

**CEQA ADDENDUM TO THE  
MITIGATED NEGATIVE DECLARATION FOR THE COMMERCIAL MEDICAL  
MARIJUANA LAND USE ORDINANCE**

**Commercial Medical Marijuana Land Use Ordinance Mitigated Negative Declaration  
(MND)  
(State Clearinghouse # 2015102005), January 2016**

**APN 316-086-017, 316-086-011, 316-086-023, 316-086-025; 30000 State Highway 299,  
Redwood Valley/Berry Summit area County of Humboldt**

**Prepared By  
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## Background

**Modified Project Description and Project History** – The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance in order to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015 was included in the environmental baseline for the MND and the MND states that “Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting.” The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

The modified project involves a Conditional Use Permit for 43,550 sf of existing outdoor cultivation, 5,121 sf of existing mixed-light cultivation, and ancillary nursery space of 4,867 square feet. Cultivation is being relocated from APN's 316-086-011 and 316-086-023 to 316-086-017. Cultivation on APN 316-086-017 is also being further consolidated into one central cultivation area to comprise the totality of proposed cultivation. Proposed water use is 480,000 gallons sourced from a groundwater well, a diversion, and a rainwater catchment pond. A total of 579,800 gallons of water storage exists on the property. As part of the consolidation four points of diversion will be eliminated. Power is primarily provided by a solar system with a backup propane generator. Processing occurs on-site in existing barn structures, with two additional proposed to be near the consolidated cultivation area. A lot line adjustment is also proposed between APN 316-086-017 and 316-086-025 resulting in two parcels of approximately 49 acres and 23 acres.

The projects are within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Tsnungwe Council. The project was referred to the Northwest Information Center at Sonoma State and Bear River in September 2018 and September 2021, respectively. The comments back resulting recommended that the proposed projects will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol, from comments on 6/14/19 and 9/10/21, respectively. The inclusion of the standard inadvertent discovery protocol as recommended by the cultural reports is incorporated into the projects as an informational note.

There are mapped occurrences of bald mountain milk-vetch and coast fawn lily on the subject parcels mapped along State Highway 299. The mapped occurrences are approximately 525 feet from the nearest cultivation area. The nearest northern spotted owl (NSO) activity center is approximately 0.47 miles from the nearest cultivation area. The nearest mapped marbled murrelet

range is approximately 2.6 miles from the property, and the nearest mapped NSO critical habitat is approximately 2.9 miles from the property. Recommended conditions of approval include limiting noise from project activities to 50 decibels 100 feet from the noise source or at the nearest tree line, whichever is more restrictive, proper storage of fuels fertilizers and pesticides, prohibition of monofilament netting, storage of refuse in wildlife proof containers, and prohibition of anticoagulant rodenticide.

The applicant has submitted a Biological Reconnaissance Assessment prepared by Mother Earth Engineering dated September 2020. Mother Earth Engineering staff conducted site visits in January 2019 and September 2020 to evaluate potential habitat and biological resources. No listed species were observed during the site visits. The report concluded that the cultivation areas are outside Streamside Management Areas (SMAs) and there is a low probability of project activities negatively affecting special status species.

Power is currently provided by a solar array and generators are utilized for supplemental power; however, the applicant has proposed to increase the size of the solar array to accommodate the entirety of the energy needs of the project. Recommended conditions include transitioning to full solar power for operational power needs and discontinuing generator use as a supplemental power source. After the project has transitioned to full solar power, the applicant may elect to keep a generator on site for emergency backup power, subject to ongoing conditions requiring proper storage and containment of the generator fuels and noise limits. Conditions of approval require the applicant use light and noise attenuation to ensure the project has a Less the Significant Impact on NSO. The applicant has enrolled with the State Water Resources Control Board Cannabis Cultivation Policy.

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO which were intended to mitigate impacts of existing cultivation. These include ensuring supplemental lighting and security lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources as a result of light and noise.

