



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

3015 H Street, Eureka CA 95501
Phone: (707) 445-7541 Fax: (707) 268-3792

Hearing Date: February 3, 2022

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: **Lance Berry Conditional Use Permit**
Record Number PLN-12674-CUP
Assessor's Parcel Number (APN) 208-261-009
North side of Highway 36, approximately 3500 feet west of the intersection of
Highway 36/Dinsmore Road, Dinsmore, CA 95552

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Please contact David J. R. Mack, AICP, Planner (Harris & Associates) at 831-320-0413 or by email at david.mack@weareharris.com, if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
February 03, 2022	Conditional Use Permit	David Mack

Project Description: Lance Berry seeks a Conditional Use Permit (PLN-12674-CUP) for the continued operation of 23,400 square feet (SF) of cannabis cultivation, comprised of 20,700 SF of outdoor cannabis cultivation and 2,700 SF mixed light cultivation. Cultivation occurs in six (6) different cultivation areas on the subject parcel, with five (5) areas for outdoor cultivation and one (1) area for mixed light. A nursery of 2,340 SF is also located on the site.

Irrigation water is sourced from a 388,000-gallon rainwater catchment pond. Estimated annual water use is 221,000 gallons (9.44 gal/SF). Water is stored in seven (7) 5,000-gallon tanks, two (2) 2,500-gallon tanks, one (1) 1,150-gallon tank, as well as the 388,000-gallon rain catchment pond. Total water storage is 429,150 gallons. A permitted well (Permit No. 16/17-0576) is located on site, but it not used for cannabis irrigation purposes, and is intended to be used domestically for the proposed residence.

Drying occurs onsite in a 384-SF agricultural structure, and further processing occurs offsite at a licensed third-party facility. Up to four (4) family members carry out operations, and no additional employees are anticipated onsite. The primary source of electrical power (used for propagation lights and to pump water) is a Honda EU7000 generator (rated at 58 dB under load, which results in an approximate noise level of 32.4 dB at the nearest property line).

Project Location: The project is located on the north side of Highway 36, approximately 3,500 feet west of the intersection of Highway 36/Dinsmore Road (Section 5 of Township 01N, Range 05E, Humboldt Base & Meridian), in the unincorporated Dinsmore area in central Humboldt County.

Present Plan Land Use Designations: Residential Agriculture (RA) Density: 40 acres per unit; Slope Stability: Moderate Instability (2)

Present Zoning: Forestry Recreation (FR) with B-5 overlay, 40 acre minimum (FR-B-5-40)

Record Number: PLN-12674-CUP

Assessor's Parcel Number: 208-261-009

Applicant

Steven Lance Berry
3053 Roan Court
Fortuna, CA, 95540

Owner

Steven Lance Berry
3053 Roan Ct
Fortuna CA 95540

Agents

Alan Baird
1257 Main St., P.O. Box 396
Fortuna, CA, 95540
Phone: 7077255182
E-mail: ambaird@suddenlinkmail.com

Environmental Review: An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of the State CEQA Guidelines.

State Appeal Status: Project is NOT appealable to the California Coastal Commission.

Major Issues: No major issues/concerns were identified for this project.

Recommended Commission Action

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

Adopt the Resolution to:

1. *Find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO), as described by Section §15164 of the State CEQA Guidelines;*
2. *Make the required findings for approval of the Conditional Use Permit; and*
3. *Approve the Lance Berry Conditional Use Permit as recommended by staff subject to the recommended conditions.*

Executive Summary Lance Berry seeks a Conditional Use Permit (PLN-12674-CUP) for the continued operation of 23,400 square feet (SF) of cannabis cultivation, comprised of 20,700 square feet (SF) of outdoor cannabis cultivation and 2,700 SF mixed light cultivation for a total cultivation of 23,400 SF and a 2,340 SF nursery. Cultivation occurs in six (6) different cultivation areas on the subject parcel, with five (5) areas for outdoor cultivation and one (1) area for mixed light. The medical cannabis permit application is in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The sites has been issued a Zoning Clearance Certificate for Interim Permit (IP), based upon the Cultivation Area Verification (CAV) developed for the site. The cultivation area for this Conditional Use Permit is based upon the CAV prepared for the IP.

The project area is located on a ridge top between 2,400-2,800 feet in elevation with moderate slope stability. The present land use designation is Residential Agriculture (RA) with a density of 40 acres per unit, as defined in the Humboldt County 2017 General Plan Update. The 75-acre parcel is zoned as Forestry Recreation (FR) with B-5 overlay, which has a 40 acre minimum (FR-B-5-40). The parcel includes one (1) proposed 2,000-SF residence and associated sewer leach fields. Drying occurs onsite in a 384-SF structure, and further processing occurs offsite. Up to four (4) family members carry out operations, and no additional employees are anticipated onsite. The primary source of electrical power (used to operate propagation lights and pump water) is a Honda EU7000 generator, which is estimated to produce a noise level of 32.4 dB at the nearest property line. Consistent with past actions of the Planning Commission, the project has been conditioned to either connect to a utility provider or have an alternative power source starting January 1, 2026 (**Condition 10**).

Water Resources

Irrigation water is sourced from a 388,000-gallon rain catchment pond. Estimated annual water use is 221,000 gallons (9.44 gal/SF). Water is stored in seven (7) 5,000-gallon tanks, two (2) 2,500-gallon tanks, one (1) 1,150-gallon tank, and the 388,000-gallon rain catchment pond. Total water storage is 429,150 gallons. A permitted well (Permit No. 16/17-0576) is located on site, but it not used for cannabis irrigation purposes, and is intended to be used domestically for the proposed residence.

A Site Management Plan (SMP) was prepared by Timberland Resource Consultants (February, 20, 2020) in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation (WDID No. 1B171574CHUM / WDID-1_12CC416959).

There are nine (9) stream crossings on the access road to the project area, which is used solely by the applicant. Existing culverts are sized for a 100-year storm event and have been updated or modified

pursuant to the recommendations provided in 2017 from the California Department of Fish and Wildlife (CDFW) for the Lake and Streambed Alteration Agreement (LSAA 1600-2017-0053-R1). No additional recommendations/mitigations are outstanding.

Currently, all permanent and seasonal roads on the property have imported and native rock surfacing and do not require any more rock surfacing. Drainage features on roads have been installed and maintained. No alterations to permanent, seasonal, or legacy roads are proposed for the project.

The proposed project is within a Streamside Management Area (SMA) and therefore is required to be consistent with Humboldt County General Plan Policy BR-P6, which requires development within an SMA to comply with Standards BR-S8 (Required Mitigation Measures) and BR-S9 (Erosion Control).

Biological Resources

A Biological Resources Report was prepared by Troy Leopardo of Leopardo Wildlife Associates (July 2019) to assess the potential presence of sensitive biological communities and protected species. Mr. Leopardo conducted a field survey and reviewed the CDFW California Natural Diversity Database (CNDDDB) for species within 1.3 miles of the project. The Biological Assessment Area (BAA) is defined as the area where potential impacts may occur to sensitive or protected species and/or sensitive biological communities. Sensitive species that have the potential to occur within the BAA include: yellow-legged frog (*Rana boylei*), summer-run steelhead trout (*Oncorhynchus mykiss irideus*), western pond turtle (*Emys marmorata*), Wawona riffle beetle (*Atractelmis wawona*), American peregrine falcon (*Falco peregrinus*), Tracy's sanicula (*Sanicula tracyi*), Oregon goldthread (*Coptis lacinate*), and coast fawn lily (*Erythronium revoutum*). During the survey, no potential falcon habitat was found or observed onsite. Furthermore, there is no evidence of Northern Spotted Owl onsite, and the potential for NSO occurrence is rare. The report concluded that project activities would result in minimal impacts to biological species, and therefore no mitigation is recommended.

Tribal Cultural Resource Coordination

A records search for known cultural resources was requested from the Northwest Information Center (NWIC) and revealed that one study was previously conducted in the project area (Leach-Palm et al 2011) and identified one archaeological site (S-38865). The Bear River Band of the Rohnerville Rancheria was contacted and indicated that the archaeological site referenced above appears to be located near a proposed catchment pond (which has since been constructed) and requested completion of a site survey. A Cultural Resources Investigation survey was conducted by Nick Angeloff (Archaeological Research and Supply Company) in August 2020, and is on file with Humboldt County. The survey concluded that no prehistoric or historic resources would be impacted by the proposed project, but recommended implementation of the standard Inadvertent Discovery Protocol in the event that any human remains, or artifacts of cultural significance are encountered during ground disturbing activities (**Condition 14**).

Access

The project is located on the north side of Highway 36, approximately 3,500 feet west of the intersection of Highway 36/Dinsmore Road (Section 5 of Township 01N, Range 05E, Humboldt Base & Meridian), in the unincorporated Dinsmore area in central Humboldt County. The applicant evaluated the non-county maintained access road using forms provided by Humboldt County Department of Public Works (DPW). DPW reviewed the applicant's information and stated "no re-refer" was required. DPW also expressed that a grading permit (for road maintenance) could be required, and the applicant should check with Humboldt County Building prior to any work (**Condition 15**).

Generator Use

The primary source of electrical power, which is used to operate propagation lights and to pump irrigation water, is a Honda EU7000 generator. Generator usage occurs no closer than 200 feet from the nearest property line. The Honda generator is rated at 58 dB at full load, which equates to approximately 32.4 dB at the nearest property line. Consistent with past actions of the Planning Commission, the project has been conditioned to either connect to a utility provider or have an alternative power source starting

January 1, 2026 (**Condition 10**).

California Environmental Quality Act (CEQA)

Environmental review for this project was conducted in July 2021 by the County. Based on the results of that analysis, staff finds that all aspects of the project have been considered in the Mitigated Negative Declaration (MND) adopted for the Commercial Medical Marijuana Land Use Ordinance on January 26, 2016. Accordingly, staff has prepared an addendum to this document for consideration by the Planning Commission. See **Attachment 2** for more information.

RECOMMENDATION: Based on a review of Planning and Building Department reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit (CUP).

ALTERNATIVES: The Planning Commission could elect to 1) not approve the project, or 2) require the applicant to submit further evidence or modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

The Planning Commission could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As the lead agency, the Department has determined that the project is consistent with the MND for the CMMLUO as stated above. However, the Commission may reach a different conclusion, In which case, the Commission should continue the item to a future date at least two months later to provide staff adequate time to complete further environmental review.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 22-
Record Number PLN-12674-CUP
Assessor's Parcel Number: 208-261-009**

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Lance Berry Conditional Use Permit.

WHEREAS, Lance Berry, applied for Conditional Use Permit PLN-12674-CUP for 23,400 square feet (SF) of cannabis cultivation (20,700 SF outdoor and 2,700 SF mixed light, 2,340 SF nursery, and appurtenant drying and processing activities in a 384-SF agricultural structure;

WHEREAS, the County prepared an Addendum to the Final Mitigated Negative Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO), adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented, as described by §15162(c) of CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on **February 3, 2022**, and reviewed, considered, and discussed the application for the requested Conditional Use Permit and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** The application is a Conditional Use Permit (PLN-12674-CUP) for 23,400 SF of existing cannabis cultivation (20,700 SF outdoor and 2,700 SF mixed light), 2,340 SF nursery, and appurtenant drying and processing activities in a 384-SF agricultural structure. The primary source of electrical power is a Honda EU7000 generator. Irrigation water is sourced from a 388,000-gallon rain catchment pond.

EVIDENCE: a) Project File: PLN-12674-CUP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission has considered the Addendum to and the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016.

EVIDENCE: a) Addendum to the MND prepared for the proposed project in compliance with CEQA.

b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.

c) A Biological Resources Report was prepared by Troy Leopardo of Leopardo Wildlife Associates (July 2019) to assess the potential presence of sensitive biological communities and protected species. Mr. Leopardo conducted a field survey and reviewed the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB) for species within 1.3 miles of the project. Sensitive and protected species occurring or potentially

occurring within the Biological Assessment Area (BAA), which is defined as the area where potential impacts may occur to sensitive or protected species and/or sensitive biological communities, include: yellow-legged frog (*Rana boylei*), summer-run steelhead trout (*Oncorhynchus mykiss irideus*), western pond turtle (*Emys marmorata*), Wawona riffle beetle (*Atractelmis wawona*), American peregrine falcon (*Falco peregrinus*), Tracy's sanicula (*Sanicula tracyi*), Oregon goldthread (*Coptis lacinate*), and coast fawn lily (*Erythronium revoutum*) all have the potential to occur onsite. During the survey, no potential falcon habitat was found or observed onsite. Furthermore, there is no evidence of Northern Spotted Owl onsite, and the potential for NSO is rare. The report concluded that project activities would result in minimal impacts to biological species, and no mitigation is recommended.

- d) A Site Management Plan (SMP) was prepared by Timberland Resource Consultants (February 20, 2020) in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation (WDID No. 1B171574CHUM / WDID-1_12CC416959).
- e) A records search for known cultural resources was requested from the Northwest Information Center (NWIC) and revealed that one study was previously conducted in the project area (Leach-Palm et al 2011) and identified one archaeological site (S-38865). The Bear River Band of the Rohnerville Rancheria was contacted and indicated that the archaeological site referenced above appears to be located near a proposed catchment pond (which has since been constructed) and requested completion of a site survey. A Cultural Resources Investigation survey was conducted by Nick Angeloff (Archaeological Research and Supply Company) in August 2020, and is on file with Humboldt County. The survey concluded that no prehistoric or historic resources would be impacted by the proposed project, but recommended implementation of the standard Inadvertent Discovery Protocol in the event that any human remains, or artifacts of cultural significance are encountered during ground disturbing activities (**Condition 14**).

FINDINGS FOR CONDITIONAL USE PERMIT

3. FINDING

The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

EVIDENCE:

- a) General Agriculture (GA) is a use type permitted in the Residential Agriculture (RA) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.
- b) The proposed project is within a Streamside Management Area (SMA) and therefore is required to be consistent with Humboldt County General Plan Policy BR-P6, which requires development within an SMA to comply with Standards BR-S8 (Required Mitigation Measures) and BR-S9 (Erosion Control).

The proposed project was designed with the following mitigating features: 1) Cultivation is sited to avoid activity within the stream channel; 2) Most cultivation areas are located off of slopes, and all cultivation areas will not involve vegetation removal or land clearing; and 3) Prior disturbed areas have been addressed with revegetation using native species. Therefore the project is not considered 'High Risk' and is consistent with Policy BR-P6, and Standards BR-S8 and BR-S9.

4. FINDING

The proposed development is consistent with the purposes of the existing Forestry Recreation (FR) zoning designation in which the site is located.

EVIDENCE:

- a) The FR zone is intended to be applied to forested areas of the County, where timber production and recreation are the desirable predominant uses and agriculture is the secondary use.
- b) Humboldt County Code section 313-106.6 allows cultivation of up to 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed light cannabis on a parcel over 1 acre, subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for a total of 23,400 SF of cannabis cultivation (20,700 SF outdoor and 2,700 SF mixed light) on a 75-acre parcel is consistent with the Humboldt County Code and with the Cultivation Area Verification prepared by the County.

5. FINDING

The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

EVIDENCE:

- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned Residential Agriculture (RA) zone (HCC 314-55.4.8.2.2).
- b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created via Record of Survey, Lot 113, Book 026, Page 135 (October 1968).
- c) Irrigation water is sourced from a 388,000-gallon rain catchment pond. Estimated water use is 221,000-gallons (9.44/SF).
- d) The slope of the land where cannabis will be cultivated is greater than 15%. Because this is an existing cultivation site, the CMMLUO does not require cultivation to occur on slopes of 15% or less.
- e) The cultivation of cannabis will not result in the net conversion of timberland. The proposed cultivation area(s) are located within a historical cultivation area.
- f) The location of the cultivation areas complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, more than 300 feet from any offsite residence, and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

6. FINDING

The cultivation of 23,400 SF of cannabis and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE:

- a) All access roads on the property shall be maintained in compliance with the

State Water Resources Control Board Order WQ 2019-0001-DWQ, which states that all access roads are to be hydrologically disconnected to receiving waters. To ensure that roads meet this condition, the applicant shall implement the erosion control measures outlined in the SMP that address the adverse effects of degraded road quality on adjacent water features.

