



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

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Hearing Date: April 21, 2022

To: Humboldt County Zoning Administrator

From: Cliff Johnson, Supervising Planner

Subject: **New Earth Farms, LLC, Special Permits**
Record Number: PLN-12260-SP
Assessor's Parcel Number (APN): 524-072-010
Approximately 3000 feet N from the intersection of Friday Ridge Rd and USFS
6N13 Rd, on the property known to be in Township 06N of Range 05E Section 17
Humboldt Base & Meridian, Willow Creek area

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Please contact Megan Marruffo, Assigned Planner, at 707-443-5054 or by email at marruffom@lacoassociates.com, if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date April 21, 2022	Subject Special Permits	Contact Megan Marruffo
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Project Description: A Special Permit for 10,000 square feet (SF) of pre-existing mixed light cultivation. Ancillary propagation is proposed to occur in one 20' by 50' (1,000 SF) sub section of a 20' by 120' (2,400 SF) greenhouse. Irrigation water will be sourced from rainwater catchment. Estimated annual water usage is currently 150,000 gallons. There will be a total of 247,500 gallons of onsite water storage. Processing activities including drying, curing, and trimming will occur in a proposed 2,500 SF structure. Power is currently provided by a gasoline generator; however, there is a Pacific Gas and Electric Company (PG&E) power drop already in place onsite, and the applicant will be transitioning to PG&E power prior to the 2023 cultivation season. A generator will be used as an emergency source of power. A Special Permit is also requested to reduce the required 600-foot setback from Public Lands.

Project Location: The project is located in Humboldt County, in the Willow Creek area, on the north side of Friday Ridge Rd, approximately 3000 feet N from the intersection of Friday Ridge Rd and USFS 6N13 Rd, on the property known to be in Township 06N of Range 05E Section 17 Humboldt Base & Meridian.

Present Plan Land Use Designations: Residential Agriculture (RA40): forty acres per dwelling unit, Slope Stability: Moderate instability (2).

Present Zoning: Unclassified (U)

Record Number: PLN-12260-SP

Assessor's Parcel Number: 524-072-010

Applicant

New Earth Farms, LLC
PO Box 153
Willow Creek, CA 95573

Owner

Second 707 Realty LLC
PO Box 153
Willow Creek, CA 95573

Agent

NorthPoint Consulting Group, Inc.
Phil Standish
1117 Samoa Blvd
Arcata, CA 95521

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: None.

New Earth Farms, LLC
 Record Number: PLN-12260-SP
 Assessor's Parcel Number: 524-072-010

Recommended Zoning Administrator 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:

Find that the Zoning Administrator has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permits based on evidence in the staff report, and adopt the Resolution approving the proposed New Earth Farms, LLC, project subject to the recommended conditions.

Executive Summary: New Earth Farms, LLC, seeks a Special Permit for the continued operation of 10,000 square feet (SF) of pre-existing mixed-light cultivation 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). A Special Permit is also requested to reduce the required 600-foot setback from public lands. The site is designated as Residential Agriculture (RA40) in the Humboldt County 2017 General Plan Update and zoned Unclassified (U). Cultivation takes place in the central portion of the property, within six (6) greenhouse structures, with propagation, drying, and storage occurring in a separate greenhouse just to the south. Three (3) harvests are anticipated annually for a growing season that extends from April through October.

Processing activities including drying, curing, and trimming will occur in a proposed 2,500-square-foot structure. Up to eleven (11) employees may be utilized onsite. Power is currently provided by a gasoline generator; however, there is a Pacific Gas and Electric Company (PG&E) power drop already in place onsite, and the applicant will be transitioning to PG&E power prior to the 2023 cultivation season. Conditions of approval require the applicant to provide evidence to the Planning Department that the transition occurred prior to commencing the 2023 cultivation season. The operation will be secured behind a gated road and access to the cultivation area is limited exclusively to employees. All lighting will be fully shielded to avoid adverse impact on neighboring properties and surrounding wildlife.

Existing and Proposed Development and Restructuring

As noted above, the site is currently developed with six (6) greenhouses, which are detailed below in Table 1.

Table 1: Existing Structures

Existing Structures Onsite			
Map ID	Structure	Dimensions (feet)	Size (SF)
1	Mixed Light Greenhouse	20'x75'	1,500
2	Mixed Light Greenhouse	20'x75'	1,500
3	Mixed Light Greenhouse	20'x75'	1,500
4	Mixed Light Greenhouse	20'x75'	1,500
5	Mixed Light Greenhouse	20'x75'	1,500
6	Mixed Light Greenhouse	20'x125'	2,500
Total			10,000

Proposed additions and restructuring onsite include a new 230,000-gallon hard sided water storage tank, a 2,500 SF processing, harvest storage, and drying facility, and the restructuring of the propagation area (measuring 1,000 SF), to be located just south of the cultivation area. Until the 2,500 SF processing, harvest storage, and drying facility can be constructed and utilized, a 2,400 SF greenhouse is proposed to be utilized as a drying and storage area (1,400 SF) and the propagation area (1,000 SF). Upon construction

of the processing building being complete, the 2,400 SF greenhouse will be restructured to be a 1,000 SF greenhouse to serve solely as the propagation area for the project.

Setback from Six Rivers National Forest

The proposed project includes a Special Permit to reduce the 600-foot setback from Six Rivers National Forest (SRNF)-owned lands, located immediately adjacent to the west and north (APN 524-072-001) and east (APN 524-073-002) of the subject site. Existing onsite cultivation occurs approximately 228 feet west of APN 524-073-002 to the east and 220 feet east of APN 524-072-001 to the west of the adjacent public lands per Humboldt County's WebGIS, with the existing propagation and drying greenhouse located approximately 70 feet west of APN 524-073-002 to the east and 428 feet east of APN 524-072-001 to the west of the adjacent SRNF-owned lands. The project was referred to SRNF in January 2021. SRNF staff responded on February 1, 2021 (Attachment 4), which recommended denial and indicated the project takes access over Forest Service lands, further noting "the use, cultivation and transportation of cannabis on Forest Service lands is illegal."

The adjacent public land is subject to the Six Rivers National Forest Plan (SRNFP) adopted in 1995. The project is consistent with the SRNFP because the cultivation activities will minimize impacts to biological resources and wildlife through measures to reduce potential light and noise impacts. The project will not require substantial road improvements or the removal of trees. The project will also protect fisheries and aquatic habitat on forest lands by maintaining buffers from streams, by placing controls on water withdrawals and on the storage and use of pesticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations and requiring adequate road access. The SRNFP's provisions for heritage resource protection will be met through the project consultation with Tribal Historic Preservation Officers (THPO) and avoidance of sensitive tribal cultural resources. Additionally, a Site Management Plan (SMP; discussed further below) was developed for the project. The SMP was developed to prevent and/or address poor water quality conditions and adverse impacts to water resources associated with cannabis cultivation on private land. Finally, the project is consistent with recreational use on public lands by maintaining a minimum 600-foot buffer separation from developed campgrounds and/or trails. As a result, there will not be any new erosion, wind damage, elimination of wildlife corridors, loss of scenic beauty, or reduction of quality habitat for plants and animals. Therefore, there are no existing or proposed developments within the park that would be impacted as result of the proposed project. Because the proposed project was in existence prior to January 1, 2016, is more than 600 feet from developed recreational facilities, and includes operational changes to improve the project's baseline conditions, Planning staff recommends approval of the setback reduction.

Water Resources

The site is currently developed with one (1) 5,000-gallon and five (5) 2,500-gallon hard sided water tanks totaling 17,500 gallons. The project proposes the addition of a 230,000-gallon hard tank, bringing total onsite water storage to 247,500 gallons.

The estimated annual water usage totals 150,000 gallons (14.2 gal/SF). Water for irrigation is provided by proposed and existing rainwater catchment infrastructure consisting of an existing residence, the proposed drying and processing building, and a proposed 230,000-gallon water storage tank, as detailed in Table 2 below. The average rainfall for the project area is 55.4 inches (4.6 feet), based on averaging rainfall values from 2011 through 2020 as recorded by PRISM Climate Group (*Prism Climate Data, 2022*). Impermeable surfaces such as roofs, driveways, etc. in general allow for about 620 gallons of rainwater catchment per 1,000 SF for every 1-inch of rainfall or 0.62 gallons per SF. With a total impermeable rainwater catchment area of 5,702 SF, and an average rainfall amount of 55.4 inches, the site's potential capture amount totals 195,852 gallons per year, on average. A detailed breakdown of proposed rainwater capture infrastructure and capture potentials are provided below in Table 2.

Table 2: Rainwater Infrastructure Capture Potential

Infrastructure Description	Potential Capture Area (ft ²)	Potential Average (2011-2020) Rainfall Capture Amount (gallons)
Existing Residence	1,750	60,109
Proposed drying and processing building	2,500	85,870
Proposed 230,000-gallon water storage tank	1,452	49,873
Totals:	5,702	195,852

Rainwater that is captured through the existing infrastructure will be stored within one (1) 5,000-gallon and five (5) 2,500-gallon hard sided water tanks totaling 17,500 gallons. The project proposes the addition of a 230,000-gallon hard tank bringing total storage to 247,500 gallons. The total onsite storage exceeds project needs (150,000 gallons per year) by 65% (or 97,000 gallons).

The project site has a shallow well (Permit No. 16/17-0181). The well is located in the central portion of the site, adjacent to the cultivation area and approximately 180 feet south from the nearest Streamside Management Area (SMA). The well is included as a point of diversion in the applicant's final Streambed Alteration Agreement (SAA) (Notification No. 1600-2019-0376-R1) authorized on September 13, 2019, by the California Department of Fish and Wildlife (CDFW). The SAA includes four encroachments, including two (2) points of diversion (the well and an on-stream pond) and two (2) stream crossing upgrades. Conditions of approval require the applicant to implement any remaining projects and to comply with the requirements established under the SAA. Approval of this permit does not authorize the use of this point of diversion to support commercial cannabis irrigation needs, as sufficient rainwater catchment and storage is available to serve the project and the well's potential for hydraulic connectivity to streams has not been evaluated by a licensed professional hydrogeologist, as noted in the SAA.

The Site Plan shows one (1) Class III intermittent stream and a man-made impoundment pond (not utilized for cannabis irrigation) with the associated 50-foot SMA buffers. A Wetland and Watercourse Evaluation (WWE) was performed by J. Regan Consulting in November 2021 (Attachment 3). The WWE concludes that the pond/wetland feature is completely man-made and does not appear to require a buffer under the County's Streamside Management Areas and Wetlands Ordinance (SMAWO). As noted in the WWE, "under current cannabis cultivation guidelines this feature should be regarded as a "man-made water supply reservoir that supports native aquatic species" (a Class IV watercourse)." Existing cultivation areas and ancillary infrastructure to support commercial activities (both existing and proposed) are outside of the required SMA buffers. Approval of this permit does not authorize use of the pond feature to support any commercial cannabis cultivation activities.

Furthermore, as a Tier 1 Low Risk operator (WDID 1_12CC417141), a Site Management Plan (SMP) was prepared by NorthPoint Consulting Group, dated July 2019 (Attachment 3). Twenty-five (25) unique points of evaluation were assessed that included cultivation areas, associated facilities, roads, and other developed and/or disturbed areas for discharges and related controllable water quality factors from the activities listed in the SWRCB General Order (WQ 2019-0001-DWQ). The project is conditioned to adhere to the recommendations provided within the SMP described in Appendix C (Attachment 3) which details the Best Practicable Treatment or Control (BPTC) measures and annual monitoring/treatment timelines through the life of the project.