**Purpose** - Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (MND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement

of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

### **Summary of Significant Project Effects and Mitigation Recommended**

A review of Appendix G impacts:

**Aesthetics:** The project is for 43,550 sf of existing outdoor cultivation, 5,121 sf of existing mixed-light cultivation, and ancillary nursery space of 4,867 square feet. The project will not significantly impact scenic vistas or public views as the project will occur within an existing open area that is surrounded by forested land. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. Less than significant impact.

**Agriculture and Forestry Resources:** The project will utilize agricultural land for agricultural purposes as contemplated in the MND. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act Contract. Review of satellite imagery (Humboldt County WebGIS) taken between 2012 and 2021 of the project sites does not show signs of timber conversion at either site. No tree removal is proposed or authorized by this permit. No impact.

**Air Quality:** The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project would not result in significant sources of greenhouse gas emissions. The project does utilize a gravel road, and traffic on gravel roads contribute to PM<sub>10</sub>, for which the North Coast Air Basin is already in non-attainment. However, there are no employees proposed for the project and a significant increase in traffic is not expected under the project. As such, the continued use of the gravel road for the project is not a substantial change or additional significant impact not considered under the MND for the CMMLUO. Less than significant impact.

**Biological Resources:** There are mapped occurrences of bald mountain milk-vetch and coast fawn lily on the subject parcels mapped along State Highway 299. The mapped occurrences are approximately 525 feet from the nearest cultivation area. The nearest northern spotted owl (NSO)

activity center is approximately 0.47 miles from the nearest cultivation area. The nearest mapped marbled murrelet range is approximately 2.6 miles from the property, and the nearest mapped NSO critical habitat is approximately 2.9 miles from the property. Recommended conditions of approval include limiting noise from project activities to 50 decibels 100 feet from the noise source or at the nearest tree line, whichever is more restrictive, proper storage of fuels fertilizers and pesticides, prohibition of monofilament netting, storage of refuse in wildlife proof containers, and prohibition of anticoagulant rodenticide.

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**Cultural Resources:** The projects are within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Tsnungwe Council. The project was referred to the Northwest Information Center at Sonoma State and Bear River in September 2018 and September 2021, respectively. Referral responses indicated that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol. The inclusion of the standard inadvertent discovery protocol as recommended by the cultural reports is incorporated into the projects as an informational note. Less than significant impact.

**Energy:** Energy is currently provided by an existing solar array, with generators used on site as a supplemental power source. The applicant has proposed to increase the size of the solar array to accommodate the entirety of the energy needs of the project. Recommended conditions include transitioning to full solar power for operational power needs and discontinuing generator use as a supplemental power source. After the project has transitioned to full solar power, the applicant may elect to keep a generator on site for emergency backup power, subject to ongoing conditions requiring proper storage and containment of the generator fuels and noise limits. Less than significant impact.

**Geology and Soils:** The project parcels are mapped in the County GIS as having high instability. The location of all existing cultivation on all three (3) sites ranges from 15% to 30%. The existing and proposed cultivation and proposed relocation areas are outside any mapped earthquake faults or fault hazard zones, areas of potential liquefaction, or mapped historic landslides. The applicant has been conditioned to provide a grading plan for the areas proposed for relocation, which will be subject to review and approval by the Planning Director. Additionally, irrigation runoff and erosion control measures are implemented. Less than significant impact.

**Greenhouse Gas Emissions:** Energy is currently provided by an existing solar array, with generators used on site as a supplemental power source. The applicant has proposed to increase

the size of the solar array to accommodate the entirety of the energy needs of the project. Recommended conditions include transitioning to full solar power for operational power needs and discontinuing generator use as a supplemental power source. After the project has transitioned to full solar power, the applicant may elect to keep a generator on site for emergency backup power, subject to ongoing conditions requiring proper storage and containment of the generator fuels and noise limits. Less than significant impact.

