it prepares for the eventual lifting of federal prohibition.

In conclusion, we respectfully request that the Board of Supervisors oppose the "Humboldt Cannabis Reform Initiative" and help educate the public about the positive impact of the legal cannabis industry on our economy, local businesses, job creation, and overall community prosperity.

Thank you for your attention to this matter. We trust that you will carefully consider our concerns and work towards promoting a business-friendly environment that supports the continued success of our region.

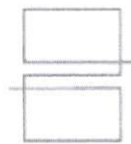
Regards,

A handwritten signature in black ink, appearing to read "Yvonne Hendrix", is written over a circular stamp or seal.

Yvonne Hendrix, Executive Director, Southern Humboldt Chamber of Commerce and Visitors Center

Southern Humboldt Chamber of Commerce and Visitors Center | 782 Redwood Drive, Garberville, CA
Tele: (707) 923-2613 | Email: chamber@garberville.org

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HUMBOLDT COUNTY GROWERS ALLIANCE

June 23, 2023

Dear Supervisors and Staff,

HCGA has been made aware of the Schute Mihaly letter submitted on Wednesday, June 21 by the HCRI's proponents, and wanted to take the opportunity to provide an immediate response.

We've reviewed the letter and believe the proponents' position continues to be fundamentally incorrect and misleading. We believe the county is well within its rights to continue to disseminate the Planning Department's analysis and have asked Sanders Political Law to draft a response on our behalf, which should be completed and shared with you shortly.

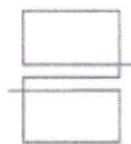
In the meantime, however, we wanted to draw attention to what is not included in Wednesday's Schute Mihaly letter. While the letter's allegations rely on a claim that the county's analysis of the initiative is "argumentative, inflammatory, and erroneous," the letter does not respond to HCGA's substantive policy analysis from May 18, which rebuts inaccurate and severely misleading substantive claims in Schute Mihaly's original April 20 letter and affirms the county's factually correct analysis.

We believe it's notable that the proponents have chosen to double down on attempts to prevent the county from distributing an analysis of the initiative, while failing to engage in a substantive discussion of the content of the initiative itself.

Instead, we read the June 21 Schute Mihaly letter as effectively conceding some of the most critical reasons why the initiative is deeply flawed. The last page of the letter states that "*the Initiative would not prevent existing small-scale farms—those already under 10,000 square feet of total cultivation area—from adding structures*" - implicitly conceding that the initiative prohibits farms over 10,000 square feet from adding additional structures. Such a restriction has no evident policy justification and would be catastrophic for the functionality of Humboldt's cannabis program.

The Schute Mihaly letter also fails to note that most farms under 10,000 square feet would also effectively be prohibited from adding structures under HCRI due to Section CC-P13, which requires all "expansions" (i.e. any increase or in number or size of any structure used in connection with cultivation) to be located on Category 4 roads.

In light of these and other issues identified in the Planning Department's analysis, it continues to be clear to us that, if passed, the HCRI would send Humboldt's program into an existential tailspin, likely marked by extensive litigation that reflects the adversarial posture already demonstrated by the initiative's proponents. To point this out is not "self-defeating," as claimed in the proponents' letter: it is a direct response to the alarming, plain text of the initiative itself.



HUMBOLDT COUNTY
GROWERS ALLIANCE

We believe the County, supervisors, and staff are well within their rights to continue to inform the public on the negative consequences of the HCRI were it to pass, and that the public deserves access to this accurate analysis.

We appreciate your attention to these issues and look forward to continuing the conversation.

Sincerely,

Ross Gordon
Policy Director
Humboldt County Growers Alliance

Natalynne DeLapp
Executive Director
Humboldt County Growers Alliance

F-1



June 23, 2023

Re: Small Farmer Opposition to Humboldt Cannabis Reform Initiative

Dear Humboldt County Board of Supervisors,

On behalf of organizations representing the Emerald Triangle's small cannabis operators in Mendocino and Trinity counties, we are writing today to express our strong opposition to the Humboldt Cannabis Reform Initiative (HCRI).

The Mendocino Cannabis Alliance (MCA) and Trinity County Agriculture Alliance (TCAA) are the trade associations representing cannabis operators in Mendocino and Trinity counties, respectively. MCA and TCAA are also members of Origins Council, a 510c(4) statewide research, education, and advocacy organization which advocates collectively on behalf of California's rural legacy cannabis producing regions.

In both Mendocino and Trinity counties, our local ordinances restrict essentially all licensed cannabis cultivation to farms 10,000 square feet or less. In other words, our cultivators are almost exclusively the "small farmers" who the HCRI proponents have claimed they wish to protect.

While the HCRI would only apply to Humboldt County farmers, and is not currently proposed for adoption in our counties, we write this letter from an understanding that our futures as small farmers in the Emerald Triangle are interdependent.

If the HCRI's provisions were ever applied to licensed cultivators in our counties, the results would be catastrophic. Restricting the addition of new on-farm structures, requiring Category 4 roads, prohibiting additional permits for on-farm value-added activities, locking down the ability to further amend cannabis laws and our General Plan, and other poison pill provisions included in the HCRI would fatally undermine the viability of our cannabis programs if ever applied to our counties' small cultivators.

In Mendocino County, we have struggled for years to establish a functional local permitting process that enables farmers to transition from provisional to annual state licensure. In Trinity County, litigation over our cannabis ordinance has thrown our county's small farmers into uncertainty, and turned control over much of our ordinance's implementation to the courts, rather than through public process. In the HCRI, we see direct parallels to the existential challenges that we have faced in our own counties.

The HCRI also raises important issues regarding public process and representation which apply equally to each of our regions. Our organizations have engaged extensively with our local governments on cannabis land use issues for many years, and from this experience, it is clear to us that a viable cannabis ordinance can only be produced through an open public process. Formulating cannabis land use policy behind closed doors, absent input from these stakeholders - as the HCRI has done - is a recipe for producing non-functional policy outcomes.

In Mendocino, Trinity, and Humboldt counties combined, over 1,500 licensed small cultivators continue to persevere despite the incredible challenges facing us within the regulated cannabis market. Our vision is for the Emerald Triangle to continue to serve as a home and global model for small-scale, independent, environmentally sustainable, and high-quality craft cannabis cultivation. The HCRI represents an existential threat to this vision, and if passed, would have negative reverberating effects on our region as a whole.

In solidarity with the small cannabis farmers of Humboldt County, in defense of our region, and in consideration of small cannabis farmers statewide, we urge your opposition to this initiative.

Sincerely,



Michael Katz
Executive Director
Mendocino Cannabis Alliance



Adrien Keys
President
Trinity County Agriculture Alliance



Genine Coleman
Executive Director
Origins Council