Biological Resources

A review of California Department of Fish and Wildlife's (CDFW) Biogeographic Information and Observation System (BIOS) in January 2022 depicts no reported or mapped habitats for endangered or sensitive biological species within the project location. The nearest mapped Northern Spotted Owl (NSO) activity center is 0.74 miles away from the nearest cultivation area and nearest positive sighting is located approximately 0.53 miles away. The project as proposed is for the cultivation of 10,000 SF of mixed light cultivation occurring in six (6) greenhouses that will be equipped with blackout curtains to eliminate light from escaping the structures from a half hour prior to sunset and a half hour after sunrise. The nursery as proposed will contain low wattage LED "string lights" to provide lighting for employees and will be equipped with blackout curtains as well. As previously discussed, power is currently provided by one (1)

gasoline generator; however, there is a PG&E power drop already in place onsite, and the applicant will be transitioning to PG&E power prior to the 2023 cultivation season. The project is conditioned such that generators shall have secondary containment for fluid catchment and noise generated from generators shall not exceed 50 decibels (dB) at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer, as required by Section 314-55.4.11 (o) Humboldt County Code. Additionally, any grading and earthwork activities will be conducted by a licensed contractor in accordance with approved grading permits. Additionally, all supplemental lighting utilized for security, cultivation, or within the nursery area will adhere to International Dark Sky Association standards for Lighting Zone 0 or 1 preventing light spillage which may impact local wildlife. Additionally, the project is conditioned to refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact NSO or other sensitive species.

Access

Access to the site is off Staton Drive (a privately-maintained road) via Friday Ridge Road (a County-maintained road) to State Highway 299. The applicant's agent submitted a Road Evaluation Report for a 0.70-mile segment of Staton Lane, dated April 2019 (Attachment 3), that indicates the road is developed to the equivalent of a road Category 4 standard. The Report included five (5) photographs of turns along the 0.70-mile length of Staton Drive showing a historically rocked private road with a low volume of daily trips occurring. Per referral comments received from the Public Works, Land Use Division dated February 2021, any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a County-maintained road shall be improved to current standards for a commercial driveway, and requests the access road (Staton Drive) be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road (Friday Ridge Road). Additionally, private road intersections onto the County road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance) as well as County Code Section 3112-5, which states "No roadway grade in excess of 16 percent shall be permitted unless it has been demonstrated to be in conformance with the County Roadway Design Manual." Where portions of the road have grades that exceed 16%, those portions must be paved and must have an exception request approved. The project is conditioned to implement all Public Works' recommendations.

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

Approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Lower Trinity Planning Watershed, which under Resolution 18-43 is limited to 169 permits and 58 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 58 permits and the total approved acres would be 25.08 acres of cultivation.

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has prepared an addendum to this document for consideration by the Planning Commission (See Attachment 2 for more information).

Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

Alternatives: Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required

findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.

**RESOLUTION OF THE ZONING ADMINISTRATOR
OF THE COUNTY OF HUMBOLDT**

**Resolution Number: 22-
Record Numbers: PLN-12260-SP
Assessor's Parcel Number: 524-072-010**

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the New Earth Farms, LLC, Special Permits request.

WHEREAS, New Earth Farms, LLC, submitted an application for a Special Permit for 10,000 square feet (SF) of pre-existing mixed light cultivation. Ancillary propagation is proposed to occur in one 20' by 50' (1,000 SF) sub section of a 20' by 120' (2,400 SF) greenhouse. Irrigation water will be sourced from rainwater catchment. Estimated annual water usage is currently 150,000 gallons and there will be a total of 247,500 gallons of onsite water storage. Processing activities including drying, curing, and trimming will occur onsite in a proposed 2,500 SF structure. Power is currently provided by a gasoline generator; however, there is a Pacific Gas and Electric Company (PG&E) power drop already in place onsite, and the applicant will be transitioning to PG&E power prior to the 2023 cultivation season. A generator will be used as an emergency source of power. A Special Permit is also requested to reduce the required 600-foot setback from public lands;

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final 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. The proposed project does not present substantial changes that would require major revisions to the previous Mitigated Negative Declaration. 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 Zoning Administrator held a duly-noticed public hearing on April 21, 2022, and reviewed, considered, and discussed the application for Special Permits and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Zoning Administrator makes all the following findings:

- 1. FINDING:** **Project Description:** A Special Permit for 10,000 square feet (SF) of pre-existing mixed light cultivation. Ancillary propagation is proposed to occur in one 20' by 50' (1,000 SF) sub section of a 20' by 120' (2,400 SF) greenhouse. Irrigation water will be sourced from rainwater catchment. Estimated annual water usage is currently 150,000 gallons and there will be a total of 247,500 gallons of onsite water storage. Processing activities including drying, curing, and trimming will occur in a proposed 2,500 SF structure. Power is currently provided by a gasoline generator; however, there is a Pacific Gas and Electric Company (PG&E) power drop already in place onsite, and the applicant will be transitioning to PG&E power prior to the 2023 cultivation season. A generator will be used as an emergency source of power. A Special Permit is also requested to reduce the required 600-foot setback from public lands.

- EVIDENCE:** a) Project File: PLN-12260-SP.

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. 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 prepared for the proposed project.
- 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 Site Management Plan (SMP; WDID 1_12CC417141) was prepared by NorthPoint Consulting Group Inc. in July 2019 and a Notice of Applicability was submitted by the applicant to show compliance with the State Water Resources Control Board WQ2019-0001-DWQ General Waste Discharge Requirements for Dischargers of Waste Associated with Cannabis Cultivation Activities (General Order). Conditions of approval require the applicant to adhere to and implement the recommendations of the SMP and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.
- d) A review of California Department of Fish and Wildlife's (CDFW) Biogeographic Information and Observation System (BIOS) in January 2022 depicts no reported or mapped habitats for endangered or sensitive biological species within the project location. The nearest mapped Northern Spotted Owl (NSO) activity center is 0.74 miles away from the nearest cultivation area and nearest positive sighting is located approximately 0.53 miles away. Power is currently provided by one gasoline generator; however, there is a PG&E power drop already in place onsite, and the applicant will be transitioning to PG&E power prior to the 2023 cultivation season. Condition of approval require the applicant to provide evidence to the Planning Department that the transition occurred prior to commencing the 2023 cultivation season. Additionally, the project is conditioned such that generators shall have secondary containment for fluid catchment and noise generated from generators shall not exceed 50 decibels (dB) at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer, as required by Section 314-55.4.11(o) Humboldt County Code. Additionally, any grading and earthwork activities will be conducted by a licensed contractor in accordance with approved grading permits. Additionally, all supplemental lighting utilized for security, cultivation, or within the nursery area will adhere to International Dark Sky Association standards for Lighting Zone 0 or 1 preventing light spillage which may impact local wildlife. Further, the project is conditioned to refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact NSO or other sensitive species.
- e) The cultivation of cannabis will not result in the net conversion of timberland. A review of historic aerial imagery dating back to 2004 does not show evidence of timber conversion occurring onsite. The project does not propose any timber conversion and no tree removal is authorized by this permit. As such, the project can be implemented with no net loss of timberland after the environmental baseline of December 31, 2015.
- f) A Cultural Resources Investigation Report was carried out by William Rich and Associates in May 2021. The Report concluded that the proposed project will not result in any adverse changes to historical or archaeological

resources and recommended Inadvertent Discoveries Protocol, which has been included as an ongoing condition of approval.

- g) A Road Evaluation Report was prepared by NorthPoint Consulting Group Inc., dated April 2019, for a 0.70-mile segment Staton Drive (a privately-maintained roadway), which concludes the roadway is developed to the equivalent of a road Category 4 standard and is suitable for safe access to and from the project site. Public Works, Land Use Division requests improvements to the road intersection apron (encroachment) that connects Staton Drive to Friday Ridge Road (a County-maintained roadway). The project is conditioned to implement the recommendations of Public Works, including the requested roadway improvements, as well as adherence to the County Code Section 341-1 (Sight Visibility Ordinance) and County Code Section 3112-5, which states "No roadway grade in excess of 16 percent shall be permitted unless it has been demonstrated to be in conformance with the County Roadway Design Manual." Where portions of the road have grades that exceed 16%, those portions must be paved and must have an exception request approved.

FINDINGS FOR SPECIAL PERMITS

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 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.

4. FINDING The proposed development is consistent with the purposes of the existing Unclassified (U) zone in which the site is located. The proposed development is consistent with the purposes of the existing zone in which the site is located.

EVIDENCE a) The Unclassified or U Zone is intended to be applied to areas of the County in which general agriculture residential uses are the desirable predominant uses.

b) All general agricultural uses are principally permitted in the U zone.

c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis or up to 10,000 square feet of existing mixed-light cannabis on a parcel over 5 acres subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 10,000 SF of mixed light cultivation on a 30-acre parcel is consistent with this 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 U (HCC 314-55.4.8.2.2).

- b) The parcel known as APN 524-072-010 is one legal parcel per Book 1 of Parcel Map BK 524, Pages 7 recorded on July 25, 2017. There is no evidence indicating there have been any subsequent acts to divide the parcel. Therefore, the subject parcel was lawfully created in its current configuration and can be developed as proposed.
- c) The project will utilize a rainwater catchment system with a total impermeable rainwater catchment area of 5,702 SF, and an average rainfall amount of 55.4 inches. The site's potential capture amount totals 195,852 gallons per year on average. Water captured this way will be stored in the existing and proposed (hard-sided water storage tanks totaling 247,500 gallons. Sufficient rainwater catchment and storage is available to serve the project. All cultivation related to this project is prohibited from utilizing an existing point of diversion and onsite pond as a source of irrigation.
- d) A Road Evaluation Report was prepared by NorthPoint Consulting Group Inc., dated April 2019, for a 0.70-mile segment Staton Drive (a privately-maintained roadway), which concludes the roadway is developed to the equivalent of a road Category 4 standard and is suitable for safe access to and from the project site. Public Works, Land Use Division requests improvements to the road intersection apron (encroachment) that connects Staton Drive to Friday Ridge Road (a County-maintained roadway). The project is conditioned to implement the recommendations of Public Works, including the requested roadway improvements, as well as adherence to the County Code Section 341-1 (Sight Visibility Ordinance) and County Code Section 3112-5, which states "No roadway grade in excess of 16 percent shall be permitted unless it has been demonstrated to be in conformance with the County Roadway Design Manual." Where portions of the road have grades that exceed 16%, those portions must be paved and must have an exception request approved.
- e) The slope of the land where cannabis has historically been cultivated is on slopes less than 30% as depicted by the Humboldt County WebGIS (January 2022).
- f) The cultivation of cannabis will not result in the net conversion of timberland. A review of historic aerial imagery dating back to 2004 does not show evidence of timber conversion occurring onsite. The project does not propose any timber conversion and no tree removal is authorized by this permit. As such, the project can be implemented with no net loss of timberland after the environmental baseline of December 31, 2015.
- g) The location of the cultivation complies with most setbacks required in Section 314-55.4.6.4.4. It is more than 30 feet from any property line, more than 300 feet from any off-site residence, and more than 600 feet from any school, church, or Tribal Cultural Resource.

A Special Permit is requested for reduction of the 600-foot setback required from public lands. Six Rivers National Forest (SRNF)-owned lands are located immediately adjacent to the west and north (APN 524-072-001) and east (APN 524-073-002) of the subject site. Existing onsite cultivation occurs approximately 228 feet west of APN 524-073-002 to the east and 220 feet east of APN 524-072-001 to the west of the adjacent public lands per Humboldt County's WebGIS, with the existing propagation and drying greenhouse located approximately 70 feet west of APN 524-073-002 to the east and 428 feet east of APN 524-072-001 to the west of the adjacent SRNF-

owned lands. The project was referred to SRNF in January 2021. SRNF staff responded on February 1, 2021, which recommended denial and indicated the project takes access over Forest Service lands, further noting “the use, cultivation and transportation of cannabis on Forest Service lands is illegal.”