**Hazards and Hazardous Materials:** The project will store fertilizers, herbicides, and fuel in existing storage structures. All hazardous materials are stored in a locked area with secondary containment in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as a high fire risk area; however, no significant wood framed structures will be constructed as part of this project. The project would not impair emergency response or create a significant risk from wildfire. Less than significant impact.

**Hydrology and Water Quality:** The project is for 43,550 sf of existing outdoor cultivation, 5,121 sf of existing mixed-light cultivation, and ancillary propagation and drying activities. The project will not degrade any water sources or contribute to sedimentation, as irrigation runoff, erosion control, and watershed protection measures are implemented by the project, as described in the Cultivation and Operations Plan and the Water Resources Protection Plan. Less than significant impact.

**Land Use and Planning:** The project proposes an agricultural activity on a parcel zoned as Unclassified (U), in which all general agricultural uses are principally permitted. The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact.

**Mineral Resources:** No mining is proposed. The project will not result in the loss of availability of a known mineral resources that would be of value to the region and the residents of the state. The project will not result in the loss of availability of a locally important mineral resource recover site. No impact.

**Noise:** The project is located in a rural portion of the County in an existing open area, surrounded by forested land. The project will not result in the generation of excessive groundborne vibration or noise levels. Noise sources from the operation will include those of typical agricultural operations, and the use of the generator; however, the applicant has proposed to transition to full solar power for the project. Drying and curing occurs onsite with further processing, including trimming, occurring offsite at a licensed third party processing facility. Less than significant impact.

**Population and Housing:** The project is for outdoor and mixed light cannabis cultivation. No housing is proposed nor is any removal of housing proposed. No employees are proposed for the project. The project will not induce substantial unplanned population growth in an area nor displace substantial numbers of existing people or housing necessitating the construction of replacement housing. No impact.

**Public Services:** The project is for 43,550 sf of existing outdoor cultivation, 5,121 sf of existing mixed-light cultivation with ancillary propagation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a school, however, no developed or designated recreational facilities are within 600 feet of the cultivation and propagation areas. Less than significant impact.

**Recreation:** The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. No impact.

**Transportation:** No employees are proposed for project operations. Access to the sites is directly off of State Highway 299 to the Old State Highway 299 road that is 0.5 miles to the subject parcel. A Road Evaluation Report, prepared by the Applicant, dated on 7/15/19 was completed with photos of the Old State Highway 299 road. The road evaluation deemed the road segment off of Highway 299 to the access road to be developed to the equivalent of a road category 4 standard. The road is maintained privately. Less than significant impact.

**Tribal Cultural Resources:** The projects are within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Tsnungwe Council. The project was referred to the Northwest Information Center at Sonoma State and Bear River in September 2018 and September 2021, respectively. Referral responses indicated that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol. The inclusion of the standard inadvertent discovery protocol as recommended by the cultural reports is incorporated into the projects as an informational note. Less than significant impact.

**Utilities and Service Systems:** All solid waste accumulated by operations will be contained on site in wildlife proof containers. The garbage will be disposed of regularly offsite at a local transfer station. Green waste material is composted onsite. The residence on site will provide water, toilets, and handwashing facilities for the owner/operator. No employees are proposed for the project. Less than significant impact.

**Wildfire:** The project will not interfere with any evacuation plan. The project will not develop any significant new structures that will increase the risk of wildfire. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 42,299 square feet (SF) of existing full-sun outdoor cultivation and 6,372 SF of existing mixed light of cannabis cultivation with ancillary propagation and drying activities is fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents (see Attachment 3 for a complete listing of document):

1. Cultivation Operations Plan submitted by the applicant.
2. Site Plan submitted by the applicant.
3. Right to Divert and Use Water.
4. Notice of Applicability.
5. Water Resources Protection Plan prepared by Pacific Watershed Associates, dated November 2018.
6. Lake or Streambed Alteration Agreement.
7. Well Evaluation prepared by Lindberg Geologic Consulting, dated May 2022.
8. Road Evaluation Report prepared by the applicant dated August 2019.
9. Wetland Delineation Report prepared by Mother Earth Engineering, dated February 2019.
10. Biological Assessment prepared by Mother Earth Engineering, dated September 2020.

