

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

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

APN 216-081-008; New Harris Area, County of Humboldt

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Background

Modified Project Description and Project History –

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

The modified project involves a Special Permit (PLN-11692-CUP) for 10,000 square feet (SF) of existing outdoor cannabis cultivation. Plants are propagated in a 1,500-SF nursery on an adjacent parcel under common ownership (APN 216-083-006). Irrigation water is sourced from one (1) 1,400,000-gallon rainwater catchment pond onsite. Estimated annual water use is 104,000 gallons (10.4 gal/SF). Water is stored in the existing rain catchment pond totaling 1,400,000 gallons. Drying, curing, and bucking down flower occurs onsite in a 2,400 SF barn located in the parcel’s southeast corner. Further processing such as trimming and packaging occurs offsite at a licensed third-party facility. Besides the owners/operators, no additional full-time employees would be required. The project does not propose the use of any power to support the operation.

The project is proposing to utilize seven (7) hoop houses for 10,000 SF of cultivation area. Ancillary nursery space is located on an adjacent parcel under common ownership and is limited to a 750 SF area within a 1,500 SF greenhouse. There is one (1) 2,400 SF barn on the parcel that will serve as the location for harvest storage, drying and curing, materials storage, and administrative hold; roughly half of the building is used for this project, and the remaining half is utilized for the same purposes by the adjacent project under common ownership (APN 216-083-006), Apps 11691). The project is conditioned to obtain building permits or clearances for all structures within two years of project approval.

The operations will be owner-operated with no use of employees. The applicant will utilize the existing restroom located within the residence on the adjacent parcel under common ownership, APN 216-083-006. Within two years of project approval the applicant shall obtain an assessment from a qualified septic consultant confirming a minimum of Tier 0 status for the existing Onsite Wastewater Treatment System (OWTS) serving the residence or develop a permitted OWTS.

Setbacks:

The project meets all necessary setbacks to parcel lines, streams, and environmentally sensitive habitat areas. The project was referred to the Southern Humboldt Joint Unified School District (SHJUSD) on December 3, 2019, and no comments were received indicating the project was within the setback of a school bus stop.

Energy:

The project will cultivate using no power, and attempt to dry naturally using no power. A 3kW generator is used as backup for drying and curing, and the project conditions require noise to be attenuated to a maximum of 60 decibels (dB) at the parcel lines.

Water Resources:

Water will be sourced from rain catchment within, and stored in, an existing 1,400,00-gal. pond. Applicant's total estimated annual water usage is 104,000-gallons, and the applicant should be able to obtain that amount of water through rain catchment each year.

A Water Resources Protection Plan (WRPP) was prepared in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ (WDID No. 1B161473CHUM). 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. There are six (6) stream crossings onsite, four (4) of which require remediation. Crossings at map points (MP) 10, 12, 13, and 14 require the installation of 3-6 inches of rock per the specifications of the WRPP.

A Lake and Streambed Alteration Agreement (LSAA Notification No. 1600-2019-0624-R1) has been filed with the California Department of Fish and Wildlife (CDFW) to address one (1) encroachment within the project area (Crossing 1). The LSAA authorizes the applicant to remove fill from the crossing and install a rocked ford, which shall be used only when the fording surface is dry.

The LSAA establishes specific recommendations that the applicant must apply to offset potential impacts to waterways within the area. The recommendations are summarized as follows: 1) Document all activities that occur within waterways at the project site; 2) All work shall be confined to the dry weather period, from June 15 through October 15 of each year; 3) Water diversion structures shall be constructed and maintained to not inhibit the movement of aquatic life; 4) Erosion and runoff protection measures shall be placed and maintained along streambanks prior to any construction activities; and 5) Project work was intended for completion by no later than October 15, 2021. If work was not completed, the applicant shall contact CDFW within sixty (60) days of project approval to formalize a new LSAA work deadline.

Fire Hazards:

The project is in an area designated to have High Fire Hazard Severity. The project is located outside of mapped fire protection districts, is within the Alderpoint Volunteer Fire Company's response area, and is within California Department of Forestry and Fire Protection's (CalFIRE) State Responsibility Area (SRA). No comments were received by either agency. The applicant will obtain a will serve letter from the Alderpoint Volunteer Fire Company or shall cause to be recorded

an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by the Board of Supervisors will be required. The site has ample room for CalFIRE's SRA requirements including a firetruck turnaround.