The adjacent public land is subject to the Six Rivers National Forest Plan (SRNFP) adopted in 1995. The project is consistent with the SRNFP because the cultivation activities will minimize impacts to biological resources and wildlife through measures to reduce potential light and noise impacts. The project will not require substantial road improvements or the removal of trees. The project will also protect fisheries and aquatic habitat on forest lands by maintaining buffers from streams, by placing controls on water withdrawals and on the storage and use of pesticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations and requiring adequate road access. The SRNFP's provisions for heritage resource protection will be met through the project consultation with Tribal Historic Preservation Officers (THPO) and avoidance of sensitive tribal cultural resources. Additionally, a SMP was developed for the project to prevent and/or address poor water quality conditions and adverse impacts to water resources associated with cannabis cultivation on private land. Finally, the project is consistent with recreational use on public lands by maintaining a minimum 600-foot buffer separation from developed campgrounds and/or trails. As a result, there will not be any new erosion, wind damage, elimination of wildlife corridors, loss of scenic beauty, or reduction of quality habitat for plants and animals. Therefore, there are no existing or proposed developments within the park that would be impacted as result of the proposed project. Because the proposed project was in existence prior to January 1, 2016, is more than 600 feet from developed recreational facilities, and includes operational changes to improve the project's baseline conditions, Planning staff recommends approval of the setback reduction.

6. FINDING

The approval of the existing 10,000 SF of cannabis cultivation 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) The site is located on road that has been identified as capable to safely accommodate the amount of traffic generated by the proposed cannabis cultivation.
- 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 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 500 feet from the nearest off-site residence and more than 1,000 feet from the nearest adjacent undeveloped separately owned parcel.
- d) The project will utilize a rainwater catchment system with a total impermeable rainwater catchment area of 5,702 SF, and an average rainfall amount of 55.4 inches. The site's potential capture amount totals

195,852 gallons per year on average. Water captured this way will be stored in the existing and proposed hard-sided water storage tanks totaling 247,500 gallons. All cultivation related to this project is prohibited from utilizing a point of diversion and onsite man-made impoundment pond (not utilized for cannabis irrigation) as a source of irrigation.

- e) Provisions have been made in the applicant's proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be 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

- a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but is currently developed with one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for the continued use of the residence on this parcel.

9. FINDING

Approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds.

EVIDENCE

- a) The project site is located in the Lower Trinity Planning Watershed, which under Resolution 18-43 is limited to 161 permits and 56 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 58 permits and the total approved acres would be 25.08 acres of cultivation.

DECISION

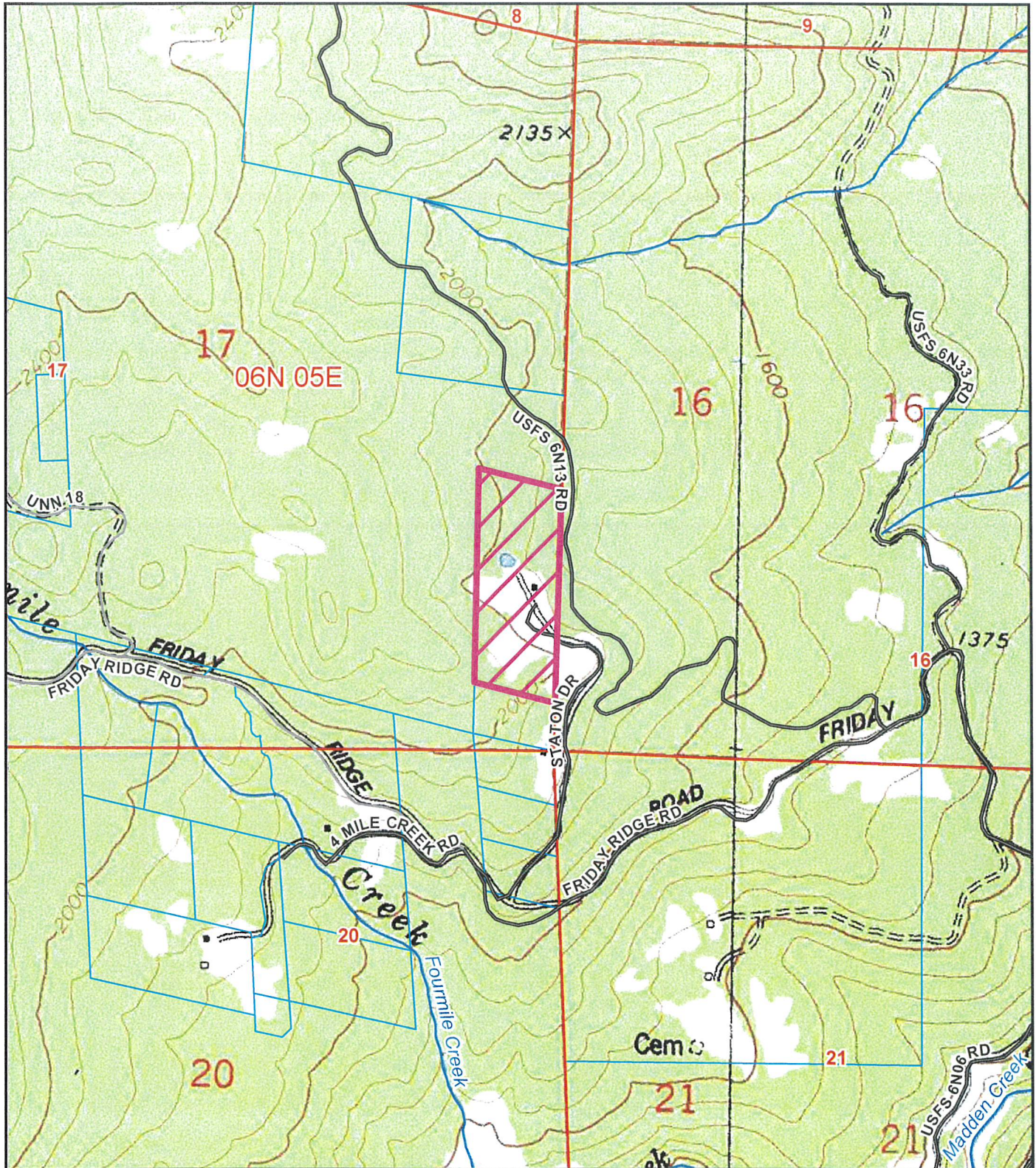
NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Zoning Administrator does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permits for New Earth Farms, LLC, 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 April 21, 2022.

I, John Ford, Zoning Administrator 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 Zoning Administrator at a meeting held on the date noted above.

John H. Ford
Zoning Administrator, Planning and Building Department

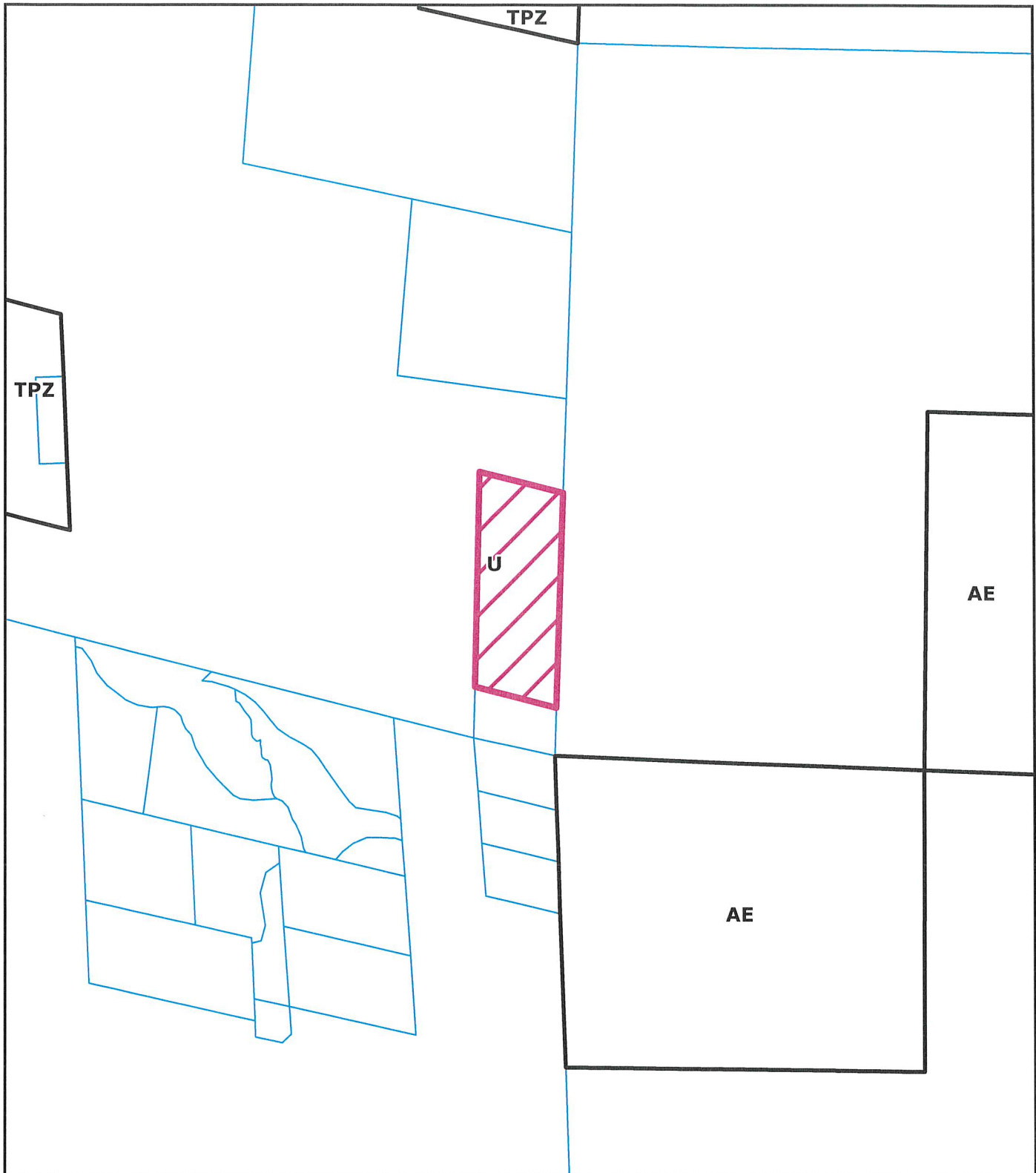


TOPO MAP
PROPOSED NEW EARTH FARMS, LLC
WILLOW CREEK AREA
CUP-16-592
APN: 524-072-010-000
T06N R05E S17 HB&M (WILLOW CREEK)

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.