- b) The site is in a rural part of the County where the typical parcel size is over 40 acres, and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.
- c) The location of the proposed cannabis cultivation is more than 300 feet from the nearest offsite residence.
- d) Irrigation water is sourced from a 388,000-gallon rain catchment pond.
- e) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection, monitoring, and reporting to the NCRWQCB. The site shall be inspected and monitoring reports prepared for the following activities: 1) before and after any alteration or upgrade to a given stream crossing, road segment, or other controllable sediment discharge site; 2) prior to the start of the water year (October 15) to evaluate site preparedness for storm events and associated storm water runoff; 3) site inspection no later than December 15 of each year; and 4) following any rainfall event with an intensity of 3 inches of precipitation within any 24 hour period. Annual reporting shall be submitted to the NCRWQCB by March 31 of each year. Therefore, runoff to adjacent property and infiltration of water to groundwater resources will not be adversely affected.

7. FINDING

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE:

The parcel includes one proposed (future) 2,000-SF residence and associated leach fields. A permitted well (Permit No. 16/17-0576) is located on site, but it not used for cannabis irrigation purposes, and is intended to be used domestically for the proposed residence. The approval of cannabis cultivation on this parcel will not conflict with the operation or use of the residential unit onsite.

8. FINDING

FINDING Approval of this project would be consistent with Resolution 18-43 which established caps on the number of permits and acres of commercial cannabis cultivation within each of the County's Planning watersheds.

EVIDENCE

The project site is located in the Van Duzen Watershed, which is limited to 425 permits and 146 acres pursuant to Resolution 18-43. If approved, this would be the 108th permit approved and a total of approximately 37.5 acres within this watershed.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

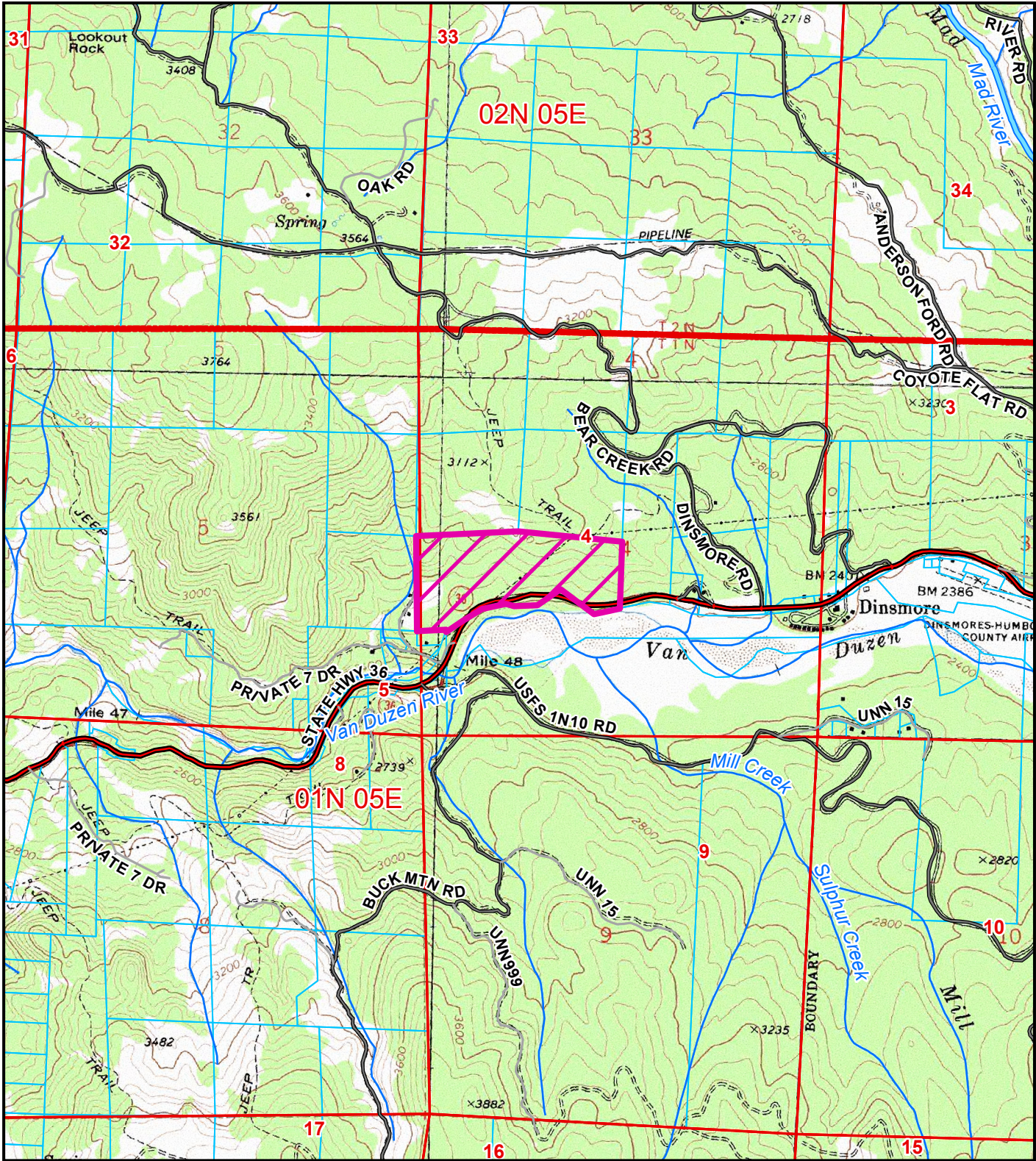
- Adopt the findings set forth in this resolution; and
- Conditionally approve the Conditional Use Permit (PLN-12674-CUP) for Lance Berry based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and
- Adopted after review and consideration of all the evidence on **February 3, 2022**.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following ROLL CALL vote:

AYES: COMMISSIONERS:
 NOES: COMMISSIONERS:
 ABSENT: COMMISSIONERS:
 ABSTAIN: COMMISSIONERS:
 DECISION:

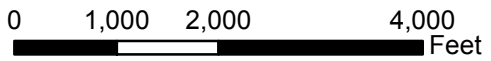
I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

 John Ford, Director
 Planning and Building Department

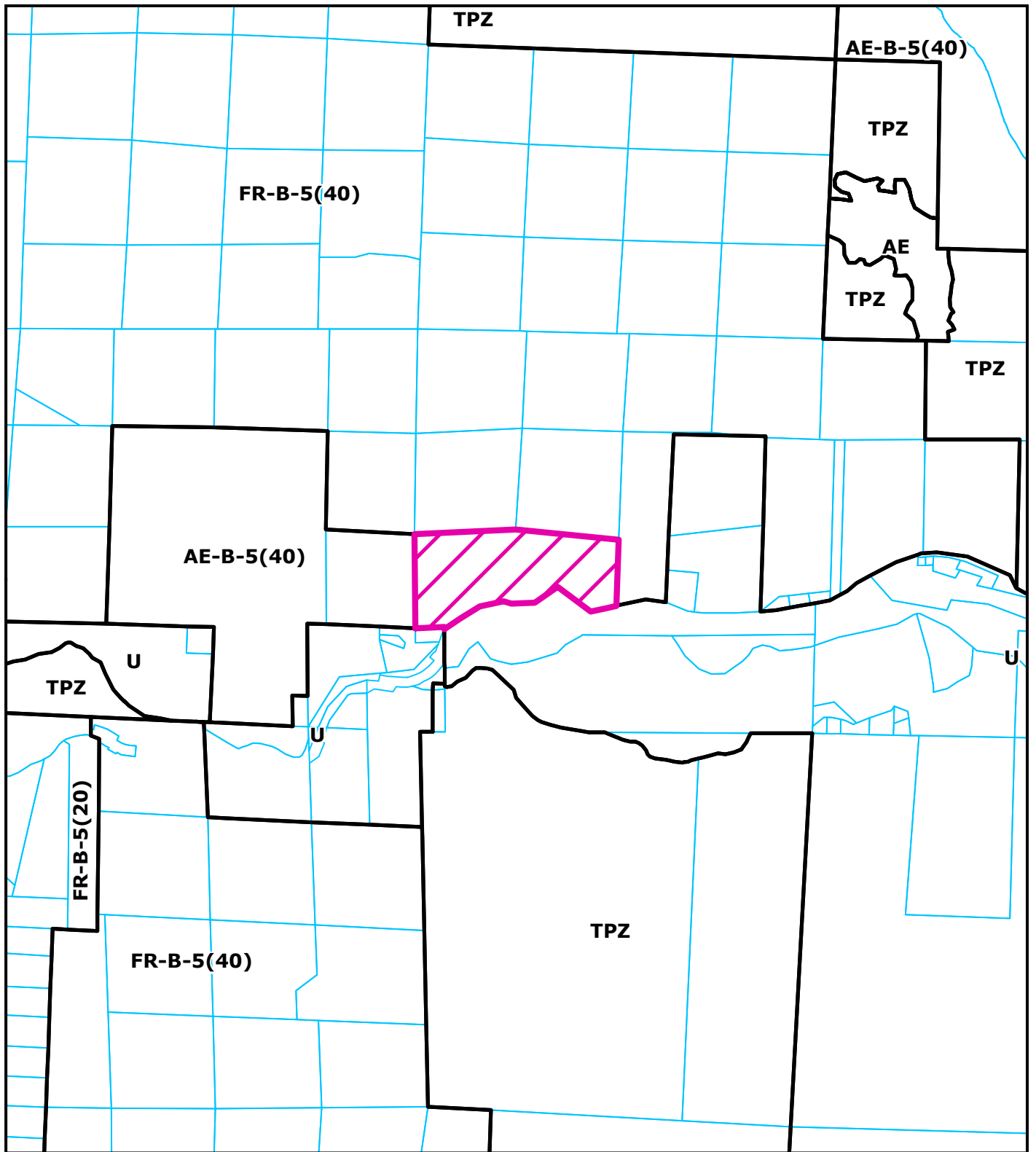


**TOPO MAP
 PROPOSED LANCE BERRY
 DINSMORE AREA
 CUP-16-801; ZCC-16-535
 APN: 208-261-009-000
 T01N R05E S5; S4 HB&M (DINSMORE)**

Project Area =



This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

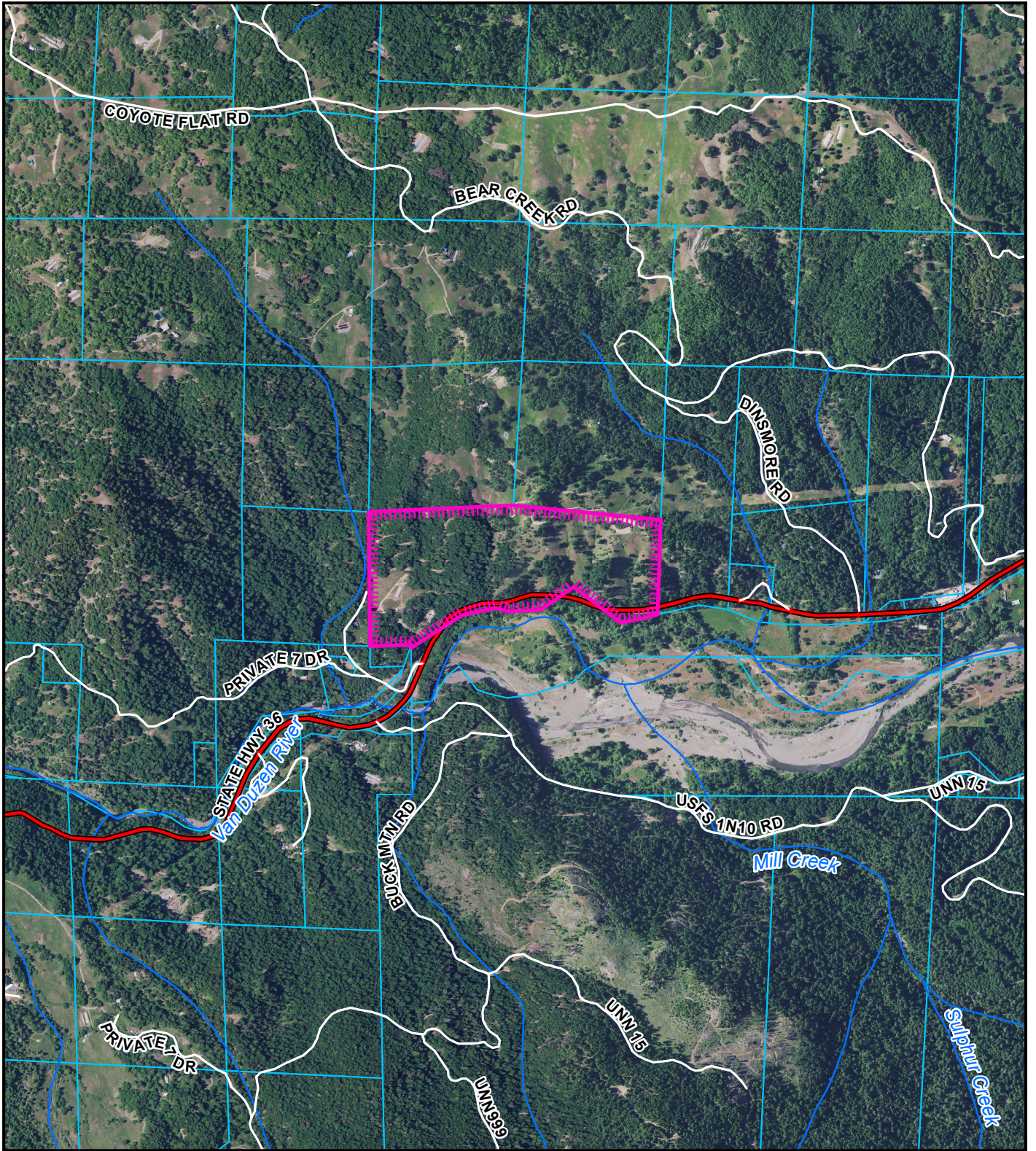


ZONING MAP
PROPOSED LANCE BERRY
DINSMORE AREA
CUP-16-801; ZCC-16-535
APN: 208-261-009-000
T01N R05E S5; S4 HB&M (DINSMORE)


Project Area = 




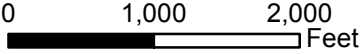
This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



**AERIAL MAP
PROPOSED LANCE BERRY
DINSMORE AREA
CUP-16-801; ZCC-16-535
APN: 208-261-009-000
T01N R05E S5; S4 HB&M (DINSMORE)**

Project Area = 

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

- NOTES**
1. THE WATER SOURCE FOR THIS SITE IS PRIVATE WATER - WATER PLAN BY TIMBERLAND RESOURCE CONSULTANTS.
 2. EXISTING WATER STORAGE ON SITE IS A 446,150-GALLONS IN WATER TANKS AND 439,000-GALLON POND - 4434,150-GAL TOTAL.
 3. SLOPES AT ALL CULTIVATION SITES ARE LESS THAN 5%.
 4. DURING WET WEATHER CULTIVATION SITES WILL BE MONITORED DAILY. AS NECESSARY, STRAW AND FIBER ROLLS SHALL BE PACED TO MITIGATE ANY SEASONAL RUN OFF.
 5. NO SCHOOLS, SCHOOL BUS STOPS, PLACES OF WORSHIP, PUBLIC PARKS, TRIBAL, CULTURAL RESOURCES, W/N 600' OR OFF-SITE RESIDENCES W/N 300'
 6. THERE ARE NO KNOWN PRIME AG SOILS IN THE VICINITY FROM WEB GIS HUMBOLDT.
 7. NO KNOWN EASMENTS
 8. IMAGE DATE: 5/26/2016 FROM GOOGLE EARTH
 9. NO HISTORICAL BUILDINGS OR KNOWN ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES.
 10. TERRA SERVER AMOUNT ESTIMATED AT 429,246 SQ-FT 2015-06-29 IMAGE