Timber Conversion:

No trees have been removed for cannabis cultivation, and no tree removal is a part of the applicant's proposal.

Biological Resources:

A list of potential special status species was generated in June 2022 using the following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). The foothill yellow-legged frog, a state-listed endangered species, was previously located in two (2) habitat areas approximately 6,000 feet to the north and 11,000 feet to the west of the project area. An observation from 1908 of the oval-leaved viburnum (*Viburnum ellipticum*) is located approximately 1,600 feet east of the project site. Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area, the type of proposed activities, and the distance of the project area from the nearest special status species. Therefore, impacts to biological resources with project are considered low and unlikely, with implementation of the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016.

Tribal Cultural Resource Coordination:

A cultural resources investigation report was prepared by Mark Arsenault, M.A., RPA, and John Flynn of Arsenault & Associates (February 18, 2021). The investigation covered the subject parcel (216-081-008) and an adjacent parcel under the same ownership (216-083-006). No historic or tribal cultural resources were identified as a result of the investigation. The report recommended implementation of the inadvertent discovery protocol. The standard inadvertent discovery protocol will be used to protect artifacts or remains that may be discovered during project work. Consultation letters were sent to Native American groups associated with the project area. The Bear River Band of the Rohnerville Rancheria expressed concern over the sensitivity of the study area due to its adjacency to a separate project site known to contain culturally sensitive archaeological deposits.

Access:

The project is located in the New Harris area, on the west side of Bell Springs Road, approximately 0.9 miles north on Bell Springs Road from the intersection of Harris Road and Bell Springs Road, then southeast on a private road for approximately 0.5 miles, in the Garberville area in southern Humboldt County. Using forms provided by Humboldt County Department of Public Works (DPW), the applicant evaluated an 8-mile segment of Alderpoint Road and a 1.4-mile segment of Bell Springs Road and found both to be developed to the equivalent of a road category 4 standard or better (January 8, 2019). Humboldt County Department of Public Works (DPW) recommended

standard conditions of approval related to fences and encroachments, driveways, and private road intersections be applied to the project.

The project is owner-operated with no use of employees, and no increase in traffic compared to baseline conditions is anticipated as part of the project. The subject project is the only cannabis application off of these roads, and the private roads are maintained by the applicant and his neighbors. It has been determined that the existing access roads meet the functional capacity needed for the project.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43:

The project site lies within the Middle Main Eel River watershed. Currently 102 approved permits for commercial cannabis exist in this watershed, and the approved acreage not including this project is 41.61-acres. If this project gains approval, the number of issued permits will be 103, and the approved acreage will be 41.84-acres. The cap on this watershed is 360 permits and 125 acres.

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

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

1. Substantial changes are proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives

which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Summary of Significant Project Effects and Mitigation Recommended

A review of Appendix G impacts:

Aesthetics: The project is for pre-existing outdoor cannabis cultivation in an existing flat. The project will not significantly impact scenic vistas or public views as the project site is surrounded by trees and cultivation will not be visible from the road. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project will utilize Agricultural Exclusive zoned land for agricultural purposes. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. The project will not result in the loss of forest land or conversion of forest land to non-forest use. No impact.

Air Quality: Minimal construction activities are associated with the project. All construction activities are associated with the development of temporary hoop houses. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project would not result in significant sources of greenhouse gas emissions. The project does utilize a unpaved road, and traffic on unpaved roads contribute to PM-10, for which the North Coast Air Basin is already in non-attainment. However, the project is owner-operated with no use of employees, and no increase in traffic on the gravel road is anticipated as part of the project. No impact.

Biological Resources: A list of potential special status species was generated in June 2022 using the following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). The foothill yellow-legged frog, a state-listed endangered species, was previously located in two (2) habitat areas approximately 6,000 feet to the north and 11,000 feet to the west of the project area. An observation from 1908 of the oval-leaved viburnum (*Viburnum ellipticum*) is located approximately 1,600 feet east of the project site. Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area, the type of proposed activities, and the distance of the project area from the nearest special status species. Therefore, impacts to biological resources with project are considered low and unlikely, with implementation of the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016. Less than significant impact.