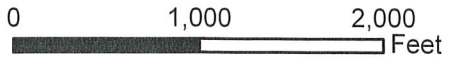


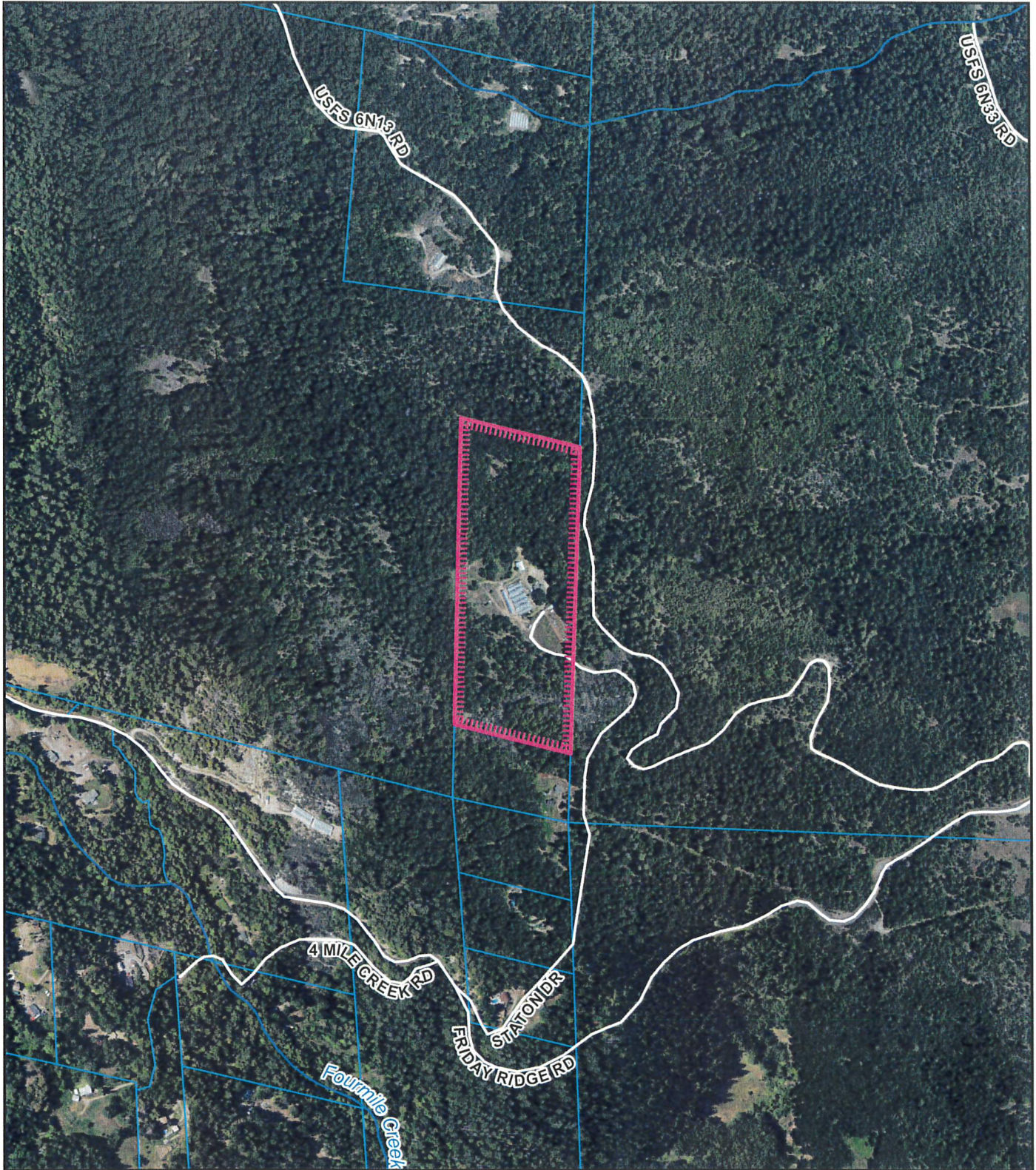
Project Area = 

ZONING MAP
PROPOSED NEW EARTH FARMS, LLC
WILLOW CREEK AREA
CUP-16-592
APN: 524-072-010-000
T06N R05E S17 HB&M (WILLOW CREEK)



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.



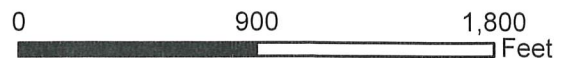


Project Area = 

AERIAL MAP
PROPOSED NEW EARTH FARMS, LLC
WILLOW CREEK AREA
CUP-16-592
APN: 524-072-010-000
T06N R05E S17 HB&M (WILLOW CREEK)



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.



NEW EARTH FARMS, LLC SPECIAL PERMIT (APPL. # 12260)

APN: 524-072-010



VICINITY MAP

NOT TO SCALE

DIRECTIONS TO SITE:

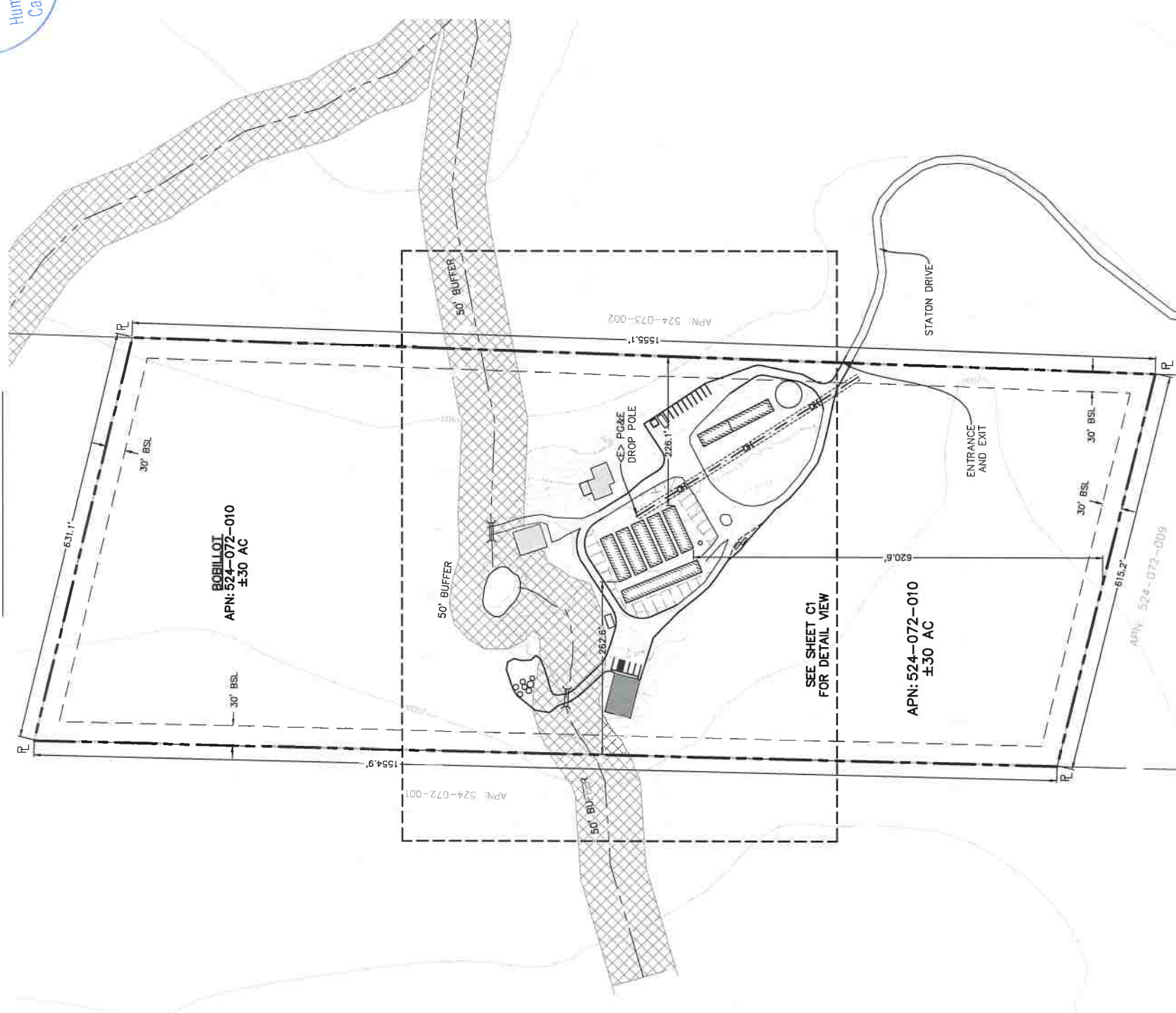
- FROM EUREKA, CA
- HEAD EAST ON CA-299
- TURN RIGHT AT MARTIN DRIVE
- CONTINUE UP SLOPE TO COUNTY RTE 8L100
- TURN RIGHT ONTO STATON LANE
- CONTINUE STRAIGHT FOR 0.4 MILES

PROJECT DESCRIPTION:

NEW EARTH FARMS, LLC IS PROPOSING TO PERMIT EXISTING CANNABIS CULTIVATION ACTIVITIES IN ACCORDANCE WITH THE COUNTY OF HUMBOLDT'S (COUNTY) COMMERCIAL CANNABIS MARIJUANA LAND USE ORDINANCE (CCMLO), ORDINANCE NO. 2554. THE EXISTING OPERATION INCLUDES APPROXIMATELY 10,000 SQUARE FEET (SF) OF CULTIVATION AREA.

GENERAL NOTES:

1. DRAWING SCALE AS NOTED. WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS.
2. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY INFORMATION DEPICTED HAS BEEN OBTAINED FROM HUMBOLDT COUNTY 2015 GIS DATA. NORTHPOINT CONSULTING GROUP, INC. HAS NOT VERIFIED THIS PROPERTY BOUNDARY.
3. THERE ARE NO NEARBY SCHOOLS, SCHOOL BUS STOPS, PLACES OF WORSHIP, PUBLIC PARKS OR TRIBAL RESOURCES WITHIN 600 FEET OF THE PROPOSED CULTIVATION AREA.



PROJECT INFORMATION:

APPLICANT: NEW EARTH FARMS, LLC
P.O. BOX 153
WILLOW CREEK, CA 95573

PROPERTY OWNER: SECOND 707 REALTY, LLC
P.O. BOX 153
WILLOW CREEK, CA 95573

APPLICANTS AGENT: NORTHPOINT CONSULTING GROUP, INC
1117 SAMOA BLVD.
ARCATA, CA 95521
(707) 798-6438

SITE ADDRESS: APN: 524-072-010
600 STATON LANE
WILLOW CREEK, CA 95573

EXISTING MIXED LIGHT CULTIVATION AREA = 10,000 SF

EARTH WORK QUANTITIES = TBD

WATER = PRIVATE
SEWER = PRIVATE

PROPERTY SIZE (WEBGIS) = ±21.74 ACRES
PROPERTY SIZE (ASSESSED) = ±30 ACRES
ZONING = U (UNCLASSIFIED)
GENERAL PLAN DESIGNATION = RA40

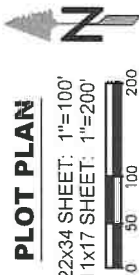
BUILDING SETBACK

	U	SRA
FRONT	20'	30'
SIDE	5'	30'
REAR	10'	30'

SRA AREA = YES
IN COASTAL ZONE = NO
IN 100 YR FLOOD ZONE = NO

SHEET INDEX:

- C0 - SPECIAL PERMIT SITE PLAN, VICINITY MAP, & PROJECT NOTES
- C1 - SITE PLAN DETAIL



PLOT PLAN

22x34 SHEET: 1"=100'
11x17 SHEET: 1"=200'



NORTHPOINT
CONSULTING GROUP, INC.
1117 Samoa Blvd., Arcata, CA 95521

NEW EARTH FARMS, LLC
600 STATON LN. WILLOW CREEK, CA 95537 / APN: 524-072-010
SPECIAL PERMIT - SITE PLAN

PROJECT NO.: PS
DRAWN BY: JBSN
DATE: 11/15/21
SCALE: AS SHOWN
SHEET: C0
18-124

NEW EARTH FARMS, LLC SPECIAL PERMIT (APPL. # 12260)