LIST OF ITEMS ON PARCEL

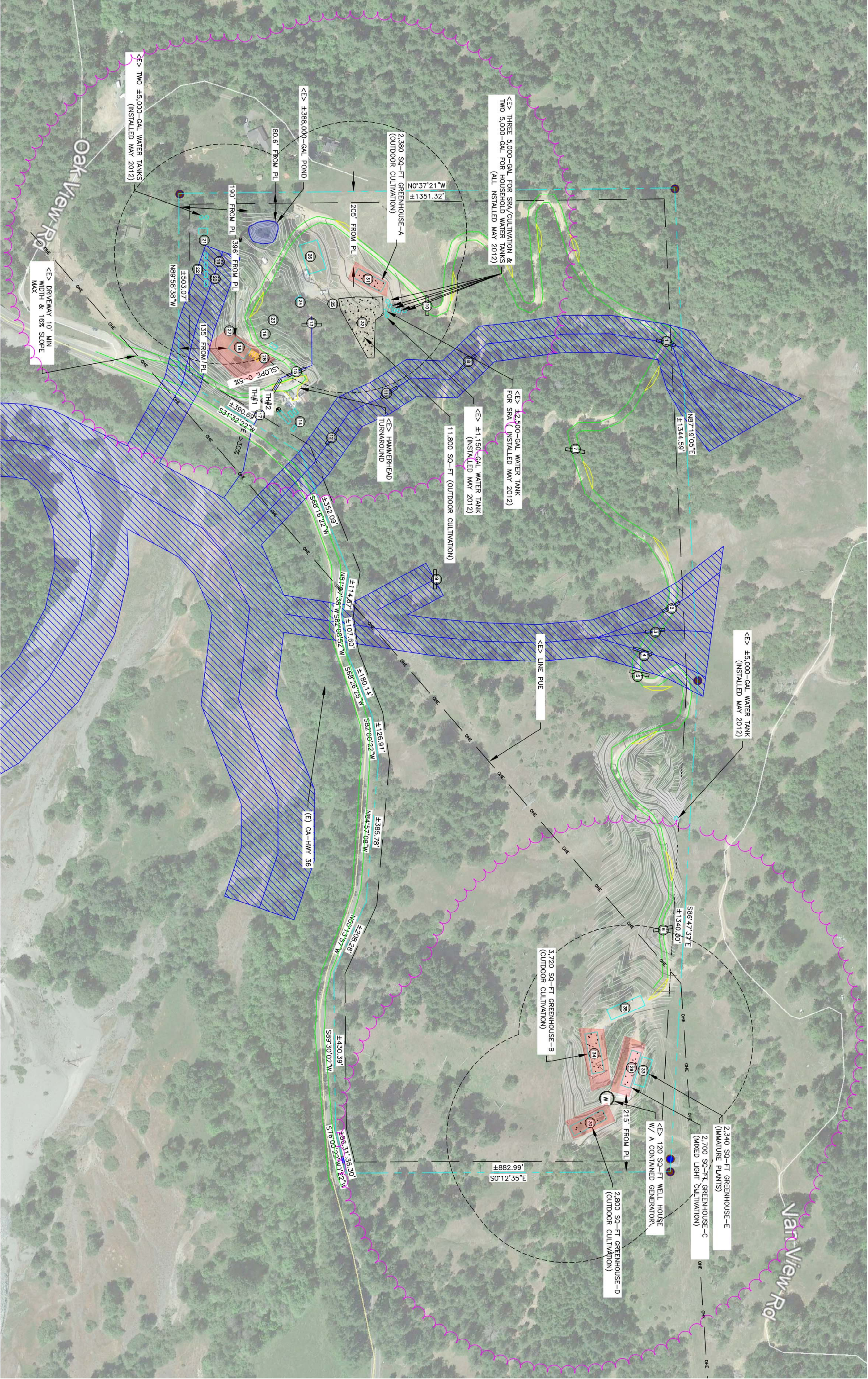
#	ITEM	USE/TYPE	SIZE	UNITS
1	CULVERT	CROSSING (ASB-PLASTIC)	15 IN.	15 IN.
2	CULVERT	CROSSING (ASB-PLASTIC)	12 IN.	12 IN.
3	CULVERT	CROSSING (ASB-PLASTIC)	12 IN.	12 IN.
4	CULVERT	CROSSING (ASB-PLASTIC)	12 IN.	12 IN.
5	CULVERT	DITCH RELIEF (ASB-PLASTIC)	12 IN.	12 IN.
6	CULVERT	DITCH RELIEF (ASB-PLASTIC)	12 IN.	12 IN.
7	CULVERT	CROSSING (ASB-PLASTIC)	15 IN.	15 IN.
8	CULVERT	CROSSING (ASB-PLASTIC)	10 IN.	10 IN.
9	CULVERT	DITCH RELIEF (ASB-PLASTIC)	12 IN.	12 IN.
10	CULVERT	CROSSING (ASB-PLASTIC)	15 IN.	15 IN.
11	CULVERT	CROSSING (ASB-PLASTIC)	36 IN.	36 IN.
12	CULVERT	CROSSING (ASB-PLASTIC)	10 IN.	10 IN.
13	CULVERT	CROSSING (ASB-PLASTIC)	486, 141, 128	SO-FT
14	STRUCTURES	KNOWLEDGE OF THE EXISTING	4328	SO-FT
15	CULVERT	CROSSING (ASB-PLASTIC)	15 IN.	15 IN.
16	STRUCTURE	CHICKEN COUP	128	SO-FT
17	CULVERT	CROSSING (ASB-PLASTIC)	15	SO-FT
18	STRUCTURE	TWO STORY RESIDENCE 18' 0" OH	3,460	SO-FT
19	CULVERT	CROSSING (ASB-PLASTIC)	12	SO-FT
20	CULVERT	CROSSING (ASB-PLASTIC)	12	SO-FT
21	STRUCTURE	AG BUILDING CONSTRUCTED 2014	384	SO-FT
22	STRUCTURE	FOUR HOE PINS	128	EA. 512
23	STRUCTURE	STORAGE CONTAINER TO BE REMOVED	128	EA. 256
24	STRUCTURES	TWO SHED 8X16' EA.	128	EA. 256
25	CULVERT	CROSSING (ASB-PLASTIC)	12 IN.	12 IN.
26	STRUCTURE	PROPOSED SHOP	4,100	SO-FT
27	STRUCTURE	LPG STORAGE TANK	250	GALLONS
28	STRUCTURE	FIRE HYDRANT (AQB/SRA WATER OUTLET)		
29	STRUCTURE	GREENHOUSE - MIXED LIGHT	2,700	SO-FT
30	STRUCTURE	GREENHOUSE - OUTDOOR	2,800	SO-FT
31	STRUCTURE	GREENHOUSE - OUTDOOR	2,380	SO-FT
32	STRUCTURE	OUTDOOR - AREA	11,800	SO-FT
33	STRUCTURE	PROPAGATION GREENHOUSE	2,340	SO-FT
34	STRUCTURE	GREENHOUSE - OUTDOOR	3,720	SO-FT
35	STRUCTURE	PROPOSED PROCESSING & DRINKING SHED	3,000	SO-FT

DISCLAIMER:
 MAPPING INFORMATION PROVIDED IS FOR HUMBOLDT COUNTY PLANNING PERMITTING PURPOSES ONLY.
 THIS SITE PLAN REFLECTS MANY MAPPING DETAILS THAT ARE USEFUL TO ASSURE THAT THE STRUCTURES ARE LOCATED APPROPRIATE TO THEIR SURROUNDINGS. HOWEVER, NONE OF THE INFORMATION SHOWN IS IMPLIED TO SUGGEST OR SUBSTITUTE FOR A CONTRACTED ACTUAL LAND SURVEY.
 A. M. BAIRD, ENGINEERING AND SURVEYING, INC. ASSUMES NO RESPONSIBILITY ARISING FROM THE USE OF INFORMATION PROVIDED, OTHER THAN WHAT HAS BEEN SPECIFICALLY INTENDED FOR CANNABIS PERMITTING ONLY.

EXISTING CULTIVATION AREA DELINEATION:

Greenhouse	Area	Slope	Area	Slope
Greenhouse A	2,380 SQ-FT	0-5% AVG. SLOPE	Outdoor	Outdoor
Greenhouse B	3,720 SQ-FT	0-5% AVG. SLOPE	Mixed Light	Mixed Light
Greenhouse C	2,700 SQ-FT	0-5% AVG. SLOPE	Outdoor	Outdoor
Greenhouse D	2,800 SQ-FT	0-5% AVG. SLOPE	Outdoor	Outdoor
Greenhouse E	11,800 SQ-FT	0-5% AVG. SLOPE	Outdoor	Outdoor
TOTAL CULTIVATION	23,400 SQ-FT			

~*~ #31 GREENHOUSE E IMMATURE PLANTS 2,340 SQ-FT ~*~



SITE OVERVIEW SCALE: 1"=150'

LEGEND:

- PROPERTY LINES
- 30' SETBACK
- 300' SETBACK
- 600' SETBACK
- EDGE OF GRAVEL ROAD
- EXISTING DRAINAGE PATTERN
- PROPOSED DRAINAGE PATTERN
- GRADED AREAS
- SMA AREAS
- CMMLUO AREAS
- SRA TURNOUT EVERY 4400'
- SRA TURNAROUND 430'

DESCRIPTION: USE PERMIT FOR 20,700 SQ-FT OUTDOOR & ZONING CLEARANCE CERTIFICATE FOR 2,700 SQ-FT MIXED-LIGHT FOR A TOTAL OF 23,400 SQ-FT OF CANNABIS CULTIVATION.

DIRECTIONS: EXIT US-HWY 101 (685) CA-HWY 36 TURN LEFT ONTO CA-HWY 36 (40.5 MILES) 42885 CALIFORNIA 36

LEGAL:
 ADDRESS: 4888 CA-HWY 36
 ASSessor's PARCEL ID: 009-201-009
 OWNER/PARTICIPANT: LANCE BERRY
 PO BOX 202
 ALBERTA, CA 95518
 PHONE: (707) 249-0088
 SETBACK: 30' PERMETER
 LOT SIZE: 82.3 ACRES

NO.	DATE	DESCRIPTION	BY
5			
4	11/10/2021	REVISIONS PER CLIENT	
3	8/15/2021	REVISIONS PER CLIENT	PDS
2	3/19/2020	REVISIONS PER CLIENT	PDS
1	6/29/2017	REVISIONS PER CLIENT	PDS

A.M. Baird
 Engineering & Surveying
 1257 Main St., P.O. Box 396, Fortuna, CA 95540
 (707) 725-5182

SCALE: 1"=150'
 DRAWN BY: PDS
 CHKD: AMB
 DATE: 12/16/2016

LANCE BERRY
 AP# 208-261-009
 HUMBOLDT COUNTY, CA
 CMMLUO SITE PLAN
 SITE PLAN

JOB NO.: 16-4317-2
 SHEET NO.: 1 OF 1

ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

APPROVAL OF THE CONDITIONAL USE PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS, WHICH MUST BE SATISFIED BEFORE THE PROVISIONAL CANNABIS CULTIVATION PERMIT CAN BE FINALIZED.

A. General Conditions:

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.
2. The applicant is required to pay for permit processing on a time and material basis, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
3. The applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover the staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use, and at the time of annual inspection. A conformance review deposit, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750), shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. **Within three days of the effective date of permit approval**, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the NOD and will charge this cost to the project.
5. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #6 through #21. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
6. The applicant shall secure building permits for all structures related to the cannabis cultivation and other commercial cannabis activity including, but not limited to, existing and proposed greenhouses, water tanks over 5,000 gallons, existing and proposed structures associated with drying and storage or any activity with a nexus to cannabis, and any noise containment structures as necessary. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan.
7. The approved building plans shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project by the Building Inspection Division. Sign-off on the Occupancy Permit by the Building Division shall satisfy this requirement.
8. Processing activities must be supported by an approved onsite wastewater treatment system. Seasonal/outdoor cultivation sites may be supported by portable toilets. Applicant must obtain a

permit for, and install, an approved onsite wastewater treatment system to support the processing location from the Humboldt County Department of Health and Human Services (DEH) and either install approved septic systems or provide portable toilets to cultivation areas.

9. The applicant shall install a water monitoring device on each surface diversion to monitor water diverted to storage and a separate meter shall be installed for all irrigation water used. The water use shall be recorded monthly for both diversion and water use and shall be submitted as part of the annual inspection.
10. The use of generators as a primary power source for cannabis related activities shall cease by December 31, 2025. The applicant shall either connect to a utility or have an alternative source of power starting January 1, 2026.
11. The applicant shall install a metering device on the existing permitted well, and submit yearly usage reports (by January 31 of each year) to the Director of Humboldt County Planning Department for review. At any point, if it is determined that the well has been use for non-domestic (irrigation or agricultural use) the cannabis permit could be subject to revocation for non-compliance.
12. The applicant shall obtain a permit to operate the EU7000 Honda generators from the North Coast Unified Air Quality Management District (NCUAQMD) and obtain an electric permit from the County's Building Department.
13. The applicant shall continue to comply and maintain the improvements done to complete all mitigation measures set forth in the Lake and Streambed Alternation Agreement (LSAA) from the California Department of Fish and Wildlife (CDFW).
14. The applicant shall construct noise containment structures for all generators and fans. Noise shall not exceed 50 decibels as measured from 100 feet or the edge of NSO habitat, whichever is closer. Onsite lighting shall comply with International Dark Sky Association standards and Fixture Seal of Approval Program. Within thirty (30) days of project approval, the applicant shall submit a light attenuation monitoring and management plan to Humboldt County and CDFW.
15. The applicant shall implement the Inadvertent Discovery Protocol. In the event of the accidental discovery of historical artifacts or human remains, all work shall halt within 100 feet of the find and a qualified professional archaeologist and tribal representatives shall be contacted immediately to evaluate the find and clear the site for all further activities. In addition, no ground disturbance shall occur within the archaeological site boundaries identified in the referral from Northwest Information Center (NWIC).
16. All recommendations in the road evaluation report for non-county maintained roads shall be constructed/implemented to the satisfaction of the Humboldt County Planning and Building Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. A grading permit may be required; check with the Building Division for any permit requirements.
17. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
18. The applicant shall execute and file with the Planning Division the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.

19. The applicant shall schedule and obtain an onsite Building Division review to ensure that permits for all structures, greenhouses, water tanks or other cannabis and/or residential structures have been obtained. This inspection shall be scheduled within thirty (30) days of permit approval and conducted within three (3) months permit approval. Any structures identified to require permits shall be permitted through the Humboldt County Building Department within two (2) years of the inspection date.
20. Within 60 days of permit approval, the applicant shall obtain a situs address from Humboldt County. An Address request can be submitted to Humboldt County Public Works for processing. Proof of an assigned address can be shown to the Director of Humboldt County Planning and Building.
21. Within 45 days of approval, the Owner/Applicant/Operator shall submit a revised site plan, clearly showing the location of the 2,340 SF nursery, to the Director of Planning and Building for review and approval. The revised plan shall be approved prior to commencement of any operations or cultivation on the project site.

B. Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project:

1. The combined noise from background, generator, greenhouse fan, or other operational activities and equipment must not result in the harassment of Northern Spotted Owl (NSO) species, as required to meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11 (o) requirements. The combined noise levels measured at 100 feet or the edge of NSO habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
2. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment and noise levels have been repaired, inspected, and corrected as necessary.
3. The use of synthetic netting for purposes of erosion control is prohibited. To minimize the risk of wildlife entrapment, the applicant shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
4. All refuse shall be contained in wildlife proof storage containers at all times, and disposed at an authorized waste management facility.
5. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and shall be allowed to leave the work site unharmed.
6. The use of anticoagulant rodenticide is prohibited.
7. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.
8. All components of the project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Any changes shall require modification of this permit except where consistent with

Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. When offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.

9. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), as applicable to the permit type.
10. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.
11. The permittee shall have possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.
12. The permittee shall be in compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
13. The permittee shall ensure confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
14. The permittee shall maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
15. The permittee shall comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from the California Department of Fish and Wildlife (CDFW).
16. The permittee shall comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL FIRE), if applicable.
17. The permittee shall consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
18. The permittee shall pay all applicable fees for application review to ensure conformance with conditions and annual inspection fees.
19. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.

20. Fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be properly stored, handled and used in accordance with applicable regulations.
21. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
22. The permittee shall pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

Performance Standards for Cultivation and Processing Operations

23. Pursuant to the MAUCRSA, Health and Safety Code Section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is 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), to the extent not prohibited by law."
24. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
25. Cultivators engaged in processing shall comply with the following Processing Practices:
 - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - d. Employees must wash hands sufficiently when handling cannabis or use gloves.
26. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - (1) Emergency action response planning as necessary;
 - (2) Employee accident reporting and investigation policies;
 - (3) Fire prevention;
 - (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - (5) Materials handling policies;
 - (6) Job hazard analyses; and
 - (7) Personal protective equipment policies, including respiratory protection.
 - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - (1) Operation manager contacts;
 - (2) Emergency responder contacts; and
 - (3) Poison control contacts.
 - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.

- d. Onsite housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
27. All cultivators shall comply with the approved processing plan as to the following:
- a. Processing practices
 - b. Location where processing will occur
 - c. Number of employees, if any
 - d. Employee Safety Practices
 - e. Toilet and handwashing facilities
 - f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage
 - g. Drinking water for employees
 - h. Plan to minimize impact from increased road use resulting from processing
 - i. Onsite housing, if any
28. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Activity Permit issued pursuant to the CMMLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
29. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a re-inspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request re-inspection or to cure any items of noncompliance shall terminate the Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to Section 55.4.13.
30. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
31. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.
32. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
- a. Identifying information for the new owner(s) and management as required in an initial permit application;
 - b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
 - c. The specific date on which the transfer is to occur;
 - d. Acknowledgement of full responsibility for complying with the existing permit; and
 - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.

33. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

Informational Notes:

1. Pursuant to Section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years after the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to Section 314-55.4.13 of the CMMLUO.
2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"), except where the Compliance Agreement per Condition of Approval #B.11 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Conditions of Approval #B.29 and B.30 of the Ongoing Requirements/Development Restrictions, above.
3. If cultural resources are encountered during construction activities, the contractor onsite shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

4. The applicant shall be aware that the Federal Government considers the cultivation of cannabis to be an illegal activity. This project is accessed by using roads that pass-through lands owned by the Federal Government. The Federal Government may not allow the applicant to use these roads to transport cannabis. In such case, Humboldt County will not provide relief to the applicant. Approval of this permit does not authorize transportation of cannabis across Federal lands.

ATTACHMENT 2

**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 208-261-009

**North side of Highway 36, approximately 3500 feet west of the intersection of Highway 36/Dinsmore
Road (Section 5 of Township 01N, Range 05E, Humboldt Base & Meridian, Dinsmore, CA 95552
County of Humboldt**

**Prepared By
Humboldt County Planning and Building Department
3015 H Street, Eureka, CA 95501**

July 2021

BACKGROUND

Purpose of Addendum

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.

Project History

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. The CMMLUO was considered a "project" under CEQA and thus required analysis for potential environmental impacts. Therefore, the CMMLUO regulations were developed and adopted in concert with the environmental analysis and MND that was adopted for the ordinance in 2016.

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 and 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. 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." As applications are filed for new or differing cultivation activities, the "modification" to the CMMLUO is evaluated for consistency and compliance with the CMMLUO MND.

Modified Project Description

The modified project involves a Conditional Use Permit (PLN-12674-CUP) for 20,700 square feet (SF) of outdoor cannabis cultivation and 2,700 SF mixed light cultivation for a total cultivation of 23,400 SF and a 2,340 SF nursery. Cultivation currently occurs in six (6) different cultivation areas on the subject parcel, with five (5) areas being outdoor cultivation and one (1) area for mixed light. The medical cannabis permit application is in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The sites has been issued a Zoning Clearance Certificate for Interim Permit (IP), based upon the Cultivation Area Verification (CAV) developed for the site. The cultivation area for this Conditional Use Permit is based upon the CAV prepared for the IP.

The project area is located on a ridge top between 2,400-2,800 feet in elevation with moderate slope stability. The present land use designation is Residential Agriculture (RA) with a density of 40 acres per unit, as defined in the Humboldt County 2017 General Plan Update. The 75-acre parcel is zoned as Forestry Recreation (FR) with B-5 overlay, which has a 40 acre minimum (FR-B-5-40). The parcel includes one (1) proposed 2,000-SF residence and associated sewer leach fields. Drying occurs onsite in a 384-SF structure, and further processing occurs offsite. Up to four (4) family members carry out operations, and no additional employees are anticipated onsite. The primary source of electrical power (used to operate propagation lights and pump water) is a Honda EU7000 generator. Consistent with past actions of the Planning Commission, the project has been conditioned to either connect to a utility provider or have an alternative power source starting January 1, 2026 (**Condition 10**).

Irrigation water is sourced from a 388,000-gallon rainwater catchment pond. Estimated annual water use is 221,000 gallons (9.44 gal/SF). Water is stored in seven (7) 5,000-gallon tanks, two (2) 2,500-gallon tanks, one (1) 1,150-gallon tank, and the 388,000-gallon rainwater catchment pond. Total water storage is 429,150 gallons.

A Site Management Plan (SMP) was prepared in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation (WDID No. 1B171574CHUM / WDID-1_12CC416959).

There are nine (9) stream crossings on the access road to the project area, which is used solely by the applicant. Existing culverts are sized for a 100-year storm event and have been updated or modified pursuant to the recommendations provided in 2017 from the California Department of Fish and Wildlife (CDFW) for the Lake and Streambed Alteration Agreement (LSAA 1600-2017-0053-R1). No additional recommendations or mitigations are outstanding.

Currently, all permanent and seasonal roads on the property have imported and native rock surfacing and do not require any more rock surfacing. Drainage features on roads have been installed and maintained. No improvements to permanent, seasonal, or legacy roads are proposed for the project.

A Biological Resources Report was prepared by Troy Leopardo of Leopardo Wildlife Associates (July 2019) to assess the potential presence of sensitive biological communities and protected species. Mr. Leopardo conducted a field survey and reviewed the CDFW California Natural Diversity Database (CNDDDB) for species within 1.3 miles of the project. The Biological Assessment Area (BAA) is defined as the area where potential impacts may occur to sensitive or protected species and/or sensitive biological communities. Sensitive species that have the potential to occur within the BAA include: yellow-legged frog (*Rana boylei*), summer-run steelhead trout (*Oncorhynchus mykiss irideus*), western pond turtle (*Emys marmorata*), Wawona riffle beetle (*Atractelmis wawona*), American peregrine falcon (*Falco peregrinus*), Tracy's sanicula (*Sanicula tracyi*), Oregon goldthread (*Coptis lacinate*), and coast fawn lily (*Erythronium revoutum*). During the survey, no potential falcon habitat was found or observed onsite. Furthermore, there is no evidence of Northern Spotted Owl onsite, and the potential for NSO occurrence is rare. The report concluded that project activities would result in minimal impacts to biological species,

and therefore no mitigation is recommended.

A records search for known cultural resources was requested from the Northwest Information Center (NWIC) and revealed that one study was previously conducted in the project area (Leach-Palm et al 2011) and identified one archaeological site (S-38865). The Bear River Band of the Rohnerville Rancheria was contacted and indicated that the archaeological site referenced above appears to be located near a proposed catchment pond (which has since been constructed) and requested completion of a site survey. A Cultural Resources Investigation survey was conducted by Nick Angeloff (Archaeological Research and Supply Company) in August 2020, and is on file with Humboldt County. The survey concluded that no prehistoric or historic resources would be impacted by the proposed project, but recommended implementation of the standard Inadvertent Discovery Protocol in the event that any human remains, or artifacts of cultural significance are encountered during ground disturbing activities (**Condition 14**).

The project is located on the north side of Highway 36, approximately 3,500 feet west of the intersection of Highway 36/Dinsmore Road (Section 5 of Township 01N, Range 05E, Humboldt Base & Meridian), in the unincorporated Dinsmore area in central Humboldt County. The applicant evaluated the non-county maintained access road using forms provided by Humboldt County Department of Public Works (DPW). DPW reviewed the applicant's information and stated "no re-refer" was required. DPW also expressed that a grading permit (for road maintenance) could be required, and the applicant should check with Humboldt County Building prior to any work (**Condition 15**).

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.

Summary of Significant Project Effects and Required Mitigation

No changes are proposed for the mitigation measures identified in the original MND. The proposal to authorize the continued operation of an existing cannabis cultivation site, consisting of 20,700 square feet (SF) of outdoor cannabis cultivation and 2,700 SF mixed light cultivation for a total cultivation of 23,400 SF, 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:

- Site Plan prepared by A.M Baird, dated 06/19/2019.
- Cultivation and Operations Plan prepared by Applicant, revised and received 01/12/2022.
- Site Management Plan (SMP) prepared by Timberland Resource Consultants, date 02/20/2020.
- CDFW Lake and Streambed Alteration Agreement (Notification No. 1600-2017-006-R1), dated 08/11/2017.
- Northwest Information Center (NWIC) records search performed by Bryan Much, dated 03/17/2020.
- Biological Resources Report prepared by Leopardo Wildlife Associates, July 2019.
- Cultural Resources Investigation, prepared by Archaeological Research and Supply Company (Nick Angeloff), August 2000.

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.

For every environmental topic analyzed in this review, the potential environmental impacts of the current project proposal, Lance Berry would be the same or similar. There would be no new significant environmental impacts or a substantial increase in the severity of previously identified significant impact, than the initial CMMLUO 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, Lance Berry. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.

Attachment 3 Application Report of Findings

Attachment 3 includes a listing of all written evidence which has been submitted by the applicant in support of making the required findings. The following materials are on file with the Planning Division:

1. The name, contact address, and phone number(s) of the applicant. **(On file)**
2. If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement. **(On file)**
3. Site plan showing the entire parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within one-quarter mile (1,320 feet) of a school, school bus stop, church or other place of religious worship, public park, or tribal cultural resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet. (Site Plan prepared by A.M Baird, dated 6/19/2019– **Attached**)
4. A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel; and a description of cultivation activities (outdoor, indoor, mixed light), the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable, and schedule of activities during each month of the growing and harvesting season. (Cultivation and Operations Plan prepared by Applicant, revised and received on 1/12/2022– **Attached**)
5. Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable. **(On file)**
6. Description of water source, storage, irrigation plan, and projected water usage. (Included in Cultivation Operations Plan, item 4 above - **Attached**)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. **(On file)**
8. If any onsite or offsite component of the cultivation facility (including access roads, water supply, grading or terracing) impacts the bed or bank of any stream or other watercourse, a copy of the Streambed Alteration Permit obtained from the California Department of Fish and Wildlife on June 22, 2020 (Lake and Streambed Alteration Agreement (Notification No. 1600-2017-006-R1), dated 08/11/2017). **(On file)**
9. If the source of water is a well, a copy of the County well permit, if available. **(Not applicable)**.
10. If the parcel is zoned FR, U or TPZ, or involves the conversion of timberland as defined under Section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that the landowner

has completed a civil or criminal process and/or entered into a negotiated settlement with Cal Fire. **(Not applicable)**

11. Consent for onsite inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter. **(On file)**
12. Acknowledgment that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section, in the event that environmental conditions, such as a sustained drought or low flows in the watershed, will not support diversions for irrigation. **(On file)**
13. Acknowledgment that the County reserves the right to engage with local tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize, or mitigate impacts to tribal cultural resources, as defined herein. Examples include, but are not limited to, conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The County shall request that a records search be performed through the California Historical Resources Information System (CHRIS). **(On file)**
14. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits (DEH Form). **(On file)**

Apps# 12674

CMMLUO SITE/OPERATIONS OVERVIEW

(CUP 16-801 & ZCC 16-535/ APN: 208-261-009)

Project Description: The applicant is seeking approval to allow continued outdoor cultivation up to 20,700 ft² and mixed light cultivation up to 2,700 ft² (per CAV findings), ancillary activities and development of appurtenant support infrastructure/facilities on the subject parcel.

Water will be sourced from a water catchment pond; current diversion measures shall be in accordance with terms and conditions set forth by CDFW agreement and applicable water rights.

The operation is carried out by the applicant and four (4) family members.

Generators are used to power low watt fluorescent bulbs in the propagation greenhouse during early spring and to pump water as needed. Generator usage occurs no closer than 200 feet to any property line. The Honda EU7000 portable generator is the largest generator used. It is rated at 58 dB under load which would result in a noise level at the nearest property line of 32.4 dB

https://www.engineeringtoolbox.com/inverse-square-law-d_890.html

The applicant acknowledges that the commercial cannabis activity approval being sought under the aforementioned conditional use permit, pursuant to CMMLUO, is subject to compliance with all other applicable Humboldt County zoning and land use regulations, as well as other applicable provisions of the Humboldt County Code and applicable state laws. Determination of compliance will require multi-agency review of proposed activity/development described in the aforementioned special permit and, may also require site inspections by personnel from various governmental agencies.

If development and/or activities on the subject parcel are determined, for some reason, to be out of compliance with any applicable State or County code, regulation or policy, a compliance agreement can be formulated between the applicant and relevant agency or agencies, which includes a compliance timeline whereby operations may continue under a "Provisional Clearance or Permit" and corrective action is initiated to achieve compliance under agreed upon terms.

Parcel Information: The subject parcel (208-261-009) is approximately 63 acres and is zoned FR-B-5(40) with AL40 framework designation; it borders State Hwy 36 and is approximately one mile west of Dinsmore, CA

Topography/Landscape: The parcel is situated on a SW facing hillside with mixed forests and grasslands.

Surface Water Features: The Van Duzen River runs adjacent to the southern parcel line with two tributaries passing through the subject parcel (see site plan). A 388,000 gallon rain catchment pond has been engineered, permitted, and completed

Roads/Stream Crossings/Easements: State Hwy 36 borders the southern property line of the subject parcel. A rocky road network accesses different areas within the parcel and continues onto neighboring adjoining parcels. Interior road conditions including stream crossings are assessed in the development of a site -specific Water Resources Protection Plan (WRPP) by Timberland Resource Consultants. Where necessary, the WRPP prescribes corrective measures to upgrade specific road condition deficiencies identified and sets a time frame in which to complete work. Work prescribed within a WRPP does not preclude the need to comply with other state and county road requirements applicable to the aforementioned permit application. Also, ongoing seasonal monitoring of roads and stream crossing and the effectiveness of corrective measures implemented will take place as required under RWQCB order No. R1-2015-0023.

Utilities: Electrical power is supplied from solar panels and generators. A septic system has been permitted and installed on site.

Water Supply: Agricultural water shall be supplied from a water catchment pond (388,000 gallons). Surface diversion shall be conducted under terms/conditions of CDFW LSAA

Documentation which demonstrates and defines the legal authorization, terms and conditions for the ongoing use of the existing water source(s) and/or development of other potential water sources (applicable to activity/development proposed under the aforementioned permit application) shall be provided as it becomes available.

Water Storage:

No. of Tanks	Tank Capacity (gallons)	Tank Use
3	5,000	SRA/Ag
2	5,000	Ag
2	5,000	Domestic
1	2,500	SRA
1	2,500	Ag
1	1,150	Ag

Water storage may be adjusted to meet overall water management strategies.

Cultivation Area(s): Proposed cultivation areas are shown on a recently revised site plan prepared by A.M. Baird Engineering. Cultivation areas correspond to the County CAV findings referenced in the December 12, 2018 deficiency letter sent to the applicant. Relocation of cultivation areas are addressed in a report prepared by Timberland Resource Consultants (06/04/2019) included with this submission.

Proposed cultivation areas and surrounding ground surfaces has been evaluated in the development of a site-specific Water Resources Protection Plan (WRPP) prepared by Timberland Resource Consultants. If deemed necessary, the WRPP will prescribe corrective measures to address conditions which may adversely impact water resources and it will establish a timeline in which to achieve compliance with RWQCB Order No. R1-2015-0023. Corrective measures prescribed in the WRPP do not preclude the need for Cultivation Areas or other manmade features to be brought into compliance with all applicable state and local grading, excavation and erosion/sediment control requirements.

Peak Water Demand: The peak monthly water demand anticipated to maintain cultivation during the warmest summer months is 50,00 gallons/month.

The “Monthly Water Use” table below shows water use at different growth stages during the grow season. Water usage will be monitored and recorded by use of in-line totalizing flow meters in accordance with applicable regulations.

	<i>Plant Stage</i>	<i>Gallons</i>
March	seedling	
April	veg	1,000
May	veg	20,000
June	veg	40,000
July	Veg/flower	50,000
August	veg	50,000
September	Veg/flower	40,000
October	flower	20,000
	ANNUAL GALLONS	221,000

Irrigation Method(s): Irrigation is accomplished by use of conventional garden hoses. Mulch is carefully placed as a top dressing to optimize soil water retention.

