

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
(State Clearinghouse # 2015102005), January 2016**

APN 317-033-008-000; Pilot Ridge 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 Conditional Use Permit for 19,595 square feet (sf) of pre-existing outdoor commercial cannabis cultivation, and 1,142 sf of ancillary propagation. Cultivation will utilize light-deprivation techniques in greenhouses without the use of supplemental lights. Water used for irrigation is sourced from two (2) permitted wells. The applicant estimates 577,500 gallons of water used for irrigation per year. Off-grid power is supplied by one generator, and solar arrays are used to run heaters and dehumidifiers for drying and to power the water pumps. If approved, the project is proposed to be conditioned to transition to 100 percent on-site renewable energy by January 1, 2026.

The existing structures on site include one (1) 1500-SF two-story (25' x 30') metal building used for harvest storage, processing and drying and one (1) 390-SF (15' x 26') storage shed. Drying and curing will occur onsite within the existing buildings. The applicant may also utilize off-site processing should it become necessary. The applicants do not propose employees and intend to perform all cultivation work themselves. Electricity is provided through the one (1) Honda EB5000X generator, housed in a secondary containment structure. The generator shall be required to require electricity to be sourced from renewable sources by January 1, 2026. The applicant is proposing a 6 kW off-grid solar panel system to meet this condition following project approval.

Water Resources

The project sources irrigation water from an existing two (2) existing groundwater wells [Permit Nos. 18/19-0423 (30 gpm) and 18/19-0264 (1 gpm)]. Both wells are utilized for domestic use and irrigation needs. The applicant shall monitor irrigation water separately from irrigation and have these meter readings available when requested. Total annual water usage for irrigation is estimated at 577,500 gallons (27.8 gal/sf/yr). Total water storage is currently contained within water storage bladders that will be replaced with 50,000 gallons in water storage tanks. There is also one (1) 2,500-gallon hard water tank on-site designated for fire suppression only.

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 remediation of historic cultivation areas, 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 other agricultural sites. 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 agriculture exclusive 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: 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. Less than significant impact.

Biological Resources: The project is located approximately 0.43 miles to the nearest known Northern Spotted Owl (NSO) activity center. The applicant obtained a Riparian and Stream Assessment prepared by Timberland Resource Consultants, dated June 26, 2017. the assessment was conducted on April 7, 2017, and habitat for several special status species were present and the species were assumed to occur within the study area including Northern Spotted Owl (*Strix occidentalis caurina*), Coho Salmon (*Oncorhynchus kisutch*), Steelhead Trout (*Oncorhynchus mykiss*), Chinook Salmon (*Oncorhynchus tshawytscha*), Southern Torrent Salamander (*Rhyacotriton variegatus*), northern red-legged frog (*Rana aurora*), foothill yellow-legged frog (*Rana boylei*), and tailed frog (*Ascaphus truei*). The assessment states that indirect impacts to riparian and aquatic resources are primarily related to the potential for sediment delivery. An indirect impact with regard to the water crossing was recommended to be mitigated by

way of a bridge installation in combination with post-installation monitoring to ensure the stability of the stream banks. Implementation of best management practices, no use of rodenticides, mitigation of generator noise, light prevention from greenhouses at night, and proper storage of fuel, fertilizers, pesticides, fungicides or other toxic substances are ongoing conditions of approval. The applicant is required to comply with International Dark Sky Standards for lighting within the propagation greenhouse and shall ensure that all noise levels do not exceed 50 decibels at 100-feet or at any tree line when noise generating equipment is in use. Less than significant impact.

Cultural Resources: The project is located within the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Bear River Band of Rohnerville Rancheria, and the Northwest Information Center (NWIC) August 28, 2017. NWIC had no record of any previous cultural resources for the project area, NWIC recommended consultation with the local tribal representatives. A response was received from the Bear River Band tribe on October 3, 2017, stating that the project did not appear to represent a source of significant impacts on cultural resources and requested the applicant adhere to Inadvertent Discover Protocols, and 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. No impact.

Energy: Off-grid power is supplied by one generator and proposed solar arrays. The project is conditioned to transition to 100 percent on-site renewable energy by January 1, 2026. 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 will occur. No impact.