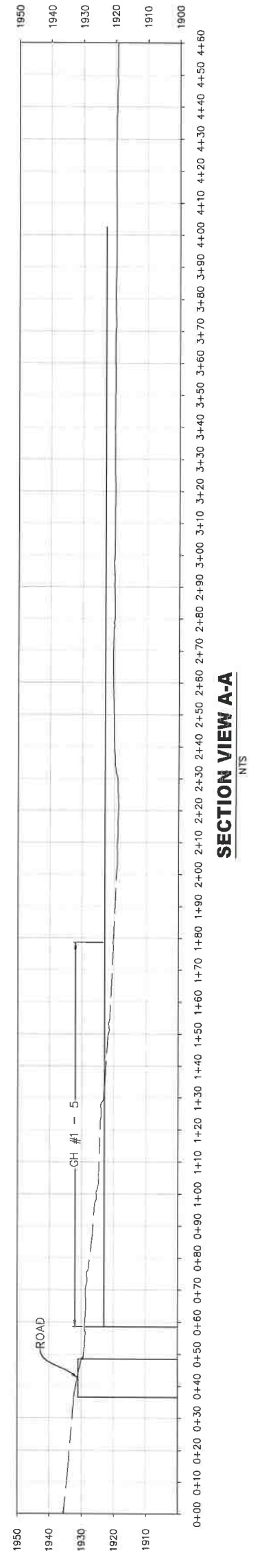
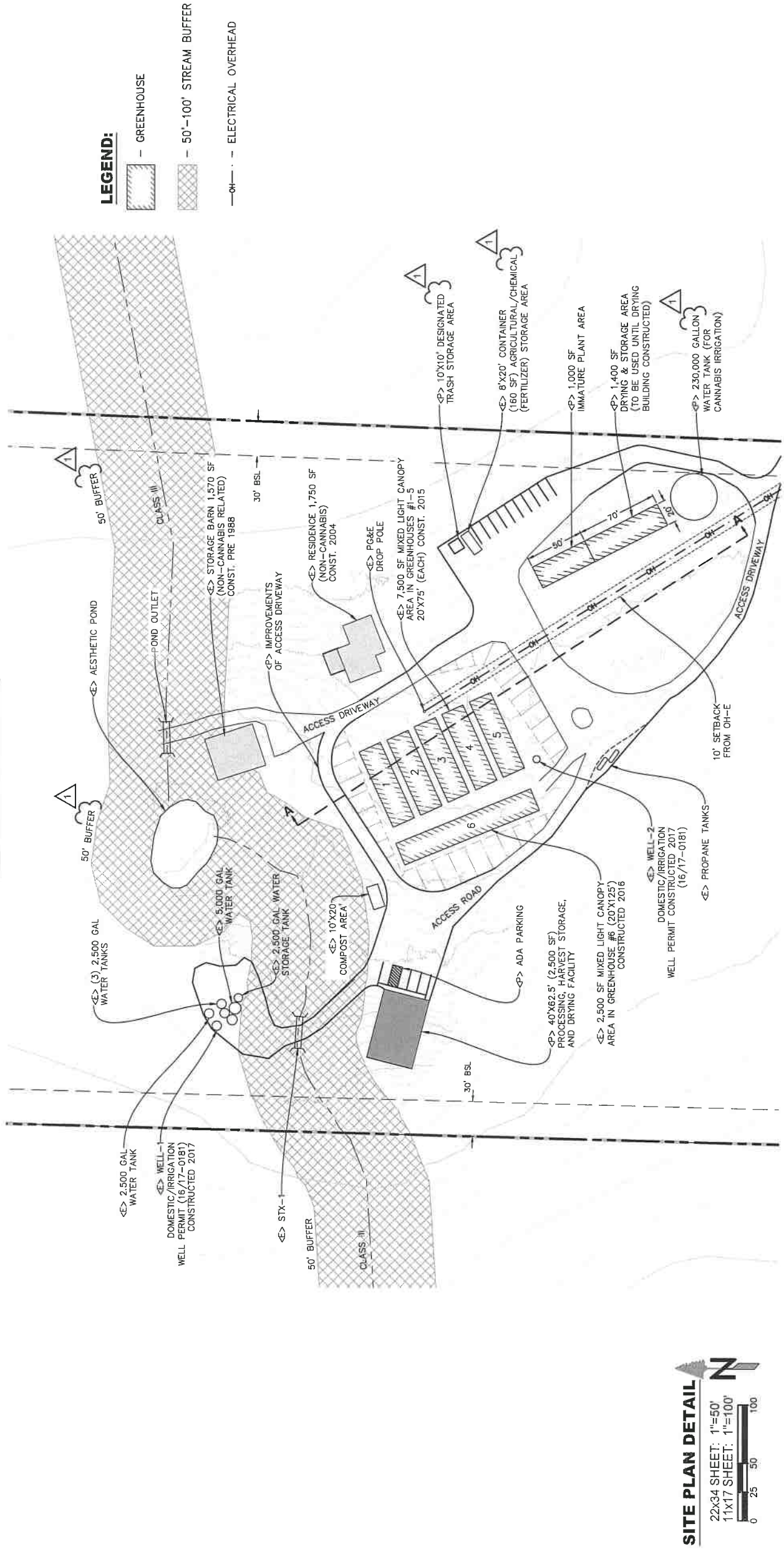
APN: 524-072-010

DATE	7/27/21	REVISION	ADDITION OF WATER TANK FOR IRRIGATION, OTHER USE
DRAWN BY	BS	CHECKED BY	BS

NORTHPOINT
CONSULTING GROUP, INC.
1117 Samoa Blvd., Arcata, CA 95521

NEW EARTH FARMS, LLC
600 STATION LN, WILLOW CREEK, CA 95537 / APN: 524-072-010
SPECIAL PERMIT - SITE PLAN DETAIL

PROJ. NO. ES
DRAWN BY: CC
DATE: 11/15/21
SCALE: AS SHOWN
SHEET: **C1**
18-124



ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

APPROVAL OF THE SPECIAL PERMITS 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 this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at 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. 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 #14. 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. Prior to the 2023 cultivation season (on or before May 1, 2023), the applicant shall provide evidence (e.g. receipts, permits and/or photographs) to the Planning Department that the PGE connection is active on the subject parcel and the generator solely used for emergency purposes. A sign-off from the Planning Department will satisfy this condition.
7. The applicant shall secure permits for all structures and grading related to the existing and proposed cannabis cultivation and other commercial cannabis activity, including but not limited to, existing and proposed greenhouses, water tanks over 5,000 gallons existing, graded flats and proposed structures associated with drying, storage, processing 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. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
8. The applicant, to the satisfaction of Humboldt County Public Works, shall do the following:

- a. Ensure that all fences and gates are relocated out of the County right-of-way. All gates shall be setback sufficiently from the County road so that vehicles will not block traffic when opening/closing the gate. In addition, no materials shall be stored or placed in the County right-of-way.
- b. Ensure that all driveways and private road intersection onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance); and
- c. Improve the intersection of Staton Drive and Friday Ridge Road to commercial driveway standards. Specifically, the access road (Staton Drive) shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road (Friday Ridge Road).. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right-of-way:
 - i. If the County road has a paved surface at the location of the access road, the access road shall be paved at a minimum width of 20 feet and a length of 50 feet where it intersects the County road.
 - ii. If the County road has a gravel surface at the location of the access road, the access road shall be rocked a minimum width of 20 feet and a length of 50 feet where it intersects the County road.
- d. Ensure adherence to County Code Section 3112-5 "No roadway grade in excess of 16 percent shall be permitted unless it has been demonstrated to be in conformance with the County Roadway Design Manual."
 - i. Where portions of the road have grades that exceed 16%, those portions must be paved and must have an exception request approved.

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. A letter or similar communication from the Department of Public Works will satisfy this condition.

9. Until such time that the applicant can permit an onsite wastewater treatment system associated with a permitted structure, processing activities are prohibited. The applicant shall secure the approval of the Division of Environmental Health for the proposed Onsite Wastewater Treatment System (OWTS) for the proposed 2,500 SF processing facility. The applicant shall provide an invoice, receipts, or equivalent documentation to the Department of Environmental Health (DEH) to confirm the continual use of portable toilets and handwashing facilities to serve the needs of the cultivation staff prior to the reissuance of the annual permit. A letter or similar communication from DEH verifying that all their requirements have been met will satisfy this condition.
10. The applicant is required to adhere to and implement the requirements contained in the SWRCB's Cannabis Cultivation Policy, the General Order, the Site Management Plan, and the Notice of Applicability. A copy of the reporting form portion of the Mitigation and Reporting Program (MRP) shall be submitted annually to the Planning and Building Department concurrent with the submittal to the SWRCB.
11. Applicant shall secure permits from the North Coast Unified Air Quality Management District, as applicable. A letter or similar communication from the North Coast Air Quality Management District verifying that all their requirements have been met and/or no additional permitting is required will satisfy this condition.
12. The applicant shall comply with the attached CDFW Bullfrog Management Plan (located in Exhibit A of the applicant's Streambed Alteration Agreement; Attachment 3) for the existing pond. Reporting requirements shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501, no later than December 31 of each year. Fish stocking is prohibited without written permission from the Department pursuant to Section 6400 of the Fish and Game Code for the life of the project.
13. The applicant shall adhere to and implement the Final Streambed Alteration Agreement

(Notification No. 1600-2019-0376-R1) issued by CDFW on 9/13/2019. Reporting requirements shall be submitted to the Planning Department and the California Department of Fish and Wildlife at 619 Second Street, Eureka, CA 95501, no later than December 31 of each year.

14. The applicant shall construct noise containment structures for all generators used on the parcel. The applicant shall obtain all required building permits for such structures. The applicant shall maintain generator, fan, and dehumidifier noise at or below 50 decibels at the edge of the clearing or 100 feet, whichever distance is closer. This will satisfy the auditory disturbance guidance prepared by the U.S. Fish and Wildlife (USFS), California Fish and Wildlife (CDFW) and Department Policy Statement No. 16-005 to minimize impacts to the Northern Spotted Owl and Marbled murrelet. All generators must be located on stable surfaces with a minimum 200-foot buffer from Class I and Class II streams, per the requirements of CDFW. No generator use is authorized by this permit until the applicant can demonstrate to compliance with this standard.
15. All artificial lighting including greenhouse, security, and propagation area lighting shall comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare (BUG). International Dark Sky Association standards exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries. Within 30 days of the effective date of this permit, the applicant shall schedule a site inspection with the Humboldt County Planning Department to demonstrate the structures and greenhouses can be comply with this standard.
16. The applicant shall install and utilize a water meter to demonstrate that there is sufficient water supply to meet the demands of the project. The water use for cultivation is limited to the use of the existing and proposed rainwater catchment infrastructure as described in Table 2 within the Executive Summary and shall be provided annually prior to or during the annual inspection. This Permit does not authorize the use of diversionary water sources for irrigation.
17. All refuse shall be contained in wildlife proof containers, at all times, and relocated to an authorized waste management facility, in compliance with State and local laws, on a regular and on-going basis.
18. The applicant shall not use any erosion control measures that contain synthetic (e.g. plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting, on a regular and on-going basis. 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 weaves.
19. The applicant 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 ordinance of the Humboldt County Board of Supervisors will be required.
20. 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.
21. 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.

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

1. The combination of background, generator and greenhouse fan or other operational equipment created noise must not result in the harassment of Northern Spotted Owl 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 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. All artificial light utilized in mixed-light greenhouses shall be limited to 6 watts per square foot with no wattage limit in the ancillary propagation greenhouse. All artificial lighting shall be fully contained within structures such that no light escapes (e.g., through blackout curtains). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed.
3. 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.
4. Ensure all generators be located on stable surfaces with a minimum 200 feet buffer from all waterways measured horizontally from the outer edge of the riparian drip zone, per CDFW referral comments received January 4, 2018.
5. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control and/or cultivation 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.
6. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
7. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
8. The use of anticoagulant rodenticide is prohibited.
9. 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.
10. All components of 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. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. If offsite processing is chosen

to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.

11. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
12. 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.
13. 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.
14. 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.
15. 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).
16. Maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (RWQCB) 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.
17. 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).
18. 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.
19. 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).
20. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
21. Pay all applicable application, review for conformance with conditions and annual inspection fees.
22. 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.

23. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
24. 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

25. Pursuant to the MCRSA, 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."
26. 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).
27. 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.
28. 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. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
29. 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. On-site housing, if any

30. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation SP 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.
31. 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 reinspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request reinspection 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.
32. 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.
33. 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.
34. 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.
35. 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 #6 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 #26 and 27 of the Ongoing Requirements/Development Restrictions, above.
3. If cultural resources are encountered during construction activities, the contractor on-site 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 owned and maintained by the Federal Government (the U.S. Forest Service) and 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 MEDICINAL MARIJUANA LAND USE
ORDINANCE**

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

**APN 524-072-010; on the property known to be in Township 06N of Range 05E Section 17 Humboldt
Base & Meridian, Willow Creek.
County of Humboldt**

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

April 2022

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 project involves a Special Permit for the continued operation of 10,000 square feet (SF) of pre-existing mixed-light cultivation. Cultivation takes place in the central portion of the property, within six (6) greenhouse structures with propagation and drying and storage occurring in a separate greenhouse just to the south. Three (3) harvests are anticipated for a growing season that extends from April through October. Estimated annual water usage is currently 150,000 gallons. There will be a total of 247,500 gallons of onsite water storage. Processing activities including drying, curing, and trimming will occur in a proposed 2,500-square-foot structure. Up to eleven (11) employees may be utilized onsite. Power is currently provided by a gasoline generator; however, there is a Pacific Gas and Electric Company (PG&E) power drop already in place onsite, and the applicant will be transitioning to PG&E power prior to the 2023 cultivation season. A generator will be used as an emergency source of power. A Special Permit is also requested to reduce the required 600-foot setback from public lands.