Irrigation Runoff/Erosion control: The use of carefully applied hand watering precludes the occurrence of unattended water discharge. In the unlikely event that residual discharge does occur it would contact permeable soil on nearly level ground in and around cultivation areas and be rapidly absorbed.

Movement or runoff of any irrigation solution away from the point of ground contact is very unlikely. The ground surface in and around cultivation areas is proactively managed year-round to prevent any unwanted migration of entrained constituents such as fine sediment, fertilizer or other organic particles.

Watershed Protection: Watershed Protection is accomplished through implementation of BMP’s and corrective measures prescribed in a site-specific Water Resources Protection Plan developed by Timberland Resource Consultants, RWQCB approved Third Party Program Administrator.

Cultivation areas meet applicable setback requirements and are surrounded by buffers of native vegetation.

Corrective measures to prevent sediment transport from roads shall be implemented as prescribed.

Once enrolled under R1-2015-0023, participants are required to engage in ongoing monitoring, reporting and maintenance including periodic site inspections and reviews of operational practices to ensure regulatory requirements related to the following items are being met.

<i>Site maintenance, erosion control, and drainage features</i>	<i>Stream crossing maintenance</i>
<i>Riparian and wetland protection and management</i>	<i>Spoils management</i>
<i>Water storage and use</i>	<i>Irrigation runoff</i>
<i>Fertilizers and soil amendments</i>	<i>Pesticides and herbicides</i>
<i>Petroleum products and other chemicals</i>	<i>Cultivation-related wastes</i>
<i>Refuse and human waste</i>	

Additionally, participants ensure that management measures and controls are effectively protecting water resources, and that any newly developing problems representing a water quality concern are identified and corrected quickly

Petroleum Products/ Equipment:

List and describe machinery and equipment used for cultivation and associated activities.

Dehumidifiers, solar fans

Describe equipment service and maintenance; including where it is done (oil change, cleaning, etc.)

Portable generator maintenance and service performed off site at Scotty's Cutters Edge in Fortuna. All petroleum products are stored in secondary containment in storage areas designated on the site map.

List and describe petroleum products and automotive fluids used onsite.

Conventional 5 gallon fuel canisters in metal storage container; not to exceed 15 gallons

List and describe compressed gases, cleaners, solvents and sanitizers; indicate amounts normally stored and how/where they are stored.

The proposed residence on the parcel will be supplied domestic propane.

The fertilizers/amendments listed below are used at the start of the grow season; only quantities needed are purchased and brought to the site. Annual reporting of fertilizer/amendment use is required under RWQCB Order No. R1-2015-0023 and the data is provided on page 4, Appendix C (RWQCB Order No. R1-2015-0023).

Mixing of the products listed below takes place only within a small area near cultivation sites and the products are kept protected from accidental spillage or disturbance from wildlife.

Product	Quantity
Composted Pig Manure	200 lbs.
Composted Chicken Manure	200 lbs.
Bone Meal	200 lbs.
Blood Meal	200 lbs.
Mushroom Compost	200 lbs.

No pesticides are used on site. Specific plants and flowers are propagated throughout the premises to promote beneficial predators as a form of biological pest control

The applicant acknowledges that the storage and/or use of certain materials in specified volumes and/or weights will be subject to regulation through Humboldt County Division of Environmental Health CUPA and may require: submittal of inventories for those materials, documentation of emergency and training procedures, maintenance of hazardous waste disposal records, obtaining an EPA generator ID number and be subject to site inspections.

Cultivation related wastes are sorted such that compostable materials are recycled/composted on site within a small area equipped with perimeter and top containment to prevent unwanted movement of materials due to weather conditions or animals/pests. Other materials, unsuitable for composting, are stored in conventional trash containers with tight fitting lids and hauled to an approved transfer station as needed. If it becomes necessary, exhausted soil will be removed from cultivation beds and carefully mixed and spread over native soils on level ground at select locations to initiate microbial reconditioning and prevent unwanted constituent migration. Spent growth medium containing inorganic substances such as perlite, will be stored in weatherproof containers and hauled to an approved waste facility as needed.

Human Waste: Portable toilets equipped with hand washing facilities will be utilized while a permitted Septic system installation is being completed. A permitted septic system is utilized to support the residents on site.

Cultivation Operations/Practices: The operation will yield two harvests during the season through use of Black-Out tarps. Low watt fluorescent bulbs are used in the propagation greenhouse (2,700 ft² mixed light allocation) during early spring. The applicant and four (4) family members will carry out operations.

		Ave. Hr. Generator	Ave. Hr. Light Use
<i>January</i>	<i>Monitor and maintain site/infrastructure</i>		
<i>February</i>	<i>Ongoing site and infrastructure maintenance</i>		
<i>March</i>	<i>Prepare beds for propagation and groom cultivation areas</i>		
<i>April</i>	<i>Initiate plant propagation and complete greenhouse setup</i>	3	3
<i>May</i>	<i>prepare garden plots, set plants, ongoing site maintenance</i>	1	1
<i>June</i>	<i>Initiate outdoor garden, ongoing garden care and site maintenance, pull black-out tarps</i>		
<i>July</i>	<i>Ongoing garden care, 1st round harvest, set 2nd round plants into plots, occasional fan usage</i>	3	
<i>August</i>	<i>Ongoing garden care, occasional fan usage</i>	4	
<i>September</i>	<i>Ongoing garden care, occasional fan usage, pull Black-Out tarps</i>	3	
<i>October</i>	<i>Ongoing garden care- initiate 2nd round harvest, set to dry, process trim</i>		
<i>November</i>	<i>Start site preparations for winter.</i>		

Processing: Plants are harvested at peak ripeness and immediately transferred to Cargo Trailers where they are hung to dry. Natural air flow may be supplemented with household fans and dehumidifiers to aid the drying process. Processing/trimming shall be completed by the applicant and four family members. There is a permitted septic system design pending permit issuance which will serve a two-bedroom residence and the restroom therein (or auxiliary restroom) will be readily accessible. Portable toilets equipped with handwashing facilities also exist on site.

All equipment, surfaces and tools used in the harvesting/drying/trimming of cultivated product are used exclusively for that purpose. Equipment, surfaces and tools are visually inspected, washed and sanitized throughout the day.

Individuals engaged in processing/trimming are cognizant of potential mold and mildew problems associated with cultivation/processing. Handwashing with potable water and soap occurs as well as use of new latex gloves, face masks and hair nets when engaged in processing activities. Any suspect plant matter which appears compromised for any reason is carefully removed and disposed of avoiding cross contaminant contact with other product, equipment or utensils. A separately designated green-waste system is implemented to recycle plant waste.

Individuals involved with processing/trimming are well versed in the use/cleaning of equipment utilized throughout the operation. Cleaning materials are stored on shelves away from working surfaces. A fire extinguisher is readily available. The working space is kept clean and orderly and used exclusively for processing/trimming.

Ample potable water for handwashing and restroom facilities are in close proximity to processing activities.

Individuals engaged in processing shall be trained in the proper handling/use of all cleaning agents and other hazardous materials (if ever used). If any regulated substances are used the MSDS for the substances shall be posted and readily visible.

Security: Access to the subject parcel is restricted by placement of locked metal gates at entrance roads. The owner/applicant or other residents are always onsite.

RECEIVED

AUG 11 2017

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
REGION 1 – NORTHERN REGION
619 Second Street
Eureka, CA 95501

CDFW - EUREKA



STREAMBED ALTERATION AGREEMENT

NOTIFICATION No. 1600-2017-0053-R1

Unnamed Tributaries to the Van Duzen River, Tributary to the Eel River
and the Pacific Ocean

Mr. Richard Wilson
Wilson Water Diversions, Stream Crossings, Pond Spillway, and
Remediation Project
11 Encroachments

This Streambed Alteration Agreement (Agreement) is entered into between the
California Department of Fish and Wildlife (CDFW) and Mr. Richard Wilson (Permittee).

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee
initially notified CDFW on February 9, 2017 and revised the notification on April 18,
2017, that the Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, CDFW has determined that the project
could substantially adversely affect existing fish or wildlife resources and has included
measures in the Agreement necessary to protect those resources.

WHEREAS, the Permittee has reviewed the Agreement and accept its terms and
conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, the Permittee agrees to complete the project in accordance with
the Agreement.

PROJECT LOCATION

The project to be completed is located within the Van Duzen River watershed,
approximately 0.8 miles west of the town of Dinsmore, County of Humboldt, State of
California. The project is located in Section 4, T1N, R4E, Humboldt Base and Meridian;
in the Dinsmore U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel
Number 208-261-009; latitude 40.4928 N and longitude 123.6224 W at the parcel's
center.

PROJECT DESCRIPTION

The project is limited to 11 encroachments (Table 1). Two are for water diversion from
unnamed tributaries to the Van Duzen River. One diversion is from a stream for

domestic use and the other is from an existing pond for irrigation. Work for both will include use and maintenance of existing infrastructure. The other nine encroachments are to replace and/or upgrade existing stream crossings. Work for these encroachments will include excavation, installation of properly sized culverts, backfilling and compaction of fill, and/or rock armoring as necessary to minimize erosion.

Table 1. Summary of project encroachments with descriptions.

Encroachment Name ¹	Latitude/Longitude ²	Description
POD-1	40.4927, -123.6255	Modify infrastructure and water diversion from a stream via cribbed screened poly pipe.
POD-2	40.4913, -123.6267	Water diversion from a hydrologically connected pond.
Crossing #1	40.4913, -123.6252	Rock armor the culvert outlet to prevent further head cutting.
Crossing #4	40.4910, -123.6263	Replace undersized 12" diameter culvert with minimum 18" diameter culvert and rock armor spillway channel.
Crossing #5	40.4911, -123.6265	Replace undersized 15" diameter culvert with minimum 18" diameter culvert and rock armor spillway channel.
Crossing #6	40.4916, -123.6249	Upgrade existing rock ford with minimum 36" diameter culvert.
Crossing #7	40.4920, -123.6254	Replace undersized 15" diameter culvert with minimum 36" diameter culvert.
Crossing #8	40.4925, -123.6237	Replace undersized 10" diameter culvert with rocked ford.
Crossing #9	40.4928, -123.6256	Replace four existing 15" shotgun culverts with rocked ford.
Crossing #10	40.4942, -123.6256	Replace existing 15" culvert with minimum 24" culvert.
Crossing #12	40.4942, -123.6233	Replace undersized 12" diameter culvert with minimum 24" diameter culvert.

¹Name corresponds to those provided by applicant in the notification.

²Coordinates = decimal degrees, datum = NAD 83).

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: Southern Torrent Salamander (*Rhyacotriton variegatus*), Coastal Tailed Frog (*Ascaphus truei*), Foothill Yellow-legged Frog (*Rana boylei*), Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), Pacific Lamprey (*Entosphenus tridentate*), Western Pond Turtle (*Actinemys marmorata marmorata*), as well as, other amphibian, reptile, aquatic invertebrate, mammal, and bird species.

The adverse effects the project could have on the fish or wildlife resources identified above include:

Impacts to water quality:

- increased water temperature;
- reduced instream flow;
- temporary increase in fine sediment transport;

Impacts to bed, channel, or bank and direct effects on fish, wildlife, and their habitat:

loss or decline of riparian habitat;
direct impacts on benthic organisms;

Impacts to natural flow and effects on habitat structure and process:

cumulative effect when other diversions on the same stream are considered;
diversion of flow from activity site;
direct and/or incidental take;
indirect impacts;
impediment of up- or down-stream migration;
water quality degradation; and
damage to aquatic habitat and function.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

The Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Adherence to Existing Authorizations. All water diversion facilities that the Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights.
- 1.4 Change of Conditions and Need to Cease Operations. If conditions arise, or change, in such a manner as to be considered deleterious by CDFW to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information becoming available that indicates that the bypass flows and diversion rates provided in this agreement are not providing adequate protection to keep aquatic life downstream in good condition or to avoid "take" or "incidental take" of federal or State listed species.
- 1.5 Notification of Conflicting Provisions. The Permittee shall notify CDFW if the Permittee determines or learns that a provision in the Agreement might conflict

with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact the Permittee to resolve any conflict.

- 1.6 Project Site Entry. The Permittee agrees to allow CDFW employees access to any property it owns and/or manages for the purpose of inspecting and/or monitoring the activities covered by this Agreement, provided CDFW: a) provides 24 hours advance notice; and b) allows the Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW enforcement personnel.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, the Permittee shall implement each measure listed below.

- 2.1 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with the Permittee Notification received on February 9, 2017 and revised on April 18, 2017, together with all maps, BMP's, photographs, drawings, and other supporting documents submitted with the Notification.
- 2.2 Maximum Diversion Rate. For POD-1, the maximum instantaneous diversion rate from the water intake shall not exceed 3 gallons per minute (gpm) at any time. For POD-2, the maximum instantaneous diversion rate from the water intake shall not exceed 10 gpm at any time.
- 2.3 Bypass Flow. For POD-1, the Permittee shall remove the downstream most diversion structures to ensure passage of sufficient flow (e.g. 80%) at all times to keep all aquatic species including fish and other aquatic life in good condition below the point of diversion.
- 2.4 Seasonal Diversion Minimization. For POD-1, **no more than 150 gallons per day** shall be diverted during the **low flow season from May 15 to October 15** of any year. Water shall be diverted only if the Permittee can adhere to conditions 2.2 and 2.3 of this Agreement.
- 2.5 Measurement of Diverted Flow. The Permittee shall install a device acceptable to CDFW for measuring the quantity of water diverted from each POD. Measurement(s) shall begin as soon as this Agreement is signed by the Permittee. The Permittee shall record the quantity of water pumped to and from the system on a weekly basis. Alternatively, the Permittee can record the frequency of pumping and the time to fill storage. The report shall be submitted to CDFW in accordance with the reporting measures described below.
- 2.6 Water Management Plan. The Permittee shall submit a Water Management Plan that describes how forbearance will be achieved under this Agreement. The Water

Management Plan shall include details on water storage, water conservation, or other relevant material to maintain irrigation needs in coordination with forbearance and bypass flow requirements. The Water Management Plan shall include a brief narrative describing water use on the property, photographs to support the narrative, and water use calculations to ensure compliance with this Agreement. The report shall be submitted to CDFW in accordance with the reporting measures described below.

2.7 Water Diversion Infrastructure.

2.7.1 Intake Structure. No polluting materials (e.g., particle board, plastic sheeting, bentonite) shall be used to construct or screen, or cover the diversion intake structure.

2.7.2 Intake Screening. Screens shall be installed on intakes wherever water is diverted, and shall be in place whenever water is diverted. Openings in intakes shall not exceed 1/8 inch diameter (horizontal for slotted or square openings) or 3/32 inch for round openings. The Permittee shall regularly inspect, clean, and maintain screens in good condition.

2.7.3 Aquatic Species Passage. The water diversion structures shall be designed, constructed, and maintained such that they do not, trap, impinge, or constitute a barrier to the movement of aquatic life.

2.8 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.

2.9 Water Storage Maintenance. Storage tanks shall have a float valve to shut off the diversion when tanks are full to prevent overflow from being diverted when not needed. The Permittee shall install any other measures necessary to prevent overflow of tanks resulting in more water being diverted than is used.

2.10 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 et seq. as appropriate for the water diversion and water storage. The application for this registration is found at:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/sdu_registration.pdf.

2.11 Management of Invasive Bullfrogs. The Permittees shall monitor the pond each year for invasive bullfrogs or drain and dry ponds at least biennially to prevent colonization and reproduction. If bullfrogs are or become present, they shall be appropriately managed. Management of bullfrogs, including draining and drying of ponds, shall follow the guidelines in **Exhibit A**. If monitoring is the chosen approach, a monitoring report shall be submitted to CDFW in accordance with the reporting measures described below.