Cultural Resources: A cultural resources investigation report was prepared by Mark Arsenault, M.A., RPA, and John Flynn of Arsenault & Associates (February 18, 2021). The investigation covered the subject parcel (216-081-006) and an adjacent parcel under the same ownership (216-

083-008). No historic or tribal cultural resources were identified as a result of the investigation. The report recommended implementation of the inadvertent discovery protocol. The standard inadvertent discovery protocol will be used to protect artifacts or remains that may be discovered during project work. Consultation letters were sent to Native American groups associated with the project area. The Bear River Band of the Rohnerville Rancheria expressed concern over the sensitivity of the study area due to its adjacency to a separate project site known to contain culturally sensitive archaeological deposits. No impact.

Energy: The project will not utilize power for cultivation, and will attempt to dry and cure harvested cannabis naturally without the use of power. A 3kW generator will be utilized for drying and curing, which will be verified to operate at or below 60 decibels (dB) at the parcel lines. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. The project occurs on flat land that has historically been used for agriculture. No significant grading is proposed to occur. All structures with a nexus to cannabis operation shall obtain building permits or clearances within two years of project approval. No impact.

Greenhouse Gas Emissions: The site has historically used a small 3kW generator to dry and cure cannabis, which is considered part of baseline conditions for the purposes of CEQA. Additionally, the site has been owner operated, which is not proposed to change. No additional vehicle miles traveled (VMT) are expected to result from this permit. Less than significant impact.

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

Hydrology and Water Quality: The project is for a total of 10,000 square feet of cannabis cultivation in pre-disturbed open flat. The project will not degrade any water sources or contribute to sedimentation, assuming the project maintains compliance with the terms and conditions set forth in the Water Resources Protection Plan (WRPP) developed in accordance with State Water Resource Control Board (SWRCB) policies. Streams and stream crossings located near the project are all outside of requisite Streamside Management Areas (SMA), and both the WRPP and Lake and Streambed Alteration Agreement (LSAA) from California Department of Fish and Wildlife (CDFW) require the applicant to upgrade and maintain culverts at stream crossings, improve and maintain access roads, and proper management of project spoils. The project will utilize rain catchment for irrigation. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned for Agriculture. The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact.

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

Noise: The cultivation will occur without the use of power for any reason, including circulation fans for hoop houses or greenhouse structures. A 3kW generator is proposed to supplement the natural capabilities of the area for drying and curing cannabis. Noise from the generator shall be attenuated and will not be more than 60 decibels (dB) at the parcel lines, or audible from neighboring residences. The operational noise is considered part of baseline conditions for the purpose of environmental review and CEQA. There is no reason to believe the noise source will be increased substantially on-site. The project will not result in the generation of excessive groundborne vibration or noise levels. Less than significant impact.

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

Public Services: The project is for 10,000 square feet of cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

Recreation: The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. There are no recreational facilities located within 600 feet of the project. No impact.

Transportation: The project will be owner-operated without the use of employees. A Road Evaluation Report (RER) prepared by the applicant and verified by staff, including Department of Public Works, to adequately serve the parcel and project. The project site will also have adequate emergency access. No impact.

Tribal Cultural Resources: A cultural resources investigation report was prepared by Mark Arsenault, M.A., RPA, and John Flynn of Arsenault & Associates (February 18, 2021). The investigation covered the subject parcel (216-081-006) and an adjacent parcel under the same ownership (216-083-008). No historic or tribal cultural resources were identified as a result of the investigation. The report recommended implementation of the inadvertent discovery protocol. The standard inadvertent discovery protocol will be used to protect artifacts or remains that may be discovered during project work. Consultation letters were sent to Native American groups associated with the project area. The Bear River Band of the Rohnerville Rancheria expressed concern over the sensitivity of the study area due to its adjacency to a separate project site known to contain culturally sensitive archaeological deposits. No impact.