No known significant archaeological resources are located in the project area. A Cultural Resources Investigation was conducted by William Rich and Associates in May 2021. No artifacts, features, or sites which would be considered a historical resource under CEQA were identified during the survey. Although the Cultural Resources Investigation concludes that it is not anticipated to encounter significant buried archaeological materials at this location during implementation of the permit, it is noted that the potential for inadvertent discovery of such resources exists. Ongoing conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources.

The project site contains riparian habitat associated with a watercourse that traverses the site. All approved cannabis cultivation activities would occur outside of required SMA setbacks and on slopes less than 30%. Furthermore, the applicant is required to adhere to the Site Management Plan prepared by NorthPoint Consulting Group Inc., received 1/26/2021, as required by the State Water Resources Control Board (SWRCB) Cannabis General Order (Order No. WQ 2019-0001-DWQ). Per review of CDFW’s Biogeographic Information and Observation System (BIOS) in January 2022, the nearest mapped Northern Spotted Owl (NSO) activity center is 0.74 miles away from the nearest cultivation area. Conditions of approval will require adherence to the International Dark-Sky Association standards for lighting in zone 1 or 2, full adherence to the applicant’s Invasive Species Management Plan, and adherence to the recommendations in the Biological Report. Additionally, the project is conditioned to refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact NSO or other sensitive species.

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 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 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:

- Plot Plans prepared by NorthPoint Consulting Group, Inc., dated 11/15/2021.
- Cultivation and Operations Manual prepared by NorthPoint Consulting Group, Inc., received 01/25/2021.
- Site Management Plan prepared by NorthPoint Consulting Group, Inc., received 1/26/2021.
- Well Completion Report (WCR2017-001201) for "Well #3", dated 06/19/2017.
- Streambed Alteration Agreement (Notification No. 1600-2019-0376-R1), authorized by the California Department of Fish and Wildlife (CDFW) on 9/13/2019.
- Notice of Applicability – Waste Discharge Requirements Water Quality Order WQ 2019-0001-DWQ (WDID 1_12CC417141), dated 1/31/2020.
- Wetland and Watercourse Evaluation prepared by J. Regan Consulting, received 12/08/2021.

- Road Evaluation Report for Staton Lane prepared by NorthPoint Consulting Group, Inc., dated 04/18/2019.
- Cultural Resources Investigation for APN 524-072-010, Willow Creek, Humboldt County, California, by William Rich and Associates, received 06/30/2021.

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.

ATTACHMENT 3

Applicant's Evidence in Support of the Required 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. (Application form 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. (Plot Plans prepared by NorthPoint Consulting Group, Inc., dated 11/15/2021– **Attached** with project Maps)
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 Manual prepared by NorthPoint Consulting Group, Inc., received 01/25/2021 - **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. (Not Applicable)
6. Description of water source, storage, irrigation plan, and projected water usage. (Included in Cultivation Operations Plan (item 4. above) and Site Management Plan prepared for State Water Board Cannabis General Order (item 7. below).
7. Copy of Site Management Plan as required by the State Water Resources Control Board (SWRCB) Cannabis General Order (Order No. WQ 2019-0001-DWQ). (Site Management Plan prepared by NorthPoint Consulting Group, Inc., received 1/26/2021 – **Attached**; and Notice of Applicability – Waste Discharge Requirements Water Quality Order WQ 2019-0001-DWQ (WDID 1_12CC417141), dated 1/31/2020 – On file)
8. If any on-site or off-site 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. (Streambed Alteration Agreement (Notification No. 1600-2019-0376-R1), authorized on 9/13/2019 - **Attached**)
9. If the source of water is a well, a copy of the County well permit, if available. (Well Completion Report (WCR2017-001201) for "Well #3", dated 06/19/2017 – On file)

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 on-site 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. For indoor cultivation facilities, identify the source of electrical power and how it will meet with the energy requirements in Section 55.4.8.2.3, and plan for compliance with applicable building codes. (Not applicable)
13. Acknowledge 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)
14. Acknowledge 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)
15. Road Evaluation Report for Staton Lane prepared by NorthPoint Consulting Group, Inc., dated 04/18/2019. (**Attached**)
16. Wetland and Watercourse Evaluation prepared by J. Regan Consulting, received 12/08/2021. (**Attached**)
17. Cultural Resources Investigation for APN 524-072-010, Willow Creek, Humboldt County, California, by William Rich and Associates, received 06/30/2021. (On file and confidential)
18. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits (DEH Form). (On file)

**NEW EARTH FARMS, LLC
CULTIVATION AND OPERATIONS MANUAL
HUMBOLDT COUNTY, CA**

**COMMERCIAL CANNABIS
CULTIVATION FACILITIES**

PREPARED FOR:



Updated January 2022

**Cultivation and Operations Manual
For
New Earth Farms, LLC**

Apps. #: 12260
Case #: CUP16-592
APN: 524-072-010

Proposed Commercial Cannabis Cultivation Facilities

Lead Agency:
Humboldt County Planning Department
3015 H Street
Eureka, CA 95501

Prepared By:



In Consultation with:
Michael Bobillot
of
New Earth Farms, LLC
PO Box 153
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Updated May 2020

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1. PROJECT SUMMARY

1.1. PROJECT OBJECTIVE

New Earth Farms, LLC is proposing to permit existing cannabis cultivation activities in accordance with the County of Humboldt's (County) Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The project requires a Special Permit for 10,000 square feet (sf) of existing mixed light cannabis cultivation. The project includes the permitting of existing and proposed facilities appurtenant to the cultivation, including a building for drying and processing. The applicant aims to become fully compliant with State and Local cultivation regulations.

1.2. SITE DESCRIPTION

The Project is located off Friday Ridge Road, south of the town of Willow Creek, CA (APN 524-072-010). The subject parcel is approximately 30 acres in size (Humboldt County Web GIS), and has undulating topography with slopes between 5% and 35%. The cultivation operation is centrally located on the parcel and occupies a large, naturally flat meadow where average slopes are less than 5%. A small drainage feature flows along the north side of the property and drains to the east, eventually reaching the Trinity River. Vegetation consists of open grasslands mixed with oak woodlands, manzanitas and mixed conifer, deciduous and riparian forest. The soils within the developed portion of the parcel consist predominantly of Holland-Goldridge (5-35% slopes) which are well-drained gravelly-loam soils.

Two existing buildings are located in the central portion of the property, a barn and a residence. The barn (approximately 1,600 sf) is located adjacent to an existing pond. The residence (approximately 1,900 sf) is located on the eastern edge of the central portion of the property. Both buildings predate available aerial imagery as per *Google Earth Pro*, (August 1988). Prior to January 1, 2016, there was approximately 10,000 sq. ft. of cannabis cultivation existing on-site located in one cultivation area. The cultivation area is a naturally benched flat with mild topography and natural slopes between 5% and 10%. All cultivation occurs outside of riparian setbacks.

1.3. LAND USE

The subject property has a General Plan designation of RA40 (Residential Agriculture) as identified by the Humboldt County General Plan and is zoned Unclassified (U). Land uses surrounding the parcel are similarly comprised of Residential Agriculture, Timber, U.S. National Forest Service lands and unclassified general plan designations. The surrounding parcels are zoned Residential Agriculture (RA) and Timber Production Zone (TPZ).

1.4. STATE AND LOCAL COMPLIANCE

1.4.1. STATE OF CALIFORNIA COMMERCIAL CANNABIS ACTIVITY LICENSE

New Earth Farms, LLC has secured a provisional cannabis cultivation licenses through the California Department of Food and Agriculture (CDFA) (License Number: CCL19-0000180).

1.4.2. STATE WATER RESOURCES CONTROL BOARD

The primary water source for cannabis cultivation is rainwater catchment. Rainwater catchment does not require water rights permitting from the State Water Resources Control Board. No water will be diverted for cultivation purposes.

1.4.3. NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD

Effective June 26th, 2019, Michael Bobillot (of New Earth Farms, LLC) enrolled with the North Coast Regional Water Quality Control Board (NCRWQCB) for coverage under Tier 2 of Order No. 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 (WDID Number 1B171453CHUM).

Following this, New Earth Farms, LLC transitioned to coverage under the State Water Resources Control Board General Order WQ 2017-0023-DWQ General Waste Discharge Requirements and Waiver of Discharge Requirements for Dischargers of Waste Associated with Cannabis Cultivation Activities. The transition occurred prior to July 1, 2019. Additionally, a Site Management Plan was developed by NorthPoint Consulting and has been furnished to the North Coast Regional Water Quality Control Board (WDID 1_12CC419050).

1.4.4. HUMBOLDT COUNTY BUILDING DEPARTMENT

All necessary building permits will be obtained from the Humboldt County Building Department for all existing and proposed structures and supporting infrastructure upon approval of the Special Permit.

1.4.5. CAL FIRE

The subject property is located within a State Responsibility Area (SRA) for fire protection. Several improvements are proposed in order to meet SRA requirements, including designating a fire turn-around and pull-out area for emergency vehicles, and management of trees and vegetation around existing structures to maintain the required 100-foot defensible space. All structures on the property meet the 30-foot SRA setback requirement from property lines. If required by Cal Fire, a 2,500-gallon water tank with a riser to SRA specifications will be installed for firefighting purposes.

1.4.6. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

The applicant submitted a Lake and Streambed Alteration (LSA) Notification in May 2019. The LSA Notification included four jurisdictional items (a stream crossing, shallow well, point of diversion for domestic purposes, and pond outlet) and two non-jurisdictional information items (ditch relief culvert and groundwater well). A Final Streambed Alteration Agreement was issued on September 13th, 2019 (Notification No. 1600-2019-0376-R1).

1.4.7. CULTURAL RESOURCES

If buried archaeological or historical resources are encountered during construction or cultivation activities, the applicant or contractor shall call all work in the immediate area to halt temporarily, and a qualified archaeologist is to be contacted to evaluate the materials. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, dietary bone, and human burials. If human burial is found during construction, state law requires that the County Coroner be contacted immediately. If the remains are found to be those of a Native American, the California Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains. The applicant is ultimately responsible for ensuring compliance with this condition.

2. CULTIVATION AND PROCESSING

2.1. PROPAGATION AND MIXED LIGHT CULTIVATION

Juvenile plants will be propagated in an onsite nursery comprised of a hoop house located southeast of the main cultivation area. The greenhouse consists of a 20' x 120' frame with dual use. The nursery section is 1,000 sf (20' x 50') and the remaining area is used as drying and harvest storage. Juvenile plants will be propagated on site from 'mother plants' that demonstrate the desired genetics for the specific cannabis strain. Mother plants remain in the vegetative stage solely for propagation. Cuttings

are sampled from the mother plants and are rooted into a growing medium, typically oasis cubes, to produce 'clones.' The clones are placed into the nursery, and once fully rooted they are transplanted directly into one (1) gallon plastic containers. The juvenile plants are irrigated using hand watering methods. After 2-4 weeks the clones are then transplanted into raised beds within the flowering greenhouses. When required, artificial lights will be utilized in conjunction with natural light to maintain a photoperiod sufficient to prevent the juvenile plants from flowering. The mixed light cultivation will occur in six (6) greenhouses, for a combined cultivation area of approximately 10,000 square feet (sf). The greenhouses consist of heavy gauge steel tubing, covered with a woven poly translucent opaque tarp. Each greenhouse is ventilated by intake and exhaust fans, the greenhouses utilize a combination of natural light, artificial light, and light deprivation to produce up to three (3) flowering cycles per year.

New Earth Farms, LLC uses small incandescent lights to extend the growing season. Greenhouses vary between 0.33 watts per square foot to 0.45 watts per square foot with lights range between 85-watt bulbs to 150-watt bulbs. Black out tarps will be used to achieve both light deprivation and Dark Sky standards. Any greenhouse or propagation area with supplemental lighting will be properly maintained by shielding so little to no light escapes. Light shall not escape at a level this is visible from neighboring properties between sunset and sunrise. The cultivation schedule details the cultivation, fertilization, and irrigation practices associated with the for a three-cycle year, typical for New Earth Farms, LLC.