Stream Crossings

- 2.12 Work Period. All work, not including water diversion, shall be confined to the period **June 15 through October 1** of each year and **all projects shall be completed prior to October 1, 2018**. Work within the active channel of a stream shall be restricted to periods of **dry weather**. Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Construction activities shall cease and all necessary erosion control measures shall be implemented prior to the onset of precipitation.
- 2.13 Extension of the Work Period. If weather conditions permit, and the Permittee wishes to extend the work period after October 1, a written request shall be made to CDFW at least 5-working days before the proposed work period variance. Written approval (letter or e-mail) for the proposed time extension must be received from CDFW prior to activities continuing past October 1.
- 2.14 Stream Protection. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other deleterious material from project activities shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the stream. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.
- 2.15 Equipment Maintenance. Refueling of machinery or heavy equipment, or adding or draining oil, lubricants, coolants or hydraulic fluids shall not take place within stream bed, channel and bank. All such fluids and containers shall be disposed of properly off-site. Heavy equipment used or stored within stream bed, channel and bank shall use drip pans or other devices (e.g., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.
- 2.16 Hazardous Spills. Any material, which could be hazardous or toxic to aquatic life and enters a stream (i.e. a piece of equipment tipping-over in a stream and dumping oil, fuel or hydraulic fluid), the Permittee shall immediately notify the California Emergency Management Agency State Warning Center at 1-800-852-7550, and immediately initiate clean-up activities. CDFW shall be notified by the Permittee within 24 hours at 707-445-6493 and consulted regarding clean-up procedures.
- 2.17 Excavated Fill. Excavated fill material shall be placed in locations where it cannot deliver to a watercourse. To minimize the potential for material to enter the watercourse during the winter period, all excavated and relocated fill material shall be tractor contoured (to drain water) and tractor compacted to effectively incorporate and stabilize loose material into existing road and/or landing features.
- 2.18 Runoff from Steep Areas. The Permittee shall make preparations so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion

potential or contained behind erosion control structures. Erosion control structures such as straw bales and/or siltation control fencing shall be placed and maintained until the threat of erosion ceases. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.

2.19 Culvert Installation.

2.19.1 Existing fill material in the crossing shall be excavated down vertically to the approximate original channel and outwards horizontally to the approximate crossing hinge points (transition between naturally occurring soil and remnant temporary crossing fill material) to remove any potential unstable debris and voids in the older fill prism.

2.19.2 Culvert shall be installed to grade, aligned with the natural stream channel, and extend lengthwise completely beyond the toe of fill. If culvert cannot be set to grade, it shall be oriented in the lower third of the fill face, and a downspout or energy dissipator (such as boulders, rip-rap, or rocks) shall be installed above or below the outfall as needed to effectively control stream bed, channel, or bank erosion (scouring, headcutting, or downcutting).

2.19.3 Culvert bed shall be composed of either compacted rock-free soil or crushed gravel. Bedding beneath the culvert shall provide for even distribution of the load over the length of the pipe, and allow for natural settling and compaction to help the pipe settle into a straight profile. The crossing backfill materials shall be free of rocks, limbs, or other debris that could allow water to seep around the pipe, and shall be compacted.

2.19.4 Culvert inlet, outlet (including the outfall area), and fill faces shall be armored where stream flow, road runoff, or rainfall energy is likely to erode fill material and the outfall area.

2.19.5 Permanent culverts shall be sized to accommodate the estimated 100-year flood flow [i.e. ≥ 1.5 times the width of the active (bankfull) channel width or the 100-year flood size, whichever is greater], including debris, culvert embedding, and sediment loads.

2.20 Rock Armor Placement.

2.20.1 No heavy equipment shall enter the wetted stream channel.

2.20.2 No fill material, other than clean rock, shall be placed in the stream channel.

2.20.3 Rock shall be sized to withstand washout from high stream flows, and extend above the ordinary high water level.

2.20.4 Rock armoring shall not constrict the natural stream channel width and shall be keyed into a footing trench with a depth sufficient to prevent instability.

2.21 Dewatering.

2.21.1 Stream Diversion. Only when work in a flowing stream is unavoidable (e.g., perennial streams), Permittee shall divert the stream flow around or through the work area during construction operations. Stream flow shall be diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.

2.21.2 Maintain Aquatic Life. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, Permittee shall allow sufficient water at all times to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code §5937.

2.21.3 Stranded Aquatic Life. The Permittee shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets, buckets and by hand. Captured aquatic life shall be released immediately in the closest body of water adjacent to the work site. This condition does not allow for the take or disturbance of any State or federally listed species, or State listed species of special concern.

2.21.4 Coffer Dams. Prior to the start of construction, Permittee shall divert the stream around or through the work area and the work area shall be isolated from the flowing stream. To isolate the work area, water tight coffer dams shall be constructed upstream and downstream of the work area and water diverted, through a suitably sized pipe, from upstream of the upstream coffer dam and discharge downstream of the downstream coffer dam. Cofferdams shall be constructed of a non-erodible material which does not contain soil or fine sediment. Cofferdams and the stream diversion system shall remain in place and functional throughout the construction period. Cofferdams or stream diversions that fail for any reason shall be repaired immediately.

2.21.5 Restore Normal Flows. Permittee shall restore normal flows to the effected stream immediately upon completion of work at that location

2.22 Project Inspection. The Project shall be inspected by Timberland Resource Consultants or a licensed engineer before October 1 during the year when the project was completed to ensure that stream crossing(s) were installed as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW in accordance with the reporting measures described below.

3. Reporting Measures

- 3.1 Measurement of Diverted Flow. To comply with Condition 2.5, the Permittee shall **submit a copy of the water diversion records, no later than December 31 of each year beginning in 2017**, to CDFW, LSA Program, 619 Second Street, Eureka, CA 95501.
- 3.2 Water Management Plan. To comply with Condition 2.6, the Permittee shall **submit a Water Management Plan no later than June 30, 2017**, to CDFW, LSA Program, the 619 Second Street, Eureka, CA 95501.
- 3.3 Bullfrog Monitoring Report. To comply with Condition 2.11, the Permittees shall **submit the Bullfrog Monitoring report by December 31 for each year monitoring is conducted**, to CDFW, LSA Program, 619 Second Street, Eureka, CA 95501.
- 3.4 Project Inspection. To comply with Condition 2.24, the Permittee shall **submit the Project Inspection Report, within 90 days of completion of this project** to CDFW, LSA Program, 619 Second Street, Eureka, CA 95501.

CONTACT INFORMATION

Written communication that the Permittee or CDFW submits to the other shall be delivered to the address below unless the Permittee or CDFW specifies otherwise.

To Permittee:

Mr. Richard Wilson
905 North Pine Street
Ukiah, California 95482
707-296-0828

To CDFW:

Department of Fish and Wildlife
Northern Region
619 Second Street
Eureka, California 95501
Attn: Lake and Streambed Alteration Program
Notification #1600-2017-0053-R1

LIABILITY

The Permittee shall be solely liable for any violation of the Agreement, whether committed by the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require the Permittee to proceed with the project. The decision to proceed with the project is the Permittee's alone.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety this Agreement if it determines that the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide the Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide the Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to the Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against the Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and

subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

The Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and the Permittee. To request an amendment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by the Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), the Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, the Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If the Permittee fails to submit a request to extend the Agreement prior to its expiration, the Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605(f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after the Permittee signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall **expire five years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. The Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of the Permittee, the signatory hereby acknowledges that he or she is doing so on the Permittee's behalf and represents and warrants that he or she has the authority to legally bind the Permittee to the provisions herein.

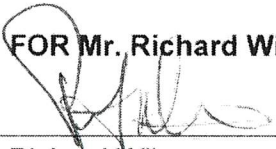
AUTHORIZATION

This Agreement authorizes only the project described herein. If the Permittee begins or completes a project different from the project the Agreement authorizes, the Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

FOR Mr. Richard Wilson




Richard Wilson

8/10/17

Date

FOR DEPARTMENT OF FISH AND WILDLIFE



Scott Bauer
Senior Environmental Scientist Supervisor

8/23/17

Date

Prepared by: Ryan Bourque, Senior Environmental Scientist Specialist, May 16, 2017

July 8, 2019

Biological Resources Assessment for the Wilson Cannabis Cultivation Project

1. INTRODUCTION

The Wilson Cannabis Cultivation Project, or Wilson Project, is a small family owned and operated cannabis farm located near Dinsmore, in eastern Humboldt County, California. Located on a 68.3-acre parcel (APN 208-261-009), on the north side of the Van Duzen River (VDR), in Section 4, of Township 1 North, Range 5 East, HBM, this existing “non forest” cannabis grow currently operates under a 2018 Interim permit (APPS No: 12674) for 26,200 square feet of existing outdoor cultivation.

Whereas the landowners originally requested 25,935 sq. ft. outdoor and 2,500 sq. ft. mixed light cultivation, having identified existing “unsuitable” cultivation sites located too close to watercourses, Humboldt County Planning and Building Department’s (HCPBD) Cannabis Services Division required that they be decommissioned. Requesting a Remediation Plan for proposed on-site relocation, demonstrating that “*new site is environmentally superior to the present condition*”, additionally, because this project could contain potential habitat for rare or endangered species, they also required that a qualified biologist prepare a biological survey report for all existing and proposed development.

Consequently, the project proponents have requested that I address detrimental environmental impacts likely associated with the proposed project in accordance to due process. Having consulted on northern California forest-wildlife matters since 1990, I specialize in biological impacts analysis for protected and sensitive species in compliance with State and federal law. A qualifying “Spotted Owl Expert” (SOE), my [resume](#) also demonstrates extensive knowledge of environmental regulations and policy.

This biological resource assessment focuses on potential impacts of existing and proposed commercial agricultural activities pursuant to California Environmental Quality Act (CEQA) statute (Public Resources Code Section 21000 and following), the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 and following), published court decisions interpreting CEQA, and locally adopted CEQA procedures. Streamlining investigation of potential significant environmental impacts, this report incorporates and builds upon (tiers) documentation for previously approved environmental permits, or in the process of final review. Specifically, in addition to the project’s Cultivation Operations Plan, this report relies on a Lake and Streambed Alteration Agreements (LSAA) with California Department of Fish and Wildlife (CDFW).

2. PROJECT DESCRIPTION

This project has experienced several modifications since first proposed in 2017, but according to May 30, 2019 revisions approved by the County, it involves an overall development footprint of 28,283 sq. ft. which includes decommissioning 2,700 sq. ft. of mixed light and 2,183 sq. ft. outdoor cultivation. Partially situated in Stream Management Areas (SMAs), this capacity will be moved to a 5,000 sq. ft. replacement area in the eastern portion of this ownership. Situated next to an existing 4,400 sq. ft. greenhouse, on a ridge-top meadow, there is also a preexisting 14,000 sq. ft. outdoor garden in an opening on the western portion of this ownership.

Effectively reducing the proposed cultivation from 26,200 to 23,400 sq. ft., of which 2,700 sq. ft. will be mixed light; although State and County definitions for mixed light cultivation differ, all greenhouses utilizing artificial light will be covered with tarps in adherence to Dark Sky Association guidelines for Lighting Zone 0 and Lighting Zone 1. Off-the-grid, solar panels and quiet gas generators will be used to power lights, fans, and for harvesting as well as trimming. However, the landowners anticipate bringing in public utilities in the near future.

Required to upgrade access roads and address bank stabilization, as outlined in LSAA #208-261-009_1600, in addition to cultivation areas to be decommissioned, there are numerous crossings that require remediation with a combined disturbance of 1,745 sq. ft. Upgrading six culverts, this project also includes two water diversions; a Class II watercourse point of diversion (POD), shown in LSAA Addendum Picture 1, and an off-stream surface flow pond designed to capture winter surface flows, shown in Addendum Picture 10. Per revised and combined LSAA notification:

“The applicant is applying for a use permit from Humboldt County for 25,935 ft² of existing outdoor cannabis cultivation and 2,700 ft² of existing mixed light for a total of 28,635 ft². However, the cross-sectional area of surface soil being watered is significantly lower. The Applicant estimates that 30% of the outdoor or 7,780 ft² and 50% of the light-dep or 1,350 ft² is actually being irrigated. Using a very conservative estimate of 1.8 gallons per 10 ft² for the entire operation would require 1,643 gallons per day or approximately 295,000 gallons for the 180 day growing season.”

Water for cannabis cultivation will be held in plastic tanks, not exceeding 5,000 gallons each, with a total volume of 46,150-gallon. However, with the addition of a surface flow 388,000-gallon pond, the overall irrigation capacity for this project will eventually be 434,150 gallons. Collected between October 15 and May 1, water will be metered out during the growing season, in accordance to the LSAA and watershed protection measures outlined in Best Management Practices (BMPs). However, water may eventually also be obtained from a permitted well located in the upper eastern portions of the ownership.

3. ENVIRONMENTAL SETTING

Located mid-slope, and on a ridge top location between 2,400- and 2,800-foot elevation, this ownership has a long history of agricultural use, including cannabis cultivation. In addition to marijuana gardens, there are also agricultural structures for chickens and pigs, as well as residential mobile trailers. Whereas the trailers are scheduled to be removed, eventually a permitted two-bedroom residence will be constructed on site. However, relocating cultivation in unsuitable sites to a ridge on the eastern portion of the ownership will reduce impacts by centralizing operations well away from watercourses and potential NSO habitat.

Approximately thirty-seven miles from the coast, although this project is outside the range of the marbled murrelet (*Brachyramphus marmoratus*), it is within the range of the northern spotted owl (NSO) (*Strix occidentalis caurina*). The California Natural Diversity Data Base (CNDDDB) reports one historical NSO Territory within 1.3 miles, but last detected in 1988, HUM0155 is located approximately 1,600 feet to the southwest, on the south side of the VDR/HWY 36 corridor. However, high-quality habitat for this species does not occur on the property. According to “A GUIDE TO WILDLIFE HABITATS OF CALIFORNIA” (Mayer and Laudenslayer 1988), proposed operation will be conducted in Perennial Grassland, bordered by encroaching Montane Hardwoods historically grazed by cattle.

Previously field inspected by environmental specialists and consultants, my June 5, 2019 biological reconnaissance did not observe suitable nesting habitat within 120 feet of proposed operations. Confirming the absence of wetlands and/or other sensitive habitats, I found the noise level of onsite generators and fans below the 50 decibel (dB) threshold for disturbance established for the NSO by the CDFW within 100 feet, or at the edge of habitat. However, eventually the landowners plan on connecting this property to public utilities.

4. REGULATORY SETTING

Proposition 64 (the California Marijuana Legalization Initiative) gives each municipality the right to make their own rules. As such, the Humboldt County Planning and Building Department (HCPBD) began accepting applications for projects in the Inland Zone after the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) was adopted by the Board of Supervisors on February 26, 2016. Accordingly:

“It is intended to address the County of Humboldt’s prerogative to license, permit, and control commercial cultivation, processing, manufacturing and distribution of cannabis for medical marijuana as set forth in the MMRSA, including, but not limited to the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360 and Health and Safety Code Section 11362.777, in conjunction with state licensing requirements, in order to protect the public health, safety, and welfare of the residents of the County of Humboldt, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation operations in the County of Humboldt, and to prevent adverse environmental effects of any new commercial cannabis activities which may be permitted in the future in accordance with this Section and state law.”

The Commercial Cannabis Land Use Ordinance (CCLUO), as revised on January 11, 2018, limits the maximum allowable cultivation area for outdoor and/or mixed light cultivation to the size of the existing cultivation area prior to January 1, 2016. As per Section 314-55.4.9, Table of Humboldt County Commercial Cannabis Cultivation Permit Types – Inland Zone, the maximum area for an existing cultivation project, on a single parcel ten acres or larger, is 22,000 sq. ft. for mixed-light and 43,560 sq. ft. for outdoor cultivation.

Although 55.4.6.5 provides accommodations for pre-existing cultivation sites that exempts them from performance standards required of new developments, general provisions applicable to all commercial cannabis land use activities intended to alleviate adverse environmental impacts require permittee to address potential disturbance of federally listed species in accordance to the Endangered Species Act (ESA). Regulations adopted by Humboldt County for existing cannabis related commercial activities specify:

“The noise produced by a generator used for cannabis cultivation shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, measured at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary.”

Additionally, cannabis cultivators applying for an Annual License from the California Department of Food and Agriculture must address potentially significant adverse environmental effect in accordance to CEQA. Although CEQA does not directly regulate land use, it does require state and local agencies to follow a protocol of analysis and public disclosure. As such, this assessment relies in large part on thresholds of environmental significance for biological resources adopted under the 1973 Z’berg-Nejedly Forest Practice Act (Public Resources Code Section 4551 et seq.). Henceforth referred to as the California Forest Practice Rules (FPRs), these rules are functionally equivalent to CEQA.