Utilities and Service Systems: Solid waste is taken to approve transfer station on a regular basis, and is stored in wildlife proof containers while onsite. The project will utilize an existing onsite

wastewater treatment system connected to the residence on adjacent parcels. Water for propagation and cultivation is sourced from rain catchment from a 1,400,000-gal. pond. Power is limited to drying and curing, which is proposed to occur using natural ambient heat and circulation, with a small 3kW generator used for emergency backup. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. There will be no significant new structures that will increase the risk of wildfire. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 10,000 square feet of cultivation with ancillary propagation and processing activities is fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents:

- Addendum to Cultivation & Operations Plan and Cultivation & Operations Plan
- Site Plan
- Property Survey
- Notice of Applicability and Initial Statement of Water Diversion and Use letters from the State Water Resources Quality Control Board
- Water Resources Protection Plan
- Road Evaluation
- Department of Environmental Health Worksheet
- County GIS
- Lake and Streambed Alteration Agreement

Other CEQA Considerations

Staff suggests no changes for the revised project.

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

See **Purpose** statement above.

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

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

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

- A cultural resources investigation report was prepared by Mark Arsenault, M.A., RPA, and John Flynn of Arsenault & Associates (February 18, 2021). The investigation covered the subject parcel (216-081-006) and an adjacent parcel under the same ownership (216-083-008). No historic or tribal cultural resources were identified as a result of the investigation. The report recommended implementation of the inadvertent discovery protocol. The standard inadvertent discovery protocol will be used to protect artifacts or remains that may be discovered during project work. Consultation letters were sent to Native American groups associated with the project area. The Bear River Band of the Rohnerville Rancheria expressed concern over the sensitivity of the study area due to its adjacency to a separate project site known to contain culturally sensitive archaeological deposits. The project site meets or exceeds the setbacks from tribal cultural resources.

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

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

Mitigation Measure 3: Required setbacks from watercourses, wetlands, and Environmentally Sensitive Habitat Areas (55.4.11(d)).

- The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel does contain streams, but meets the setbacks required from streams. Further, the project is conditioned to adhere to the recommendations and requirements set forth in the LSAA and the WRPP created for the parcel and made part of the land use permit.

Mitigation Measure 4: Permitting Tiers and related requirements (55.4.8.2 et seq.)

- The project is for 10,000 square feet of pre-existing cultivation in an Agriculture Exclusive (AE) zone which requires a Special Permit. The project complies with the requirements described in 55.4.8.2 *et seq.*

Mitigation Measure 5: Retirement, Remediation, and Relocation Program (55.4.14)

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

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for pre-existing cultivation consistent with baseline conditions which is eligible in an Agriculture Exclusive (AE) zone. No new increased cultivation will occur. There was no tree removal conducted for cannabis cultivation activities.

Mitigation Measure 7: Use of fertilizer, pesticide, fungicide, rodenticide, or herbicide (55.4.11(j)).

- The project operations plan describes measures that will be taken to properly store and handle hazardous materials. Compliance with the operations plan is a condition of

project approval. The use of anticoagulant rodenticide is prohibited. The project is conditioned requiring the applicant to provide written compliance with the Certified Unified Program Agency (CUPA) requirements.

Mitigation Measure 8: Diversion of surface water and trucked water (55.4.11(l)-(m)).

- The project will utilize rain catchment for irrigation. No surface water diversion is a part of the project.

Mitigation Measure 9: Generator Use (55.4.11(o)).

- Power is limited to drying and curing harvested cannabis, which is proposed as utilizing natural ambient heat and circulation. A small 3kW generator was historically used to serve as backup in times of low temperatures. The generator is required to operate at or below 60 decibels (dB) at the parcel lines, and shall not be audible from neighboring residences. As conditioned, generator use will continue to serve as backup for drying cannabis, in accordance with baseline conditions contemplated in the MND.

Mitigation Measure 10: Storage of Fuel (55.4.11(p)).

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

Mitigation Measure 11: Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).

- The project will be owner-operated with no employees.

Mitigation Measure 12: Performance Standards for Mixed Light Cultivation (55.4.11).

- The project is for outdoor cultivation and does not use artificial light.

Mitigation Measure 13: Humboldt Artisanal Branding Provision (55.4.15).

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

Mitigation Measure 14: Sunset Clause for applications

- The application was received on December 7, 2016, prior to the sunset of the ordinance.

Based upon this review, the following findings are supported:

FINDINGS

1. The proposed project will permit an existing cannabis operation and bring the operation into compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.

3. For the current proposed project, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

CONCLUSION

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