

From: [Kamoroff, Corrina@Wildlife](mailto:Kamoroff_Corrina@Wildlife)
To: [Saucedo, Portia](mailto:Saucedo_Portia); [Johnson, Cliff](mailto:Johnson_Cliff)
Cc: [Manthorne, David@Wildlife](mailto:Manthorne_David@Wildlife)
Subject: App: PLN-11099-CUP, APN: 317-033-008-000
Date: Thursday, November 30, 2023 5:16:18 PM

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Good Afternoon,

Please see the comments below regarding the subject project.

Project Number: PLN-11099-CUP

Project Name: Macras Land Co, Inc. 6,848 Existing ML, Existing 17,262 OD

APN(s): 317-033-008-000

CEQA: CEQA-2017-0618-0000-R1

Project Description

A Conditional Use Permit for 17,262 square feet of existing outdoor and 6,848 square feet of existing mixed-light cannabis cultivation. Processing, including drying and trimming is proposed in the metal building on-site. Water used for irrigation is sourced from two wells, and a water diversion is used for domestic purposes. The applicant estimates 577,500 gallons of water used for irrigation per year. Off-grid power is supplied by one generator, and solar arrays are used to run heaters and dehumidifiers for drying and to power the water pumps. Up to six employees will be used for cannabis activities during peak season.

CDFW COMMENTS:

Thank you for referring this application to the California Department of Fish and Wildlife (CDFW) for review and comment.

On November 29, 2023, CDFW staff conducted a site inspection at the subject property on Assessor' Parcel Number (APN) 317-033-008-000. During the site visit, staff walked the property to observe current and historic cultivation activities. The following comments are intended to assist the Lead Agency in making informed decisions in the planning process. The following comments shall supersede prior comments submitted by CDFW regarding PLN-11099-CUP CDFW requests that all comments are incorporated in the final Humboldt County Staff Report.

- On April 3, 2020, CDFW issued the applicant a Final Lake and Streambed Alteration Agreement (LSAA, 1600-2017-0360-R1) for one Point of Diversion (POD) from an unnamed tributary to Showers Creek and to install two culverts at road/stream crossings with no conveyance infrastructure.

- The LSAA expired on October 11, 2023, and the applicant submitted an extension request to CDFW. As a result, the applicant has been given a one year extension per Fish and Game Code (FGC) 1605 on the LSAA until a formal extension is granted. Additionally, no work on the stream crossings has been initiated or completed. CDFW requests, as a condition of project approval, that the applicant maintains compliance with the LSAA and completes all required work within one year or less.
- To access the cultivation site, personnel are required to drive through (ford) Showers Creek, a Class I stream, because no conveyance structure is in place (ex. bridge). Fording the river poses a significant threat to sensitive wildlife species, public trust resources. CDFW requests, as a condition of project approval, that no cultivation should occur until a proper conveyance to cross Showers Creek is installed.
- While onsite, CDFW observed that the applicant was not using water meters on site and that no water monitoring reports have been submitted to CDFW. As a result, the applicant is out of compliance with the measures of the LSAA. CDFW requests, as a condition of project approval, that the applicant installs appropriate water meters on site, submits the required water metering records, and achieves compliance with the LSAA.
- The project description states that the estimated annual projected water usage for the farm is approximately 577,500 gallons, which will be sourced from two wells. Due to the project's high projected water needs, CDFW requests, as a condition of project approval, that the applicant stores no less than 200,000 gallons of water on site to be used if the well does not produce for a full cultivation season.
- While onsite, CDFW observed uncontained compost and discarded soil associated with cannabis cultivation. CDFW requests, as a condition of project approval, that the applicant fully contains compost piles and all imported soil on site.
- While onsite, CDFW observed monofilament netting that was used during cannabis cultivation operations. To minimize the risk of wildlife entrapment, CDFW requests, as a condition of project approval, the prohibition of synthetic netting (e.g., plastic or nylon) including photo or biodegradable plastic netting for the purpose of cultivation operations and/or erosion control.
- The proposed project may have a potentially significant adverse effect on special status wildlife species, including but not limited to, the Northern Spotted Owl (*Strix occidentalis caurina*; NSO). The Project proposes to utilize mixed light cultivation within NSO habitat (within 0.5 miles of a documented AC (HUM 0479) and within 0.8 miles of a second AC (HUM 0982). Cultivation methods that utilize artificial light allow for an extension of the growing season which increases the period of overlap between cultivation operations and the NSO breeding season. Artificial light may disrupt nocturnal foraging and nesting of NSO through disorientation as well as decreased

activity of prey species (Brown al. 1988, Longcore and Rich 2004, 2016). Noise from road use, fans, and other equipment may disrupt hunting of NSO, which primarily uses hearing to hunt. Also, exposure to vehicle noise has been shown to increase stress hormone levels in NSO, which was particularly evident in males during times when they were exclusively responsible for feeding their mates and nestlings (Hayward et al. 2011).