While the USFWS and the National Marine Fisheries Service (NMFS) have authority over federally listed species, CDFW is responsible for implementation the California Endangered Species Act (CESA). Other relevant environmental laws include the Federal Clean Water Act (CWA), the Bald and Golden Eagle Protection Act, as well as the California Fish and Game Code. Under the California Code of Regulations (CCR), Title 14, §15096, the Department is also authorized to comment and make recommendations on CEQA projects. However, it is important to note that permitting legal cannabis cultivation in accordance to due process, and in a manner that prevents or minimizes significant environmental impacts, is ultimately a Humboldt County responsibility.

5. BIOLOGICAL COMMUNITIES

Preliminary environmental scoping included a literature review of floral and faunal communities likely impacted by the proposed cannabis cultivation using CDFW’s List of Special Animals (2018). A query of the CNDDDB was also conducted within 1.3 miles of the project. Compatible with the assessment area for evaluating impacts on spotted owls, in addition to one NSO Territory, the CNDDDB indicates the presence of eight other special status species.

Listed as a Candidate species under the CESA, foothills yellow-legged frogs (*Rana boylei*) are reported to occur in association with the VDR, as are three other non-listed California species of special concern; summer-run steelhead trout (*Oncorhynchus mykiss irideus*), western pond turtle (*Emys marmorata*) and Wawona riffle beetle (*Atractelmis wawona*). The CNDDDB also indicates the presence of American peregrine falcons (*Falco peregrinus anatum*) on the Larrabee Valley USGS quad map. Fully protected, however this record is nonspecific and there is no potential falcon nesting habitat associated with this project. Nevertheless, Tracy's sanicle (*Sanicula tracyi*), Oregon goldthread (*Coptis laciniata*) and coast fawn lily (*Erythronium revolutum*) are special status plant species recorded within 1.3 miles of this project.

As such, a more comprehensive assessment of floral and faunal communities potentially impacted by proposed cannabis cultivation has been conducted considering protected and sensitive amphibians, reptiles, birds and mammals in terms of ecological management guilds. Specifically, detrimental environmental impacts reasonably attributed to the proposed project have been addressed in terms of effects to Northern Spotted Owl and Late Mature Forest Guild Species, Eagles, Osprey, Forest Raptors and Heron Rookeries, Anadromous Fisheries, Foothills Yellow-legged Frog and Aquatic/Wet Site Guild Species, Forest Mustelids, Bats and Other Small Mammals, and Protected Plant Guild Species.

6. DISCUSSION OF ENVIRONMENTAL IMPACTS

Article 5 of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Sections 15000-15387) provides rules for “Preliminary Review of Project and Conduct of Initial Study”. Concerned with present plant or animal communities threatened by local elimination, in jeopardy of experiencing substantial habitat reduction, or dropping below self-sustaining levels as a result of proposed project [§15065(a)(1)], CEQA requires that a decision-making body provide substantial evidence of significant environmental effects before empowering lead agency to authorize additional mitigations or alternatives [§15126.4 (a)(3)].

To the best extent possible, such arguments should contain an element of Forecasting (§15144), as well as a degree of Specificity (§15146), and Technical Detail (§15147). Limited to activities which are within the agency’s area of expertise [§15096 (d)], comments need to be written in a manner that is meaningful and useful to decision making body and the public [§21003(b)].

“Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence” [§21080(e)(2)].

Consequently, biological resources potentially impacted by proposed cannabis cultivation have been discussed with emphasis on CEQA significance, starting with those listed under the ESA, followed by species protected under the CESA, and lastly, non-listed species of special concern. Potential significant effects to animals with large territories were considered inside 1.3 miles, but impacts to species with smaller ranges and/or specific habitat requirements were evaluated within the disturbance footprint of proposed operations.

Parameters used to appraise potential CEQA significance included (1) occurrence and distribution of the species in relation to the project area, (2) species' sensitivity to disturbance, (3) existing baseline conditions, and (4) its legal status and population size. A species was dropped from further consideration, if the project area was found to occur outside its distribution, or vital habitat requirements for that species were absent.

Northern Spotted Owl and Late Mature Forest Guild Species

The NSO require mature forest patches with permanent water and suitable nesting trees and snags (Zeiner et al. 1990). Although initially believed to be old growth obligate, NSOs commonly occur in younger forest types of northern California (USDA 1994), but share an affinity for mature forest with other sensitive species dependent on the larger, more decadent trees, downed woody debris and the lower ambient temperatures characteristic of forest interior conditions. However, rather than habitat encroachment, it seems competition from the closely related, exotic and invasive barred owl (*Strix varia*) is now regarded as the largest threat to the California NSO population (USFWS 2011).

Whereas I did not observe suitable NSO nesting habitat within 120 feet of proposed cultivation areas, an historical Territory, HUM0155, is located 1,600 feet to the southwest. Across Highway 36, and on the other side of the River, this occurrence is based on a single 1988 detection; however, the CNDDDB gives no indication of NSOs ever having nested within a ¼ mile of proposed cannabis cultivation.

Cannabis cultivation does not generate the same type of disturbance as logging, and given that no additional trees will be removed, impacts to NSOs are unlikely. Nevertheless, the environmental significance of noise from proposed operations was assessed in accordance to **“Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California (USFWS 2006)”**. These guidelines state that disturbance may reach the level of take when at least one of the following conditions is met:

- Project-generated sound exceeds ambient nesting conditions by 20-25 decibels (dB).*
- Project-generated sound, when added to existing ambient conditions, exceeds 90 dB.*
- Human activities occur within a visual line-of-sight distance of 40 m or less from a nest.*

Eagles, Osprey, Forest Raptors and Heron Rookeries

Bald eagles (*Haliaeetus leucocephalus*) and osprey (*Pandion haliaetus*) typically prefer to nest close to streams and rivers. Occupying the same niche as great blue herons; however, golden eagles (*Aquila chrysaetos*) favor large trees and rock faces on prominent ridges associated with grassy meadows. Fully protected, as are all nesting raptors, although the CNDDDB does not record rookeries or other nesting birds of prey within 1.3 miles of this project, regularly observed in the VDR watershed, the population of these large birds are generally increasing.

Nevertheless, no active raptor nests or rookeries were observed in association with this project. Given existing environmental baseline conditions and that proposed cannabis cultivation activities do not involve habitat removal, it is reasonable to conclude that this project will not significantly impact these guild species.

Anadromous Fisheries, Foothills Yellow-legged Frog and Aquatic/Wet Site Guild Species

Located outside the SMAs, there are no known listed Aquatic/Wet Site Guild Species directly associated with this project. However, foothills yellow-legged frogs are recorded in the VDR and its larger tributaries, as are summer-run steelhead trout, western pond turtle and Wawona riffle beetle. Lumped together based on their affinity for water and riparian habitat, other non-listed guild species likely to occur in this watershed include pacific giant salamander (*Dicamptodon tenebrosus*), southern torrent salamander (*Rhyacotriton variegatus*), rough-skinned newt (*Taricha granulosa*), northern red-legged frog (*Rana aurora*) and tailed frog (*Ascaphus truei*).

Nevertheless, nearly eight hundred feet from the VDR, given extensive watershed protection incorporated in this project, including upgrading stream crossings and relocating existing cultivation activities outside 100-foot SMAs, potential significant impacts to these guild species can reasonably be regarded as mitigated by the LSAA. Consequently, further consideration for anadromous fisheries, foothills yellow-legged frogs and aquatic/wet site guild species has been dropped. However, special measures for reservoirs commonly requested by CDFW include invasive species management, such as annual surveys for American bullfrog (*Rana catesbeiana*), and draining the pond once a year, if bullfrogs are observed.

Forest Mustelids, Bats and Other Small Mammals

Although the CNDDDB contains no records of sensitive mammals within 1.3 miles, the surrounding mixed hardwood-conifer forest is likely to contain suitable habitat for Sonoma tree vole (*Arborimus pomo*) and North American porcupine (*Erethizon dorsatum*). Less common, fishers (*Pekania pennantiare*) have been recorded in the Larabee Valley, but this site is both outside the geographic range of Humboldt martens (*Martes americana humboldtensis*), and at a lower elevation than generally preferred by martens.

Whereas suitable habitat for Townsend's big-eared bats (*Corynorhinus townsendii*) was not observed in association with this project, the ownership contains grasslands and open meadows potentially suitable for American badgers (*Taxidea taxus*). Nevertheless, no potential badger dens were observed and additional habitat disturbance is not proposed. Moreover, the use of monofilament netting shall be avoided to reduce the risk of ensnaring wildlife, and the installation of pond exits ramps to prevent wildlife entrapment is also recommended. Prohibited from using rodenticides, proposed cannabis cultivation is unlikely to significantly impact forest mammal populations. Consequently, further consideration of these guild species has been dropped.

Protected Plant Guild

Protected under State law, the coast fawn lily is a California Rare Plant Rank 2B monocot considered threatened by the California Native Plant Society (CNPS). Ranked 4, Tracy's sanicle and Oregon goldthread are on CNPS's watch list because they are rare plants with limited California distribution. However, according to the CNPS, all California Rare Plant Rank 1B and 2B species meet the definitions of the California Endangered Species Act of the California Fish and Game Code, and are eligible for state listing:

“Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, or those considered to be functionally equivalent to CEQA, as they meet the definition of Rare or Endangered under CEQA Guidelines §15125; (c) and/or §15380.”

Nevertheless, considering existing baseline conditions, and that proposed cannabis cultivation does not involve additional ground disturbance, it can reasonably be concluded that sensitive plant communities will not be affected in ways that would be CEQA significant.

7. DISCUSSION OF SIGNIFICANT ENVIRONMENTAL IMPACTS

A determination of potential significant environmental effects calls for careful judgment on the part of the public agencies involved. Not only does CEQA require that a project's potentially harmful impacts be discussed with an emphasis in proportion to their severity and probability of occurrence (§15143), those impacts must also be judged against existing baseline conditions. According to the CCLUO, Exhibit A – FINDINGS AND STATEMENT OF OVERIDING CONSIDERATIONS:

“The EIR adopts as its baseline for analysis of impacts the existing environmental conditions that include the legacy of a half century of unregulated cannabis cultivation in remote and environmentally sensitive areas of Humboldt County that unquestionable caused harmful environmental impacts that are documented in the EIR...”

The importance of factoring in current habitat conditions when conducting an ESA “take” analysis is also indicated in the [Section 7 USFWS Consultation Handbook](#). However, whereas the ESA prohibits the incidental taking of an individual without an explicit permit, it is imperative to consider that CESA differs from the ESA in ways often not acknowledged by State agencies and stakeholders. For whereas the CESA applies to both formally listed and candidate species, it diverges from the ESA in that its definition of “take” is far more limited (Dwyer and Murphy 1995).

Restricted to “*Hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill*”, CESA has no equivalent to ‘harm’ or ‘harass’. Moreover, the California Fish and Game Code also gives CDFW explicit authority to grant incidental take. In other words, according to State law, incidental take (disturbance) of State listed species should be more permissive, providing that it involves an otherwise lawful and fully mitigated activity (Kern 1999).

Nevertheless, for the purposes of the biological assessment for this project, potential disturbance to special status species has been assessed in accordance to federal guidelines for take avoidance issued for NSOs by the USFWS. However, this biological assessment found no plant or animal community potentially impacted by proposed cannabis cultivation activities in manner that would be CEQA significant.

Held to higher environmental standard than other legally permitted land uses, the implementation of the CCLUO has also resulted in severely reducing the harmful effects of illegal growing. Moreover, as other States legalize cultivation, and wholesale cannabis prices continue to fall, cannabis cultivation is likely to gradually decrease in Humboldt County, further alleviating potentially harmful cumulative environmental impacts.

Troy Leopardo


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(707) 502-9357
leowild@prodigy.net

8. SOURCES AND LITERATURE CITED

- Association for Environmental Professionals (AEP). 2018. California Environmental Quality Act (CEQA) Statute and Guidelines, califaep.org
- California Department of Fish and Wildlife. 2019. Natural Diversity Data Base Spotted Owl Data Viewer. July 8, 2019 Report
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ATTACHMENT 4

REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

The project was referred to the following referral agencies for review and comment. Those agencies that provided written comments are checked off.

Referral Agency	Response	Recommendation	Location
Humboldt County Division of Environmental Health	✓	Conditional approval	On file
Humboldt County Department of Public Works	✓	Conditional approval	On file
Northwest Information Center (NWIC)	✓	Comments	On file and confidential
Bear River Tribal Band of the Rohnerville Rancheria	✓	Comments	On file and confidential



DEPARTMENT OF PUBLIC WORKS
C O U N T Y O F H U M B O L D T
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ON-LINE
 WEB: CO.HUMBOLDT.CA.US

PUBLIC WORKS BUILDING
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 FAX 445-7409

ADMINISTRATION	445-7491	NATURAL RESOURCES	445-7741
BUSINESS	445-7652	NATURAL RESOURCES PLANNING	267-9540
ENGINEERING	445-7377	PARKS	445-7651
FACILITY MANAGEMENT	445-7493	ROADS	445-7421

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 FAX 445-7388
 LAND USE 445-7205

LAND USE DIVISION INTEROFFICE MEMORANDUM

TO: Elizabeth Moreno, Planner, Planning & Building Department

FROM: Kenneth M. Freed, Assistant Engineer

DATE: 03/09/2020

RE:

Applicant Name	LANCE BERRY
APN	208-261-009
APPS#	PLN-12674

The Department has reviewed the above project and has the following comments:

- The Department's recommended conditions of approval are attached as **Exhibit "A"**.
- Additional information identified on **Exhibit "B"** is required before the Department can review the project. **Please re-refer the project to the Department when all of the requested information has been provided.**
- Additional review is required by Planning & Building staff for the items on **Exhibit "C"**. **No re-refer is required.**
- Road Evaluation Reports(s)* are required; See **Exhibit "D"**.

Note: Prior to requesting an applicant to submit a road evaluation report, verify if the project is exempt from meeting road system performance standards under CCLUO v2.0 sections 313-55.4.6.5.1 and 314-55.4.6.5.1, even if this box is checked.

No re-refer is required.

*Note: Exhibits are attached as necessary.

Additional comments/notes:

Review Items #1, #6, and #7

// END //

Additional Review is Required by Planning & Building Staff

APPS # 15620

All of the following questions are to be answered by Planning and Building Department staff. No further involvement with the Department of Public Works is required for these items; however Public Works staff is available to answer any questions that may arise.

- 1. ROADS – PART 1. Does the project take access from a series of non-county maintained roads that connect directly to a State Highway (36, 96, 101, 255, 299, etc...)?

[X] YES [] NO

If YES, the project does not need to be referred to the Department. Include the following requirement:

All recommendations in the Road Evaluation Report(s) for non-county maintained road(s) shall be constructed/implemented to the satisfaction of the Planning & Building Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. A grading permit may be required; check with the Building Division of the Planning and Building Department for any permit requirements.

- 2. ROADS – PART 2. Does the project take access from a series of non-county maintained roads that connect directly to a Caltrans State Highway, US Forest Service Road, BLM Road, or a City road?

[X] YES [] NO

If YES, the Department recommends that prior to the project presented to the Planning Commission or Zoning Administrator, that the project should be referred to the affected road agency(ies).

- 3. ROADS – PART 3. Does the project take access or use a county maintained road that does not have a centerline stripe or is not on the "approved list" of known category 4 roads? [] YES [] NO

If YES, a Road Evaluation Report must be done for the County road(s) that do not have a centerline stripe or are not on the "approved" list. The project along with the road evaluation report(s) for the County maintained road(s) must be referred to Public Works for review to ensure that the Department supports the findings in the report. If the road is on the "not approved" list, then Part B of the Road Evaluation Report form must be completed.

- 4. Deferred Subdivision Improvements. Does the project have deferred subdivision improvements? [] YES [] NO

How to check: Method 1: Planning and Building Department staff review the legal description for the subject property in the deed. If the deed reads similar to "Parcel ___ of Parcel Map No. ___" then there may be deferred subdivision improvements; further research will be needed. Method 2: Planning and Building Department staff need to review the title report(s) for the subject property(ies) to see if a "Notice of Construction Requirements" document is listed. If the document is listed, then there are deferred subdivision improvements.