2.2. IRRIGATION PLAN AND SCHEDULE

Irrigation and fertigation of plants occurs using drip irrigation and some top-feed hand watering methods as appropriate. While most irrigation needs are on automatic drip, some irrigation and fertigation is more efficiently managed via hand watering, allowing for daily inspection of each plant by the cultivator and tailored irrigation and nutrient application depending on the needs of each individual plant.

2.3. HARVESTING, DRYING, AND TRIMMING

The applicant is proposing to construct a 2,500-sf drying and processing facility for New Earth Farms, LLC. In the interim, until the facility can be constructed, the applicant will utilize two greenhouses for drying and harvest storage, refer to plot plan in Appendix A. Plants that are ready for harvest have their flowering branches removed and suspended in a proposed drying room which is equipped with ventilation fans. The drying process takes approximately one week.

2.1. PROCESSING FACILITY

All cannabis processing will occur on site at the proposed one-story 2,500 square foot cultivation/processing facility. In the interim, the applicant intends to do their processing at APN: 316-174-008. The parcel and processing facility are also operated by New Earth Farms, LLC (Application No. 11166). Once the proposed drying and processing facility is constructed, the facility will incorporate all aspects of processing including drying, curing, and trimming, and will include an ADA restroom for employees. The restroom will include a working flush toilet as well as a sink with cold and hot running water provided by an on demand electric water heater. The proposed metal building will have an engineered concrete slab and will conform to commercial building standards per the 2019 California Building Code.

2.2. EMPLOYEE PLAN

New Earth Farms, LLC 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), and complies with all applicable federal, state and local laws and regulations governing California Agricultural Employers.

2.2.1. JOB DESCRIPTIONS AND EMPLOYEE SUMMARY

- *Agent in Charge*: Responsible for business oversight and management. Responsibilities include, but are not limited to inventory and tracking, personnel management, record keeping, budget, and liaison with State and County inspectors as needed. This is a part-time to full-time, seasonal position.
- *Lead Cultivator*: Oversight and management of the day to day cultivation of commercial cannabis. Responsibilities include but are not limited to plant propagation and transplanting, soil management, irrigation, fertilization, pesticide management, and harvest activities. This is a full-time, year-round position.
- *Assistant Cultivator / Processing Manager*: Provides support to the *Lead Cultivator* in their day to day duties and takes the lead role during times when the *Lead Cultivator* may be off site. Once processing activities commence, the *Assistant Cultivator* duties switch to oversight and management of processing the dried cannabis. This is a full-time, seasonal position.
- *Seasonal Laborer*: Provides cultivation, harvesting, and drying support. This is a part-time to full-time, seasonal position.

2.2.2. STAFFING REQUIREMENTS

In addition to the *Agent in Charge*, *Lead Cultivator*, and *Assistant Cultivator positions*, up to two (2) full-time seasonal labor positions are employed. The number of seasonal laborers varies based on the needs of the farm during the cultivation, harvest and processing seasons. During the peak harvest and processing season, there are an estimated total of six (6) employees on site.

2.2.3. EMPLOYEE TRAINING AND SAFETY

On site cultivation, harvesting and drying is performed by employees trained on each aspect of the procedure, including cultivation and harvesting techniques, use of pruning tools, proper application/storage of pesticides/fertilizers. All cultivation staff are provided with proper hand, eye, body and respiratory Personal Protective Equipment (PPE). Access to the onsite cultivation and drying facilities are limited to authorized and trained staff.

All employees are trained on proper safety procedure including fire safety; use of rubber gloves and respirators; proper hand washing guidelines; and protocol in the event of an emergency. Contact information for the local fire department, CAL FIRE, Humboldt County Sheriff and Poison Control as well as the Agent in Charge will be posted at the employee restroom. Each employee is provided with a written copy of emergency procedures and contact information. The material safety data sheets (MSDS) are kept on site and accessible to employees.

2.2.4. TOILET AND HANDWASHING FACILITIES

Prior to facility construction, employees will utilize portable toilets, which will be regularly serviced as required by a qualified professional. Anti-bacterial Liquid Soap and paper hand towels will be made available. Employees will work at a distance typically no greater than 500 feet from the restroom facility.

2.2.5. HOUSING

The Lead Cultivator and Assistant Cultivator will live at the existing single-family residence on site. All other full-time and seasonal employees live off site and commute daily to the cultivation site.

2.3. SECURITY PLAN AND HOURS OF OPERATION

2.3.1. FACILITY SECURITY

An entry gate leading to the cultivation area is located on the driveway off Staton Lane. The entry gates remain locked at all times and access to the cultivation area is limited exclusively to employees.

2.3.2. HOURS OF OPERATION

Activities associated with cultivation (watering, transplanting, and harvesting) generally occur during daylight hours. All other activities including harvesting and drying-related labor typically occur no earlier than 8 AM and extend no later than 8 PM.

3. ENVIRONMENT

3.1. WATER SOURCE AND PROJECTED WATER USE

Irrigation water is proposed to be sourced from rainwater. Storage of rainwater will occur in a proposed 230,000-gallon water storage tank. Based on an area of 10,000 sf of mixed-light cannabis cultivation, the estimated annual demand is approximately 150,000 gallons of water. Table 3.1 below outlines the estimated irrigation water usage for cultivation during a typical year. Variables such as weather conditions and specific cannabis strains will affect water use rates.

<i>Table 3.1: Annual Irrigation Demand</i>											
Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
			10,000	20,000	25,000	30,000	25,000	20,000	20,000		

The estimated amount of available rainwater was based on the existing and proposed capture area and historic rainfall data. Rainfall data was collected from PRISM Climate Group (PRISM Climate Data, 2022), which provides site-specific average annual rainfall data based on topography and historic precipitation values. Based on rainfall values from 1895-2020, the average rainfall for the project area is 58 inches or 4.9 ft.

There are two areas of rainfall catchment: Catchment Area A and Catchment Area B. Catchment Area A is the existing residence and Catchment Area B is the proposed drying and processing building. Both Catchment Areas will be equipped with gutter systems that will convey water to the large water tank.

On an average rainfall year, the proposed catchment area has the potential to capture approximately 151,544 gallons of rainwater, greater than the 150,000 gallons of projected demand. In conclusion, on an average rainfall year, there is adequate rainfall to provide sufficient water demand for the proposed project.

<i>Table 3.2: Summary of Rainwater Catchment Analysis</i>					
Catchment Area	Catchment Surface	Catchment Area (sf)	Catchment Volume (ft ³)	Catchment Volume (gal)	Amount Captured with 98% Efficiency (gal)
A	Existing Residence	1750	8513	63674	62400
B	Proposed Drying and Processing Building	2500	12161	90963	89143

Total Capture Volume (gal) = 151544

It has been demonstrated that, on an average rainfall year, there is adequate rainfall potential to be captured, that will provide sufficient water demand for the proposed project. On an average rainfall year, the proposed catchment area has the potential to capture approximately 151,544 gallons of rainwater.

3.2. SITE DRAINAGE, RUNOFF, AND EROSION CONTROL

New Earth Farms, LLC has enrolled for coverage under the General Order (Order No. 2019-0001-DWQ) and a Site Management Plan has been developed utilizing Best Practicable Treatment and Control (BPTC) measures in accordance with Attachment A of the Order. The drainage and erosion control measures described below will be addressed in the SMP.

3.2.1. SITE DRAINAGE AND RUNOFF

Site investigation for the development of the Site Management Plan (SMP) showed some evidence of surface runoff associated with historic developments and deferred road maintenance. Except for the historic barn, all existing and proposed structures will be located outside of riparian buffer zones and Streamside Management Areas, providing a sufficient buffer to prevent sediment and nutrient delivery. To further prevent runoff to riparian areas, water conservation and containment measures will be implemented. These include the use of drip irrigation to prevent excessive water use and the maintenance of a stable, vegetated buffer between the cultivation area riparian zones.

3.2.2. EROSION CONTROL

The Site Management Plan (SMP) includes erosion and sediment control BPTCs designed to prevent, contain, and reduce sources of sediment. The SMP also includes corrective actions to reduce sediment delivery, including maintaining roads, replacing culverts, and revegetating areas of disturbance. Drainage management solutions are also provided in the SMP which include recommendations for inboard ditches, ditch relief culverts, sediment capture basin and french drains. Additionally, the SMP requires mulch piles and spoils from any grading to be stored in a designated location away from watercourse.

3.3. WATERSHED AND HABITAT PROTECTION

Adherence to the SMP ensures that the watershed and surrounding habitat are protected. The cultivation activities and associated structures are over 60 feet from the nearest surface waters, an ephemeral Class III drainage which lies upslope of the cultivation area. This setback distance in conjunction with a subgrade location provides a suitable buffer between the cultivation operation and potential habitat. Additionally, site development and maintenance activities utilize BPTC measures in accordance with the State Water Resources Control Board's recommendations. Any grading and earthwork activities will be conducted by a licensed contractor in accordance with approved grading permits and the SMP.

3.4. MONITORING AND REPORTING

Monitoring will be conducted to confirm the effectiveness of corrective measures listed in the SMP and determine if the site meets all of the BPTC Measures as per Attachment A of the Order. The Site Management Plan provides more details regarding Monitoring and Reporting. New Earth Farms, LLC. staff track all water use and maintain accurate records of fertilizer applications. This information will be reported annually to the State Water Resources Control Board by March 1st of each year.

3.5. ENERGY AND GENERATOR USE

The parcel is grid tied and features a power drop from PG&E. New Earth Farms, LLC is working with PG&E, a licensed electrician and an electrical engineer to develop the site infrastructure for additional power delivery to ensure that available power is sufficient for the intended and desired production capacity of the farm. Generators are kept on-site for power back up in the event of an emergency or a PG&E power shut off. Use of the generator will follow all guidelines set by Humboldt County and the State of California. In the event that the use of a generator is required, it shall be placed so as to ensure that the noise level does not exceed 60 decibels at the property line. The generator and gasoline fuel are located within a secondary containment trough and stored under cover from the elements.

3.6. USE AND STORAGE OF REGULATED PRODUCTS

3.6.1. BEST MANAGEMENT PRACTICES

Best Management Practices (BMP's) and Best Practicable Treatment and Control (BPTC) Measures are employed when storing, handling, mixing, applying and disposing of all fertilizers, pesticides and fungicides. All nutrients, pesticides and fungicides are located in a locked storage room and contained within watertight labeled containers in accordance with the manufacturer's instructions. Application rates will be tracked and reported with the end of the year monitoring report as detailed in the SMP. Employees responsible for application are trained to handle, mix, apply or dispose of pesticides/fungicides with proper hand, eye, body and respiratory protection in accordance with the manufacturer's recommendations. See the SMP in attachment D for more details.

3.6.2. FERTILIZERS

Nutrients and biological inoculants used for cultivation include:

- Tea Lab - "Dep Blend" Soil Amendment (2-6-2)
 - Ingredients: *Azomite, Basalt, Glacial Rock Dust, Kelp Meal, Alfafa, Nitrogen Bat Guano, Insect Frass, Fish Meal, Soft Rock Phosphate, Phosphorus Bat Guano, Fish Bone Meal, Langbienite, Palm Bunch Ash, Epsom Salt, Gypsum, Dolomite, Oyster Shell, Volcanic Silica Ash, Soluble Humic Acid, Soluble Kelp Powder, Microbial Inoculants, & BioChar.*

3.6.3. PESTICIDES AND FUNGICIDES

Pesticides and fungicides used for cultivation include:

- Lost Coast Plant Therapy - <https://www.lostcoastplanttherapy.com/pages/ingredients>
 - Ingredients: *Soy Oil, Peppermint Essential Oil, Citric Acid, Soap, Alcohol, Sodium Citrate, Water.*

3.6.4. FUELS AND OILS

Fuels and oils stored on site include:

- Gasoline – 40 Gallons

3.7. WASTE MANAGEMENT PLAN

3.7.1. SOLID WASTE MANAGEMENT

Trash and recycling containers are located outside the existing residential building and are enclosed within a secure area to prevent animal intrusion. Solid wastes and recycling are hauled off-site to the nearest resource recovery transfer station on an as needed basis, typically once per week.