### **Other CEQA Considerations**

Staff suggests no changes for the revised project.

### **EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT**

See **Purpose** statement above.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial project for which the MND was adopted.

### **Project impact analysis of conformance to the Mitigated Negative Declaration Substituted Mitigation Monitoring and Reporting Program**

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.10(o) and 55.4.10(c)).

- The projects are within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Tsnungwe Council. The project was referred to the Northwest Information Center at Sonoma State and Bear River in September 2018 and September 2021, respectively. Referral responses indicated that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol. The inclusion of the standard inadvertent discovery protocol as recommended by the cultural reports is incorporated into the projects as an informational note.



Mitigation Measure 2: Curing violations of state, county code (55.4.11(a)).

- The project is for existing cultivation and project approval includes a compliance agreement to cure unresolved violations of state or county code.

Mitigation Measure 3: Permitting Tiers and related requirements (55.4.8.2 et seq.)

- The project is for for 43,550 sf of existing outdoor cultivation, 5,121 sf of existing mixed-light cultivation, and ancillary nursery space of 4,867 square feet in an Unclassified (U) Zone over one acre in size, which requires a Conditional Use Permit. The project complies with the requirements described in 55.4.8.2 et seq.

Mitigation Measure 4: Retirement, Remediation, and Relocation Program (55.4.14)

- The project is not participating in the Retirement, Remediation, and Relocation program; therefore. this mitigation measure does not apply.

Mitigation Measure 5: Cannabis Cultivation on Timberlands

- Review of satellite imagery (Humboldt County WebGIS) taken between 2012 and 2021 of the project sites does not show signs of timber conversion at either site. No tree removal is proposed or authorized by this permit. As such, no loss of timber resources is expected to the sites through approval and implementation of the projects as described and conditioned by the permits.

Mitigation Measure 6: Use of fertilizer, pesticide, fungicide, rodenticide, or herbicide (55.4.11(j)).

- The project operations plan describes measures that will be taken to properly store and handle hazardous materials. Compliance with the operations plan is a condition of project approval. The use of anticoagulant rodenticide is prohibited. The project is conditioned requiring the applicant to provide written compliance with the Certified Unified Program Agency (CUPA) requirements.

Mitigation Measure 7: Generator Use (55.4.11(o)).

- Energy is currently provided by an existing solar array, with generators used on site as a supplemental power source. The applicant has proposed to increase the size of the solar array to accommodate the entirety of the energy needs of the project. Recommended conditions include transitioning to full solar power for operational power needs and discontinuing generator use as a supplemental power source. After the project has transitioned to full solar power, the applicant may elect to keep a generator on site for emergency backup power, subject to ongoing conditions requiring proper storage and containment of the generator fuels and noise limits.

Mitigation Measure 8: Storage of Fuel (55.4.11(p)).

- The project is conditioned that fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

Mitigation Measure 9: Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).

- The applicant does not currently utilize employees, however the project has been conditioned to provide a statement declaring they are an agricultural employer as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code).

Mitigation Measure 10: Humboldt Artisanal Branding Provision (55.4.15).

- The proposed project is for more than 3,000 square feet; therefore, this measure does not apply.

Mitigation Measure 11: Sunset Clause for applications

- The application was received on December 22, 2016, prior to the sunset of the ordinance.

Based upon this review, the following findings are supported:

## **FINDINGS**

1. The proposed project will permit an existing cannabis operation and bring the operation into compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.
3. For the current proposed project, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

## **CONCLUSION**

Based on these findings it is concluded that an Addendum to the certified MND is appropriate to address the requirements under CEQA for the current project proposal. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.