If YES then the subject property has deferred subdivision improvements. The project cannot be presented to the Zoning Administrator or the Planning Commission until the deferred subdivision improvements are completed. The applicant should be directed to the Department of Public Works regarding the deferred subdivision improvements.

- 5. AIRPORT- PART 1 (ALUCP). Is the project located within Airport Land Use Compatibility Plan (ALUCP) Zone A, B, B1, B2, or B3 as shown on the ALUCP GIS layer? [] YES [] NO

If YES, include the following requirement:

The applicant shall cause to be dedicated to the County of Humboldt an Avigation Easement. The avigation easement shall be on the form prescribed by the Department of Public Works. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

Additional Review is Required by Planning & Building Staff

The applicant shall conduct all operations consistent with the ALUCP and in a manner that does not attract flocks of birds. Open ponds shall not be permitted.

6. **AIRPORT – PART 2 (County Code Section 333).** Is the project is located within the County Code Section 333 GIS layer **AND** is the project proposing to construct (or permit) a fence, building or other structure? YES NO

If **YES**, the applicant shall submit a completed *Airspace Certification Form* prior to the project being presented to the Zoning Administrator or the Planning Commission for approval.

7. **AIRPORT – PART 3 (Height Restrictions).** Planning & Building Staff shall review the completed *Airspace Certification Form* as follows:
- If Box 1 is checked **NO**, the applicant shall either modify the project to comply with County Code Section 333-4 or the applicant shall request a variance pursuant to County Code Section 333-8. The project shall not be presented to the Zoning Administrator or the Planning Commission for approval until the variance is approved by the Board of Supervisors, or the project was modified to comply with County Code Section 333-4.
 - If Box 2 is checked **YES**, the applicant shall submit form FAA 7460-1 to the FAA for review and comment. The project shall not be presented to the Zoning Administrator or the Planning Commission for approval until the FAA supports the project.
 - If Box 3 is checked **YES**, then the project cannot be permitted and must be modified to conform to the easement. As an alternative, the applicant may wish to seek approval from both the County and the FAA to quitclaim a portion of the easement to allow the project to be permitted.
 - If Box 1 is checked **YES** and Box 2 is checked **NO** and Box 3 checked **NO** or **NA**, then Planning & Building staff shall signoff on the project in the "county use only" section of the form. In the "pre-construction" right of way (or "post construction" right of way if the building exists), check the approval box; date and initial your work.

Note that if the proposed structure is close to the imaginary surface (within 5 feet), then require a post construction certificate to be filed. By including the following requirement:

Applicant shall file a post construction *Airspace Certification Form* to ensure that the proposed structures are in compliance with County Code 333-3. This shall be completed within 90 days of completion of construction or prior to building final, whichever occurs first.

Submit a copy of all processed *Airspace Certification Forms* to the Land Use Division.

8. **MS4/ASBS Areas.** Is the project located within MS4 Permit Area as shown on the GIS layer? YES NO

If **YES**, include the following requirement:

The applicant shall demonstrate to the satisfaction of the Planning & Building Department that the project is in compliance with MS4/ASBS requirements.

// END //



DEPARTMENT OF PUBLIC WORKS
COUNTY OF HUMBOLDT

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579
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ARCATA-EUREKA AIRPORT TERMINAL
 MCKINLEYVILLE
 FAX 839-3596

PUBLIC WORKS BUILDING
 SECOND & L ST., EUREKA
 FAX 445-7409

CLARK COMPLEX
 HARRIS & H ST., EUREKA
 FAX 445-7388

AVIATION	839-5401	ADMINISTRATION	445-7491	NATURAL RESOURCES	445-7741	LAND USE	445-7205
		BUSINESS	445-7652	NATURAL RESOURCES PLANNING	267-9540		
		ENGINEERING	445-7377	PARKS	445-7651		
		FACILITY MAINTENANCE	445-7493	ROADS & EQUIPMENT MAINTENANCE	445-7421		

AIRSPACE CERTIFICATION FORM INSTRUCTIONS

This certification form is to be completed in order to document that a proposed project is in conformance with County Code 333-1 *et seq.*, and Code of Federal Regulation Title 14 Part 77, regarding imaginary surfaces. In most instances all that will be required is a pre-construction certification. However, in certain circumstances where the Department determines that the proposed structure is close to the imaginary surfaces, the Department may require as-built certification to ensure that the project does not penetrate the imaginary surfaces. In some circumstances, it will be obvious that the proposed structure does not penetrate the imaginary surfaces. An example would be where the proposed project site is substantially lower than the elevation of the runway. In these instances, County staff will most likely determine that a certification form is not required. When the location of the project site is questionable, then County staff will require a certification form be completed.

For a pre-construction certification, the first step is to use USGS quad maps to determine if the tallest point of the structure is closer than 20 feet to the imaginary surface. If it is, a field survey will be required to determine if the proposed structure will be in compliance. The field survey will need to tie the subject property into the same datum as the runway endpoint elevation and will need to be performed by a licensed Land Surveyor or licensed Civil Engineer. Otherwise, the certification can be completed using the USGS quad map data to determine compliance.

For projects that are within 5 feet of the imaginary surfaces, a post construction (as-built) certification shall be required and shall be based upon a field survey. Additionally, prior to constructing the structure, applicants are advised to have their project surveyor or engineer survey the elevation of the graded pad to ensure the building pad has been graded to the correct elevation. This helps avoid the need to modify the structure due to non-conformance with the grading plan.

SUBMITTAL INFORMATION:

- IMPORTANT** Before completing the *Airspace Certification Form*, check the project location on the County's GIS to see if it appears that your project is clearly not impacted. If so, meet with staff to inquire about "Staff certification in lieu of completing form".
- Submit a completed *Airspace Certification Form* signed and stamped by a Land Surveyor or Civil Engineer.
- Submit a plot plan signed and stamped by a Land Surveyor or Civil Engineer that is drawn to scale and includes the location of the proposed structure in relation to the nearest active runway showing:
 - Perpendicular distance of the proposed structure to the nearest active runway centerline line or centerline prolongation.
 - Ground elevation at the site of the proposed object and ground elevation of the runway endpoint (both on the same datum).
 - Height of the proposed structure including antennas or other appurtenances.
- Submit calculations signed and stamped by a Land Surveyor or Civil Engineer showing that the proposed structure does not penetrate the imaginary surfaces defined in County Code Section 333-1 *et seq.*
- Use the *Notice Criteria Tool* website (<https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp>) to determine if the proposed project penetrates any 14 CFR Part 77 imaginary surfaces. If required by the website, submit FAA Form 7460-1 and the response from the FAA.
- Submit all information to Planning & Building Dept., 3015 H Street, Eureka, CA 95501

REFERENCES:

- Airport Land Use Compatibility Plan (ALUCP) Section 3.3
- County Code Section 333-1 <http://www.humboldt.gov/DocumentCenter/View/1296>
- 14 CFR Part 77 <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>
- Airport Data Tables (attached).
- County GIS <http://webgis.co.humboldt.ca.us/HCGIS2.0/index.html>

QUESTIONS:

Call the Land Use Division – Land Development Projects Section at 707.445.7205
 // END //



DEPARTMENT OF PUBLIC WORKS
COUNTY OF HUMBOLDT

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579
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ARCATA-EUREKA AIRPORT TERMINAL
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FACILITY MAINTENANCE 445-7493

NATURAL RESOURCES 445-7741
NATURAL RESOURCES PLANNING 267-9540
PARKS 445-7651
ROADS & EQUIPMENT MAINTENANCE 445-7421

LAND USE 445-7205

AIRSPACE CERTIFICATION FORM

Airport Name: _____ Runway Number: _____

Project Name: _____

Project Address: _____

Project APN: _____

Planning & Building Department Application and Project Numbers: _____

Brief Project Description: _____

Maximum Height of proposed structure above ground level (feet): _____

Closest vertical distance between the structure and the imaginary surfaces (feet):¹ _____

1. Is the proposed project in compliance with County Code Section 333-4 (Height Limits) for the above airport? Submit signed and stamped calculations.
 Yes No
2. Does the proposed project penetrate any imaginary surfaces defined in 14 CFR Part 77 for the above airport? Use *Notice Criteria Tool* website to make this determination. Print out and attach results from the website. If YES, submit Form 7460-1 to the FAA <https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp>
 Yes No
3. Does the proposed project penetrate any surfaces defined in a recorded aviation/flight easement? Check a title report to see if an easement exists.
 Yes No recording information for easement _____
 Not Applicable; there is no easement of record.

4. This certification is:
 Pre-construction (based on plans) Post-construction (based on survey)¹

¹A post-construction certification based upon a field survey is required when the proposed structure is within 5 feet of the imaginary surfaces.

5. This certification is based upon:
 Field survey Record data²

²Record data (such as USGS maps) shall only be used to demonstrate that the point of the structure closest to the imaginary surface is at least 20 feet lower than the imaginary surface. If not, a field survey is required.

6. Status of FAA Form 7460-1:
 Approved by FAA without conditions³
 Approved by FAA with conditions³
 Not required per *Notice Criteria Tool* website (attach printout)

³Attach a copy of all FAA response documents.

Attached are signed and stamped calculations and survey data supporting the above statements. I certify that the statements above are true and correct.

Signature of Land Surveyor or Civil Engineer

Date

COUNTY USE ONLY

Pre-Construction	<input type="checkbox"/> Recommend approval <input type="checkbox"/> Recommend approval with post-construction certification req'd. <input type="checkbox"/> Recommend denial	By: _____ Date: _____
Post-Construction	<input type="checkbox"/> Recommend approval <input type="checkbox"/> Recommend denial	By: _____ Date: _____
Staff certification in lieu of completing form	<input type="checkbox"/> Recommend approval. From observation, the maximum height of the proposed structure is located significantly below the imaginary surfaces.	By: _____ Date: _____

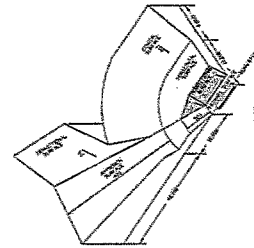
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Airport Data Table (1 of 2)

Airport Name	Airport Operator	Airport Type [County Code Section 333-3(f), (k), and (l)]	Runway Numbers	Approach Type [County Code Section 333-3(i) and (j)]	Approach Length [County Code Section 333-3(i)]	Approach Area Width [County Code Section 333-3(j)] (B)	Approach Slope [County Code Section 333-3(k)]	Horizontal Surface [County Code Section 333-3(l)] (C)	Conical Surface [County Code Section 333-3(m)] (D)
California Redwood Humboldt County Airport (ACV)	Humboldt County	Intercontinental Airports	01	Instrument	50,000 feet	4,000 feet at 10,200 feet from REP 16,000 feet at 50,200 feet from REP	50:1 for first 10,000 feet of approach length 40:1 for remainder of approach length	11,500 feet	7,000 feet
			19	Instrument	50,000 feet	1,000 feet 4,000 feet at 10,200 feet from REP 16,000 feet at 50,200 feet from REP	50:1 for first 10,200 feet from REP 40:1 for 40,200 to 50,200 feet from REP		
			14	Instrument	50,000 feet	1,000 feet 4,000 feet at 10,200 feet from REP 16,000 feet at 50,200 feet from REP	50:1 for first 10,200 feet from REP 40:1 for 40,200 to 50,200 feet from REP		
			32	Instrument	50,000 feet	1,000 feet 4,000 feet at 10,200 feet from REP 16,000 feet at 50,200 feet from REP	50:1 for first 10,200 feet from REP 40:1 for 40,200 to 50,200 feet from REP		
Dismore Airport	Humboldt County	Secondary	9	Visual	10,000 feet	2,250 feet at 10,200 feet from REP	40:1	5,000 feet	3,000 feet
			27	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1		
Garberville	Humboldt County	Secondary	18	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1	5,000 feet	3,000 feet
			36	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1		
Hoopa Airport	Hoopa Tribe	Secondary	14	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1	5,000 feet	3,000 feet
			32	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1		
Kneeland Airport	Humboldt County	Secondary	15	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1	5,000 feet	3,000 feet
			33	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1		
Murray Field	Humboldt County	Secondary	12	Instrument	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1	5,000 feet	3,000 feet
			30	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1		
Samea Field	City of Eureka	Secondary	16	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1	5,000 feet	3,000 feet
			34	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1		
Rehnerville Airport	Humboldt County	Feeder	11	Instrument	10,000 feet	300 feet 2,300 feet at 10,200 feet from REP	40:1	6,000 feet	3,000 feet
			29	Instrument	10,000 feet	300 feet 2,300 feet at 10,200 feet from REP	40:1		
Shelter Cover Airport	Resort Improvement District	Secondary	12	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1	5,000 feet	3,000 feet
			30	Visual	10,000 feet	250 feet 2,250 feet at 10,200 feet from REP	40:1		

Airport Data Table (2 of 2)

Airport Name	Airport Operator	Airport Elevation	Airport Reference Point Coordinate		Runway Number	Runway Endpoint Elevation	Runway End Point Coordinate		Data Source(s)	Date of Data Source(s)
			Latitude	Longitude			Latitude	Longitude		
California Redwood Humboldt County Airport (ACV)	Humboldt County	222.3'	N 40° 58' 40.20"	W 124° 06' 30.50"	1	187.2'	N 40° 58' 20.49"	W 124° 06' 46.78"	ACV ALP	May 2013
					19	208.2'	N 40° 58' 59.10"	W 124° 06' 17.67"		
					14	182.7'	N 40° 59' 07.00"	W 124° 06' 47.24"		
					32	222.3'	N 40° 58' 13.90"	W 124° 06' 11.15"		
					14 Displaced Threshold	184.5'	N 40° 59' 04.85"	W 124° 06' 45.78"		
					32 Displaced Threshold	221.3'	N 40° 58' 15.66"	W 124° 06' 12.34"		
Dinsmore Airport	Humboldt County	2,392.6'	N 40° 29' 31"	W 123° 35' 54"	9	2,386.5'	N 40° 29' 35.398"	W 123° 36' 08.923"	D63 ALP	March 2010
Garberville Airport	Humboldt County	550.5'	N 40° 05' 07.559"	W 123° 48' 50.920"	27	2,392.3'	N 40° 29' 27.326"	W 123° 35' 38.283"	O16 ALP	March 2010
					18	536.6'	N 40° 05' 20.715"	W 123° 48' 45.725"		
Hoopa Airport	Hoopa Tribe	356'	N 41° 02' 35"	W 123° 40' 02"	36	550.5'	N 40° 04' 54.403"	W 123° 48' 56.134"	O21 ALP	October 1993
					14	363'	N 41° 02' 46"	W 123° 40' 16"		
Kneeland Airport	Humboldt County	2,745'	N 40° 43' 08.23"	W 123° 55' 37.98"	32	362'	N 41° 02' 21"	W 123° 39' 23"	O19 ALP	March 2011
					15	2,744'	N 40° 43' 19.19"	W 123° 55' 40.49"		
Murray Field	Humboldt County	10.6'	N 40° 48' 12.234"	W 124° 06' 46.045"	33	2,733'	N 40° 42' 57.27"	W 123° 55' 35.47"	EKA ALP	August 2016
					12	6.1'	N 40° 48' 22.7025"	W 124° 06' 32.1406"		
Samoa Field	City of Eureka	20.0'	N 40° 46' 51.100"	W 124° 12' 44.200"	30	10.6'	N 40° 48' 01.7654"	W 124° 06' 59.9498"	O33 ALP	September 2018
					16	20.0'	N 40° 47' 04.5000"	W 124° 12' 44.2200"		
Rohnerville Airport	Humboldt County	392.5'	N 40° 33' 14.180"	W 124° 07' 57.556"	34	9.0'	N 40° 46' 37.7700"	W 124° 12' 44.2200"	FOT ALP	March 2010
					11	340.2'	N 40° 33' 26.226"	W 124° 08' 18.161"		
Shelter Cove Airport	Resort Improvement District	71'	N 40° 01' 42"	W 124° 04' 23"	29	392.5'	N 40° 33' 02.136"	W 124° 07' 36.960"	O05 ALP	October 1993
					12	68'	N 40° 01' 55"	W 124° 04' 37"		
					30	52'	N 40° 01' 29"	W 124° 04' 09"		



Above: Isometric view of typical airspace surfaces

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