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VIA EMAIL ONLY (PLEASE CONFIRM RECEIPT)

County of Humboldt
Humboldt County Planning Commission
Hon. Alan Bongio, Chair
Planningclerk@co.humboldt.ca.us

Humboldt County Planning Department
Attn: John Ford, Planning Director
Desmond Johnston, Supervising Planner
Email: jford@co.humboldt.ca.us;
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Re: **Follow Up Comments Concerning Blocksburg Family Farm, LLC Conditional Use Permits for Approximately Six Acres of Commercial Cannabis Propagation, Cultivation and Processing** (PLN-12265-CUP; APN: 217-471-001)

On behalf of Citizens for a Sustainable Humboldt (“CSH”) and the Northcoast Environmental Center (“NEC”), we are writing to object to placing the above-referenced industrial scale commercial cannabis project (the “Project”) back on the Planning Commission agenda before staff have fully addressed the substantial and supported comments submitted by CSH & NEC, the California Department of Fish and Wildlife (“CDFW”), and the California Department of Cannabis Control (“CDCC”).

The Staff Report for this Project ignores multiple substantive comments concerning, *inter alia*, the Project’s intended water supply and the adequacy of its access road under the County’s SRA Fire Safe Regulations.¹ One must ask, why does staff ignore comments pointing out (with supporting evidence), for example, how the pump tests conducted for the Project’s wells did not satisfy the County’s own regulatory standards?² As CSH and NEC stated in their Prior Comments, without this and other critical information it is impossible to determine long-term sustained yield of the wells. In the face of such uncertain water supplies, alternative sources must be identified and their impacts analyzed pursuant to CEQA. This is just one example of the numerous areas of incomplete impact analysis.

¹ See attachment to Agenda Item Transmittal for April 21, 2022 Planning Commission meeting, Agenda Item G.2. (“Staff Report”), Prior Comments, pp. 5-16 (pp. 108-119 of Staff Report .pdf).

² See Staff Report, p. 5 [“Water is presently sourced from an existing, onsite non-diversionary well that has a production rate of 28 gallons/minute, as established in a recent drawdown pump test”]. CSH and NEC pointed out in the Prior Comments how this pump test was not conducted in the dry season as clearly specified in County regulations and guidance documents. This staff report includes the same unsupported statement, completely disregarding the Prior Comments.

The Staff Report describes the access road as a “driveway” and the IS/MND vaguely describes the required emergency vehicle “turnaround” required under the County’s SRA Fire Safe Regulations (see § 3112-7). Neither the Staff Report nor the IS/MND address whether this turnaround, as designed, satisfies the regulatory requirements. Neither the Staff Report nor the IS/MND address whether the access “driveway” adheres to the requirements for dead end roads set forth in Humboldt County Code, § 3112-11.³ As previously explained, access roads that do not satisfy the minimum standards of the SRA Fire Safe Regulations can exacerbate the risk of wildfire and can impact public services.

Based on the information and analysis provided in the Initial Study / Mitigated Negative Declaration (“IS/MND”) for this Project and in the staff reports, County staff have not conclusively ruled out the potential for significant environmental impacts, as is required to proceed with a n MND.⁴ An Environmental Impact Report (“EIR”) may therefore be required. CSH and NEC raised this issue in their initial comments as follows:

The public cannot meaningfully evaluate and comment on the Project and its potentially significant impacts without this and other missing basic information (e.g., dry season well pump tests and a description of access road pinch points). In addition, because the IS/MND lacks essential information regarding the Project’s potentially significant impacts, there is no evidence to support the necessary conclusion that the Project will “clearly” have a less-than-significant impact on the environment.

The Staff Report does not address this important issue. An EIR may be appropriate here, given that this large-scale commercial project (involving, at build-out, 6.39 acres of cultivation, up to twenty-five (25) employees, and approximately 3,157,826 gallons of water annually).

Finally, CSH and NEC must address the issue of procedural fairness and due process. The staff report repeatedly characterizes the comments as “late.” This characterization is incomplete and, unfortunately, ironic. After reviewing the staff report for the Project prior to the last meeting in March (which staff report presented new information and analysis not provided in the IS/MND)⁵, CSH and NEC directed the undersigned to submit comments

³ For example, dead end roads are supposed to have turnarounds at their terminus. (HCC, § 3112-11(c).) The access roads for this Project do not appear to comply with this mandatory standard. (See Appendix A to IS/MND, Parcel Overview map.) Neither the staff report nor the IS/MND identify and address this obvious inconsistency.