Greenhouse Gas Emissions: Off-grid power is supplied by one generator and proposed solar arrays. If approved, the project is proposed to be conditioned to transition to 100 percent on-site renewable energy by January 1, 2026. 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 an agriculture/chemical storage shed, within secondary containment. The project does not expose the public to hazards. The project is in a rural area rated as a very 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 19,595 square feet of cannabis cultivation in existing open flats. The site is located in the Mad River Watershed. There are three (3) watercourses that run through the project parcel. Showers Creek (Class I) runs from west to east and is a tributary to the Mad River. A crossing of Showers Creek, fish-bearing stream, poses an on-going threat to both wildlife and water quality. The project is conditioned to install a bridge to mitigate any degradation and or sedimentation of any water sources. All cultivation will be irrigated by hand watering and with a drip irrigation system. The project will utilize two (2) permitted wells for irrigation and domestic use, however, the County does not have record of the neighboring parcel owner granting permission to utilize well #2 for irrigation purposes, therefore, the project is conditioned such that the applicant will not have access to well #2 for irrigation purposes until the application is able to provide written permission to the County. The site is currently enrolled in the State Water Resources Control Board's General Order (No. WQ 2019-0001-DWQ) for Waste Discharge Requirements and Water Quality. 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 project will be powered by solar arrays and a generator. The project is conditioned to transition to 100 percent on-site renewable energy by January 1, 2026. Noise sources from the operation will include drying activities, which will occur within an enclosed structure. Drying activities would involve the use of fans. The temporary noise impacts from these activities would not create a substantial increase in noise levels. There is no reason to believe the noise source will be increased substantially on-site. The project is required to ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use. 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 19,595 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: Access to the project site is from privately maintained Road on the north side of Stapp Road, approximately 5 miles from the intersection of Showers Pass Road and Stapp Road. It is a requirement that continued access to the operation be via the improved crossing once such a crossing is in place. It needs to be noted that CDFW in their written referral comments has requested that no cultivation occur without a permanent bridge crossing in place. County staff recommends that the operation be given the ability to continue to operate for at least three years while seeking funding and permitting of the permanent crossing. No employees are proposed. The operations are pre-existing, and no increase in traffic is anticipated. The project site will also have adequate emergency access. Less than significant impact.

Tribal Cultural Resources: The project is located within the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Bear River Band of Rohnerville Rancheria, and the Northwest Information Center (NWIC) August 28, 2017. NWIC had no record of any previous cultural resources for the project area, NWIC recommended consultation with the local tribal representatives. A response was received from the Bear River Band tribe on October 3, 2017, stating that the project did not appear to represent a source of significant impacts on cultural resources and requested the applicant adhere to Inadvertent Discover Protocols, and shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. The project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol. No impact.

Utilities and Service Systems: Solid waste is taken to the nearest Transfer Station in an

amount the service station is capable of handling. No employees are proposed. Water for propagation and cultivation is sourced from a two (2) permitted wells. Power is sourced by three solar arrays and a generator that will be phased out by January 1, 2026. 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 19,595 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:

- Cultivation & Operations Plan
- Site Plan
- Final Streambed Alteration Agreement with CDFW
- Notice of Applicability letter from the State Water Resources Quality Control Board
- Site Management Plan
- Less Than 3 Acre Conversion Report
- Riparian and Stream Assessment
- Well Completion Reports
- Road Evaluation Report Form
- Department of Environmental Health Worksheet
- County GIS

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)).

- The project is located within the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Bear River Band of Rohnerville Rancheria, and the Northwest Information Center (NWIC) August 28, 2017. NWIC had no record of any previous cultural resources for the project area, NWIC recommended consultation with the local tribal representatives. A response was received from the Bear River Band tribe on October 3, 2017, stating that the project did not appear to represent a source of significant impacts on cultural resources and requested the applicant adhere to Inadvertent Discover Protocols

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 cultivation areas are away from any streams or wetlands on-site, and meet the setbacks required from property lines, schools, school bus stops, church or other place of religious worship, Public Park or tribal cultural resource.

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

- The project is for 19,595 square feet of pre-existing cultivation in the Timber Production Zone (TPZ) zone which requires a Conditional Use 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 Timber Production Zone (TPZ) zone. No new increased cultivation will occur. There was no timber conversion conducted for cannabis cultivation activities, and the project will implement oak restoration activities on-site.

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 two (2) permitted wells for irrigation water source. The surface water diversion on site is specifically for domestic purposes and has no nexus to cannabis operations.

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

- Power will be sourced by solar arrays and a generator. 100% renewables is required and conditioned to occur no later than January 1, 2026. The project is required to ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use.

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)).

- Applicant has provided a statement declaring they are 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).

- The project includes onsite ancillary processing and the operations plan describes processing practices.

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

- The project is required to adhere to International Dark Sky Standards for all lighting in the propagation greenhouse.

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 August 29, 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.