

ATTACHMENT 3

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

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

**APN 221-201-007; 1677 Dutyville Road, Ettersburg area
County of Humboldt**

**Prepared By
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Background

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

The modified project involves a Conditional Use Permit for an existing 11,600 square foot (SF) cannabis cultivation and 1,160 SF of ancillary propagation. Irrigation water is currently sourced from a permitted groundwater well and three (3) stream diversions on the subject parcel; however, the applicant will discontinue use of the well until the well is assessed for hydrologic connectivity and proposes to add rainwater catchment. Existing available water storage is 82,350 gallons in a series of hard-sided tanks, with an additional 20,000 gallons proposed, for a total of 102,350 gallons of onsite water storage. Estimated annual water usage is 164,100 gallons. Processing occurs onsite within an existing two-story, 5,376-square-foot ag building. Up to three (3) persons may be utilized onsite during peak operations. Power is provided by PG&E. A Special Permit is also requested for development within the Streamside Management Area for the use and maintenance of the point of diversion.

The project site contains riparian habitat associated with several unnamed Class III watercourses, which traverse the eastern and southern portions of the subject property, respectively. Additionally, the Mattole River, a Class I waterway, which runs adjacent to the western boundary of the parcel. All approved cannabis cultivation activities would occur outside of the required stream setbacks and on slopes less than 5%. The Nearest Northern Spotted Owl (NSO) activity center is located approximately 2.55 miles from the cultivation area, with the nearest NSO sighting located approximately 2.11 miles away. Conditions of approval require the applicant use light and noise attenuation to ensure the project has a Less the Significant Impact on NSO. A condition of project approval is inadvertent discovery protocols for cultural resources consistent with the recommendation of the Bear River Band of the Rohnerville Rancheria in February 2020.

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

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

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

Summary of Significant Project Effects and Mitigation Recommended

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 11,600 square feet of outdoor 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 (see Attachment 3 for a complete listing of document):

- Site Plan prepared by North Coast Cannabis Compliance, received 9/25/22.
- Cultivation and Operations Plan, received 1/14/20, and Amendment to Cultivation and Operations Plan prepared by North Coast Cannabis Compliance, received 9/25/22, with additional project information provided by North Coast Cannabis Compliance via email correspondence to the Assigned Planner, dated 9/30/22 and 10/27/22.
- Streambed Alteration Agreement (Notification No. 1600-2017-0156-R1) issued by the California Department of Fish and Wildlife, received 9/18/17.
- Right to Divert and Use Water (Registration No. H504738, Certificate No. H100399) issued by the State Water Resources Control Board, received 1/14/20.
- Water Resource Protection Plan (WDID 1B171719CHUM) prepared by Timberland Resource Consultants, received 1/14/20, for the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023 Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects In the North Coast Region (Order).
- Well Completion Report (WCR2019-010444), received 1/14/20.
- Road Evaluation Report for Dutyville Road prepared by the applicant, received 1/14/20.

Other CEQA Considerations

Staff suggests no changes for the revised project.

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

See Purpose statement above.

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

FINDINGS

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

importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

CONCLUSION

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