

ATTACHMENT 3

**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 524-114-005; Section 35, Township 06 North, Range 05 East, H. B. & M., Willow Creek
County of Humboldt**

**Prepared By
Humboldt County Planning and Building Department
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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 18,200 square feet (SF) of existing outdoor cannabis cultivation and 1,600 SF of ancillary propagation. Water for irrigation is sourced from rainwater catchment supplemented by a point of diversion. Existing available water storage is 113,800 gallons stored in a 100,000-gallon rainwater catchment pond and a series of hard sided water tanks, with an additional 65,000 gallons of storage proposed in tanks, for a total of 178,800 gallons of onsite water storage. Estimated annual water usage is 169,329 gallons. Drying and curing occurs onsite within two (2) existing 1,250 SF sheds, with all other processing occurring off-site at a licensed processing or manufacturing facility. A maximum of two (2) people would be on-site during peak operations. Electricity is sourced from generator power. Special Permits are also requested for continued use and maintenance of the point of diversion infrastructure and for a reduced setback to adjacent public lands.

The project site contains riparian habitat associated with the South Fork Trinity River, a Class II drainage, and a small unnamed watercourse, which traverse the northeastern, southwestern, and central portions of the subject property, respectively. All approved cultivation activities and respective infrastructure would occur outside of the required stream setbacks and on slopes less than 12%, as per the Site Management Plan (SMP; WDID 1_12CC417933) prepared by Timberland Resource Consultants in August 2019) Per review of CDFW's California Natural Diversity Database (CNDDDB) in January 2022, there are no mapped special status species onsite. The nearest Northern Spotted Owl (NSO) activity center is located approximately 0.62 miles from the nearest cultivation area onsite, with the nearest positive sighting located approximately 0.24 miles away. All artificial lighting used in the nursery greenhouses will be covered with an opaque black-out tarp so that no light escapes during the night. The project will follow all applicable rules of Dark Sky Standards. Power is provided by a 20 kilowatt (kW) generator. Conditions of approval require the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026.

Additional conditions of approval require the applicant to implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. Further, due to the on-site pond, the applicant is required to prepare and implement a Bullfrog Management Plan. As proposed

and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

The applicant has enrolled with the State Water Resources Control Board Cannabis Cultivation Policy. A Cultural Resources Investigation was prepared in November 2019 by Archaeological Research and Supply Company, which did not identify any sensitive resources within the study area. However, as there is always the possibility of the inadvertent discovery of buried archaeological resources during ground disturbing activities with project implementation, Inadvertent Discoveries Protocol is recommended, also recommended by the Hoopa Valley Tribe in April 2021, which has been included as an ongoing condition of approval.

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

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 18,200 square feet of 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):

- Site Plan prepared by Green Road Consulting, dated 4/29/22.
- Cultivation and Operations Plan, prepared by Timberland Resource Consultants, received 1/26/21.
- Addendum to Cultivation and Operations Plan, prepared by Green Road Consulting, received 12/10/21.
- Final Streambed Alteration Agreement (Notification No. 1600-2020-0132-R1), issued by the California Department of Fish and Wildlife (CDFW), received 12/10/21.
- Notice of Applicability (NOA; WDID:1_12CC417933) – Waste Discharge Requirements Water Quality Order WQ 2019-0001-DWQ, issued by the North Coast Regional Water Quality Control Board (NCRWQB), dated 12/2/20.
- Right to Divert and Use Water (Certificate No. H100681, Registration No. H509451) issued by the State Water Resources Control Board (SWRCB), Division of Water Rights, dated 6/9/20.
- Site Management Plan (SMP; WDID-1_12CC417933), prepared by Timberland Resource Consultants, received 1/26/21.
- Timberland Conversion Evaluation Report, prepared by Timberland Resource Consultants, received 12/17/20.
- Road Evaluation Report for U.S. Forest Service Roads 6N06 & 6N06R Willow Creek, California APN 524-114-005, prepared by Omsberg & Preston, received 12/21/20.
- Road Evaluation Reports for USFS Road 6N06, from Ridge Road (County Road #8L100) to USFS Road 6N06, and for USFS Road 6N06R, from USFS Road 6N06 to USFS Road 6N06R, prepared by the applicant, dated 10/10/22.
- A Cultural Resources Investigation of the Willow Creek Holcomb Property Final Report prepared by Archaeological Research and Supply Company, received 1/4/21.

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. 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.