⁴ See Pub. Resources Code, §§ 21064.5, 21080(c), 21157.; see also 14 C.C.R. (CEQA Guidelines) § 15064(f), 15065(b)(1), 15070(b)(1); see also, e.g., *San Bernardino Valley Audubon Soc’y v. Metro. Water Dist.* (1999) 71 Cal.App.4th 382, 391 [“CEQA allows the use of a mitigated negative declaration only where the mitigation measures modify the potentially significant impacts of the Project “to a point where clearly no significant effects would occur...” [Citation.] If significant effects remain after mitigation, an EIR is required”], quoting CEQA Guidelines, § 15070(b)(1).]

⁵ See, e.g., Agenda Item Transmittal for March 3, 2022 Planning Commission Meeting, Agenda Item H.1., p. 3-8 [staff summary]; see also *id.* at .pdf p. 71, Sensitive Natural Community Mitigation and Monitoring Plan; see also *id.*

concerning the inadequate analysis of potentially significant impacts. As is allowed, the comments responded to information presented just prior to the meeting in the staff report as well as the underlying analysis. In other words, CSH and NEC's Prior Comments were timely because staff presented new information in the initial staff report for this Project that amended the analysis in the IS/MND.

The Staff Report presented for consideration at the April 21st meeting includes still more new information not previously presented to the public.⁶ The public has an absolute right to comment on this new information and analysis (not presented in the IS/MND) and should be afforded a reasonable opportunity to do so in order for their feedback to be considered. It is disingenuous, at best, for staff to criticize so called "late" comments concerning new information presented in staff's reports to the Planning Commission. If staff attempts to "cure" the glaring defects in the analysis (or ignore substantive and supported Prior Comments), they should expect comments from the concerned public. By criticizing substantiated and relevant public comments as "late" rather than addressing the substance of the comments in their entirety, staff downplays the comments. This approach conflicts with the important participation role the public is afforded under CEQA.⁷

Staff regularly make it a practice to present new substantive analysis at the last minute, giving the public little time to review and weigh in on the analysis. For example, in our experience, staff regularly schedules consideration of projects for approval at the tail end of the respective IS/MND comment period, preventing staff from considering comments received as they draft staff reports and shortchanging the decision-makers' ability to consider timely public comments. In fact, the comment period for the revised IS/MND for this Project ended on April 18th, several days after the staff report for the Project was released. This now-familiar timing once again precluded inclusion of any comments on the revised IS/MND in the agenda package for this Project. The pattern of routinely issuing staff reports before the close of public comments (1) demonstrates that staff have not considered public feedback on environmental review documents before making recommendations to the Planning Commission and (2) strongly suggests that staff intend to prevent Planning Commissioners from timely considering relevant public comments on environmental review documents. Staff could easily avoid this problematic situation by scheduling projects for consideration after the close of the respective public comment period (affording sufficient time to consider public comments, as appropriate

at pp. 13-17 [CEQA Findings re environmental impacts]; *see also id.* at p. 100 [email from Greg O'Connell at CDFW re IS/MND analysis].

⁶ *See* Staff Report, p. 5 [new analysis concerning Governor's executive order regarding drought]; *see also id.* at p. 8 [description of "late" public comment]; *see also id.* at pp. 10-19 [revised Planning Commission Resolution, including revised CEQA Findings]. Note: Finding 6 at the top of p. 17 of the Staff Report is illegible.

⁷ *See, e.g.,* PRC, § 21003(b); *see also* CEQA Guidelines, §§ 15002(a)(1), (4), (j), 15003(b), (d), (e),

under the circumstances). Staff's criticism of so-called "late" comments in its report is therefore misplaced and inappropriate.

* * *

CSH and NEC urge staff to carefully consider, and not disregard and unfairly criticize, the substantive comments they helpfully provided concerning this Project's unanalyzed and unmitigated potentially significant environmental impacts. The timely substantiated comments they submitted (along with the comments from CDFW and CDCC) demonstrate the numerous ways in which this Project does not even satisfy the County's own standards and requirements, let alone CEQA's requirements for an informational document that reflects a "good faith effort at full disclosure." Staff must squarely address these inconsistencies – not brush them under the rug or criticize public commenters for pointing out inconsistencies with mandatory requirements that staff themselves should not allow in the first instance.

As explained in CSH and NEC's Prior Comments, this large-scale Project in a remote greenfield area requires much more robust analysis, most probably in the form of an EIR, before it can be considered for approval.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'J. Holder', with a long horizontal stroke extending to the right.

Jason Holder

cc: (Via e-mail only)
Client contacts