CDFW requests that the applicant assume presence of NSO and avoid impacts as determined by a qualified biologist, in consultation with CDFW. CDFW recommends avoidance measures include, but are not limited to, the prohibition of backup generators, project lighting and fans in ancillary structures (e.g., nurseries) during the breeding season (February 1 to July 9), each year. Following the breeding season, CDFW requests the succeeding measures, as conditions of Project approval.

- The construction of noise containment/dampening structures for all operation related backup generators and fans; noise released shall be no more than 50 decibels measured from 100 ft or edge of habitat whichever is closer. CDFW further requests a noise attenuation monitoring and management plan for this activity within thirty days, following execution of the final permit.
- That artificial light used for cannabis cultivation operations (i.e., ancillary nurseries) be fully contained within structures such that no light escapes (e.g., through automated blackout curtains) between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular and nocturnal wildlife. CDFW further requests, that security lighting be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low-Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed. CDFW further requests a light attenuation monitoring and management plan for this activity within thirty days, following execution of the final permit.

Thank you for the opportunity to comment on this project.

Corrina Kamoroff

Environmental Scientist
Habitat Conservation and Planning
Humboldt/Del Norte LSA Program
California Department of Fish and Wildlife

619 Second Street
Eureka, CA 95501

From: [Kamoroff, Corrina@Wildlife](mailto:Kamoroff,Corrina@Wildlife)
To: [Johnson, Cliff](mailto:Johnson,Cliff)
Cc: [Manthorne, David@Wildlife](mailto:Manthorne,David@Wildlife); [Hamer, Georgia@Wildlife](mailto:Hamer,Georgia@Wildlife)
Subject: RE: Showers Creek
Date: Friday, September 6, 2024 12:34:28 PM

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Hi Cliff,

Thank you for the update on the projects scheduled to go to hearing on September 19th.

If applicants are permitted to cultivate before installing a bridge to cross Showers Creek, CDFW requests a shorter time frame for obtaining a final Lake and Streambed Alteration Agreement (LSAA) and completing the bridge installation. Specifically, CDFW requests that the permittees be required to notify CDFW to obtain a final LSAA for the installation of the bridge within 90-days of the effective date of permit approval. CDFW further requests that the bridge is installed within two years of the effective date of permit approval.

Please let us know if you have any questions or would like to schedule a meeting to discuss this further.

Thank you,

From: Johnson, Cliff <CJohnson@co.humboldt.ca.us>
Sent: Friday, September 6, 2024 9:47 AM
To: Kamoroff, Corrina@Wildlife <Corrina.Kamoroff@Wildlife.ca.gov>; Hamer, Georgia@Wildlife <Georgia.Hamer@Wildlife.ca.gov>
Cc: Manthorne, David@Wildlife <David.Manthorne@wildlife.ca.gov>
Subject: RE: Showers Creek

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hello CDFW staff,

We are bringing the first of the remaining Showers Creek projects to hearing on September 19th and are proposing the following conditions related to Showers Creek. We'd like to be able to present to the PC that Planning and CDFW are in agreement with the conditions, as opposed to the current on-record recommendation from CDFW that no cultivation occur until the bridge is in place.

If you feel that a shorter timeframe is more appropriate we can potentially change that. I do think this is going to be a heavy lift for these folks given the current state of the cannabis industry which is why I am proposing a three-year timeframe. Perhaps a one-year timeframe for notifying and two

years to complete if you feel that 3 years is too long? I'd like to include any correspondence on this issue in the Planning Commission record.

Proposed conditions:

A permanent bridge crossing shall be installed over the stream crossing of Showers Pass for either the primary or secondary access route, and once installed no commercial cannabis traffic shall occur through any routes that require fording the creek. A permanent bridge shall be installed within three years of the effective date of approval of this permit. The applicant and/or Road Maintenance Association shall submit for and obtain approval of an LSAA from CDFW for the crossing (or crossings) within two years of the effective date of approval of this permit.

Within 180 days of the effective date of permit approval the applicant shall provide evidence that a Road Maintenance Association for Stapp Road has been created. Within three years the RMA will be required to construct the improvements specified in Road Evaluation Reports (RER's) prepared for the cannabis projects and shall also be required to design and construct a permanent bridge crossing or crossings over Showers Creek, and the applicant shall actively comply with the terms and requirements of the RMA.

Let me know if you want to meet again to discuss.

Cliff

Cliff Johnson, Planning Manager
County of Humboldt Planning and Building Department
3015 H Street
Eureka, CA 95501
(707) 268-3721

Effective July 1, 2024, the Humboldt County Planning and Building Department will reduce the in-person counter service hours. The new hours of operation will be from 8:30 a.m. to 2:00 p.m., Monday through Thursday, with the counter closed on Fridays.

From: Kamoroff, Corrina@Wildlife <Corrina.Kamoroff@Wildlife.ca.gov>
Sent: Monday, July 1, 2024 1:58 PM
To: Johnson, Cliff <CJohnson@co.humboldt.ca.us>; Hamer, Georgia@Wildlife <Georgia.Hamer@Wildlife.ca.gov>
Cc: Manthorne, David@Wildlife <David.Manthorne@wildlife.ca.gov>; Saucedo, Portia <psaucedo1@co.humboldt.ca.us>; Whitney, Andrew <awhitney2@co.humboldt.ca.us>
Subject: RE: Showers Creek

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Hi Cliff,

We would like to set up a meeting to discuss the Showers Creek crossings. Are you available this Wednesday (7/3) from 2:00-2:30 or from 3:30-4:00?

Thank you,

From: Johnson, Cliff <CJohnson@co.humboldt.ca.us>
Sent: Friday, June 28, 2024 5:11 PM
To: Kamoroff, Corrina@Wildlife <Corrina.Kamoroff@Wildlife.ca.gov>; Hamer, Georgia@Wildlife <Georgia.Hamer@Wildlife.ca.gov>
Cc: Manthorne, David@Wildlife <David.Manthorne@wildlife.ca.gov>; Saucedo, Portia <psaucedo1@co.humboldt.ca.us>; Whitney, Andrew <awhitney2@co.humboldt.ca.us>
Subject: Showers Creek

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Hi Corrina,

We visited the Showers Creek crossings today and had a productive on-site discussion with the farmers. It is quite a bit of a complicated situation where Stapp Road is a loop that crosses Showers Creek in two locations. Some permit holders and applicants have easements over one portion of the loop and one crossing and not the other and vice-versa and so the legal access for these permit holders do not all use the same crossing. Both crossings are problematic.

We plan on taking the remaining permits to hearing in August, which are 10854, 11989 and 11099 and we are going to start developing conditions for these, in large part based on CDFW input. I believe you have provided comments on two of the three so far. On

those two, CDFW requests the following:

- To access the cultivation site, personnel are required to drive through (ford) Showers Creek, a Class I stream, because no conveyance structure is in place (ex. bridge). Forging the river poses a significant threat to sensitive wildlife species, public trust resources. CDFW requests, as a condition of project approval, that no cultivation should occur until a proper conveyance to cross Showers Creek is installed.

We seem to have some traction with the existing permit holders and these three applicants to resolve the issues, which will likely require negotiating easements and deciding which crossing makes the most sense to improve, or and perhaps more likely will require improving both crossings. They will be creating a road maintenance association and applying for grant funds to help. Given that the work, once identified and designed, will require an LSAA – it seems highly unlikely that they will be able to complete this before next cultivation season. I would like to propose that we require improvements of the wet crossing or crossings, depending on the outcome of negotiated easements, within a longer timeframe. Most of these farms have limited trips (1-2 trips per week) given the remoteness of the sites and so the impact is somewhat minimized, and they will need to be able to operate to keep the crossing improvements a valid project. I think that giving them some flexibility on timing is our best avenue to getting these crossings fixed. The more likely that we can make this digestible as a condition for the three unpermitted farms, the more likely we can successfully compel the three permitted farms to contribute and the more likely it becomes that we get the crossings fixed. I'm concerned that if we put the three non-permitted farms out of business due to not being able to cultivate next year or subsequent years, we will lose our leverage on the existing permitted farms who do not have a county requirement to improve the crossing(s). The way we can compel the already permitted farms to participate will be through a Road Maintenance Association that implements approved county conditions for each of the farms on the road, and currently we don't have crossing conditions on any permits.

The Planning Commission has set a little bit of a precedent of giving people up to five years to complete more significant improvements on some recent cannabis projects. I am going to start drafting a condition that is specific about the solution to the crossing issue and I am currently thinking that something like 2 years to design, 3 years to submit for an LSAA and 5 years to complete is a reasonable timeframe to require. If there are some interim things they could do to help limit impacts perhaps those could be included. I'd like to collaborate on this. These are just my first thoughts after the visit today and I am hoping that we can get to a point where we get CDFW, County and applicants all in agreement on the solution that gets presented to the Planning Commission.

Have a nice weekend.

Cliff

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Sent: Thursday, November 30, 2023 5:16 PM
To: Saucedo, Portia <psaucedo1@co.humboldt.ca.us>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>
Cc: Manthorne, David@Wildlife <David.Manthorne@wildlife.ca.gov>
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APN(s): 317-033-008-000

CEQA: CEQA-2017-0618-0000-R1

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LSAA.

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