3.7.2. CULTIVATION WASTE AND SOIL MANAGEMENT

Cultivated vegetative matter such as root balls, branches and leaves are composted at a designated area. Spent potting soil is stored in a designated contained and covered area that is lined to prevent any soil erosion or nutrient seepage. Soils are analyzed using industry standard soil testing procedures and after consultation are amended and reused. Any used pots will be collected and stored in a designated storage area for the winter. All packaging from soil amendments and fertilizers will be collected and disposed at an appropriate waste disposal facility.

3.7.3. WASTEWATER MANAGEMENT

The water management plan aims to achieve an entirely closed-cycle irrigation and nutrient system. Hand watering and drip irrigation methods minimize the over-irrigation of plants and subsequent runoff.

4. PRODUCT MANAGEMENT

4.1. PRODUCT TESTING AND LABELING

Once operational, samples will be selected from individual harvested cannabis strains and will be tested by a licensed third-party lab in accordance with State and local standards.

4.2. PRODUCT INVENTORY AND TRACKING

Journey Aquarian of Panther Canyon Investments, LLC will enroll in the California Cannabis Track & Trace (CCTT) METRC program and comply with all METRC regulations after a state cultivation license is granted from the California Department of Food and Agriculture.

4.3. TRANSPORTATION AND DISTRIBUTION

Transportation will be handled by a licensed transporter/distributor in accordance with State and Local regulations. All merchantable product will be distributed through licensed medical cannabis dispensaries. Prior to moving packages from the on-site holding facility to another physical location, a transport manifest will be created by the distributor/transporter and will include:

- Product ID numbers and product weight
- Route to be travelled
- Origin and destination addresses
- Time of departure
- Time of arrival

The *Agent in Charge* and the *Processing Manager* are responsible for performing a physical inventory of all packages being transported and ensuring that the physical inventory coincides with the transport manifest. Journey Aquarian is enrolled in the California Cannabis Track & Trace (CCTT) METRC program and complies with all METRC regulations.

Appendix B: References

Bass, Ronald E., Kenneth M. Bogdan, and Terry Rivasplata. 2013. CEQA Desktop. Point Arena, CA; Solano Book Press. Page 44.

California Code of Regulations. Health and Safety Code Section 11357-11362.9.
<<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=11001-12000&file=11357-11362.9>.>

California NORML. SB 420 Establishes Prop. 215 Guidelines, Voluntary Patient Identification Card System.
<<http://www.canorml.org/laws/sb420.html>.>

County of Humboldt. *Commercial Cannabis Land Use Ordinance (CCLUO) – Phase IV, Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use* (Staff Report to the Board of Supervisors). January 26, 2016. <<https://humboldt.legistar.com/Calendar.aspx>.>

North Coast Regional Water Quality Control Board. 2016. *Cannabis Cultivation Waste Discharge Regulatory Program*. http://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/.

State Board of Equalization. Information on the Sales and Registration for Marijuana Sellers. June 2007.
<<http://www.boe.ca.gov/news/pdf/173.pdf>.>

State of California. Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use. August 2008.
http://www.ag.ca.gov/cms_attachments/press/pdfs/n1601_medicalmarijuanaguidelines.pdf

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

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SEP 04 2019

CDFW - EUREKA



STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. 1600-2019-0376-R1

Unnamed Tributary to the Trinity River, Tributary to the Klamath River
and the Pacific Ocean

Michael Bobillot
Bobillot Water Diversion and Stream Crossings Project
4 Encroachments



This Lake or Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Bobillot (Permittee).

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on May 06, 2019, 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 accepts 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 Trinity River watershed, approximately 3.5 miles south of the town of Willow Creek, County of Humboldt, State of California. The project is located in Section 17, T06N, R05E, Humboldt Base and Meridian; in the Willow Creek U.S. Geological Survey 7.5-minute quadrangle; Humboldt County Assessor's Parcel Number 524-072-010; latitude 40.89000 N and longitude 123.63227 W at the pond.

PROJECT DESCRIPTION

The project is limited to four encroachments (Table 1). Two encroachments are for water diversion from unnamed tributaries to the Trinity River. Water is diverted for domestic use and irrigation. Work for the water diversion will include use and

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maintenance of the water diversion infrastructure. The two other proposed encroachments are to upgrade failing or undersized stream crossings. Work for these encroachments will include excavation, removal of the failing crossings, replacement with new properly sized crossings, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion.

Table 1. Project Encroachments with Description

ID	Latitude/Longitude	Description
POD-1 (Well #2)	40.88920, -123.63192	Point of Diversion (POD) 1 diverts water from a shallow well for fire suppression, cultivation and domestic uses.
POD-1 (Pond)	40.89002, -123.63229	Proposed POD-2 would divert water from an existing 473,500 gallon on-stream pond. Prior to diverting water, Permittee shall submit (for CDFW review and approval) a habitat characterization of the pond, an effects analysis for the water diversion, and avoidance and minimization measures to ensure the proposed water diversion does not have substantial effects on aquatic life. Water shall not be diverted prior to CDFW approval of avoidance and minimization measures.
Crossing-1	40.13951, -123.69383	Crossing-1 consists of a stream which crosses a low fill-volume rocked access road via a 24-inch diameter corrugated plastic culvert pipe. The Notification states that the existing crossing is sized adequately for a 100-year storm event and no evidence of erosion associated with this crossing was observed. The crossing will be monitored and maintained to ensure that the inlet and outlet remain open and unobstructed. A critical dip will be installed along the right hinge line of the crossing.
Crossing-2 (Pond spillway)	40.89005, -123.63199	Crossing-2 (pond outlet spillway) consists of a falling 18-inch diameter culvert. The existing spillway shall be removed and replaced with a dipped, rocked spillway. The average diameter of spillway rock size shall be no less than 1.5-feet in diameter. The spillway will be constructed to accommodate a minimum of 2-feet freeboard at peak capacity. All non-native fill material (potting soil, garbage, etc.) will be removed and disposed of appropriately. The skid road associated with this crossing will only be used as an emergency escape route in the event of a fire.

The Permittee has disclosed:

- A 4-inch diameter ditch relief culvert (DRC), located at 40.88937, -123.63162, that will be replaced with an 18-inch diameter DRC to drain an inboard ditch and overland flow.
- A water well (well-1) located at 40.88989, -123.63286. The well's potential for hydraulic connectivity to streams was not addressed in the Notification by a professional hydrogeologist licensed in the state of California and the Department has not evaluated this well.

No other projects that may be subject to FGC1602 were disclosed. This Agreement does not retroactively permit any stream crossings, water diversions or other encroachments not described in Table 1.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), Western Brook Lamprey (*Lampetra richardsoni*), Pacific Lamprey (*Entosphenus tridentata*), Southern Torrent Salamander (*Rhyacotriton variegatus*), Pacific Giant Salamander (*Dicamptodon tenebrosus*), Foothill Yellow-legged Frog (*Rana boylei*), Coastal Tailed Frog (*Ascaphus truei*), Western Pond Turtle (*Actinemys marmorata marmorata*) amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian 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 **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.
- 1.4 **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. As a result of field inspection, CDFW may require that additional measures be applied to specific activities to protect sensitive biological resources. Such measures may be amended into this Agreement with the agreement of both parties, or if an exception to authorized activities is identified, Permittee may be asked to submit separate written notification to CDFW Northern Region.
- 1.5 **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.
- 1.6 **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 bypass flows, diversion rates or other measures 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.
- 1.7 **CDFW Notification of Work Initiation and Completion.** The Permittee shall contact CDFW within the 7-day period preceding the beginning of work permitted by this Agreement. Information to be disclosed shall include Agreement number, and the anticipated start date. Subsequently, the Permittee shall notify CDFW no later than seven (7) days after the project is fully completed. **Notification of completion will include photographs of the completed work, erosion control measures, waste containment and disposal, and a summary of any CNDDB submissions as required below.**

- 1.8 **Notification to the California Natural Diversity Database.** If any special status species are observed at any time during the project, a qualified Biologist shall submit California Natural Diversity Data Base (CNDDDB) forms to the CNDDDB within five (5) working days of the sightings. A summary of CNDDDB submissions shall be included with the completion notification. Forms and instructions for submissions to the CNDDDB may be found at:
<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

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 Permittee Notification, together with all maps, Best Management Practices (BMPs), photographs, drawings, and other supporting documents submitted with the Notification and received on May 06, 2019.
- 2.2 **Listed Species.** This Agreement does not allow for the take, or incidental take of any state or federal listed threatened, endangered, or candidate species. No direct or indirect impacts shall occur to any threatened or endangered species as a result of implementing the project or the project's activities. If the project could result in the "take" of a state listed threatened or endangered species, the Permittee has the responsibility to obtain from CDFW, a California Endangered Species Act Permit (CESA section 2081).
- 2.3 **Foothill Yellow-Legged Frog (FYLF) Avoidance.** To avoid take of FYLF during its CESA candidacy period, the Permittee shall:
- A. **Conduct a Pre-Construction Survey.** Within 3-5 days prior to entering or working at the Project Site, a qualified biologist shall examine the project site to determine the presence/absence of standing or flowing water, and the presence and/or the potential for presence of FYLF adults, juveniles, tadpoles or egg masses within the project area and 150 feet upstream and downstream. Prior to commencing work, Permittee shall provide to CDFW for review preconstruction survey notes and observations.
1. If FYLF are found during the pre-construction survey, Permittee shall:
- a) Consult CDFW immediately by either telephone or e-mail and provide a short description of observations, including a count of individuals and the life stage(s), conditions at the site, and other aquatic species observed; and
- b) Either propose site-specific mitigation measures that will be utilized to avoid take, or obtain an Incidental Take Permit (ITP) if take of FYLF

cannot be avoided. Instream work shall not commence until CDFW has provided written approval of the proposed avoidance measures or an ITP has been issued.

2. If no FYLFs are found during the pre-construction survey and no surface water is present in the project area, work may commence without further surveys.
3. If no FYLFs are found but surface water is present during the pre-construction survey, *or if surface water becomes present at any time during the work period*, a qualified biologist shall survey the work site each day before commencement of work activities where equipment and/or materials may come in contact with FYLFs, streams, or riparian habitat.
4. If FYLFs are observed at any time during the construction season, work in the immediate area shall be halted, CDFW immediately consulted, and conservation measures developed and agreed to by CDFW prior to recommencing work.

B. Qualified Biologist. A qualified biologist is an individual who is experienced in construction level biological monitoring, knowledgeable in the biology, natural history, habits and behaviors of the FYLF, and who is able to recognize all age classes of FYLF relative to other amphibians in the project area. A qualified biologist shall have academic and professional experience in biological sciences or resource management activities. At least 15 days prior to commencement of Project-related surveys for FYLFs, Permittee shall provide to CDFW for review and approval the names and qualifications of individuals requesting qualified biologist status.

C. Decontamination. The Permittee is responsible for ensuring all project personnel adhere to the latest version of the Northern Region California Department of Fish and Wildlife Aquatic Invasive Species Decontamination Protocol for all field gear and equipment that will be in contact with water or FYLFs. Heavy equipment and other motorized or mechanized equipment that comes in contact with water should generally follow watercraft decontamination protocols found in the AIS Decontamination Protocol.

- 2.4 **Nesting Birds.** Actively nesting birds and their nests shall not be disturbed by project activities. If vegetation removal is necessary during the nesting season of protected raptors and migratory birds (**March 1 through August 15**), the Permittee shall notify CDFW of proposed work and a focused survey for bird nests and/or nesting behavior shall be conducted by a qualified biologist within seven days prior to the beginning of project-related activities. Surveys should encompass the area up to 50 feet from disturbance to account for songbirds, and up to 250 feet from disturbance for raptors. If a nest is found or suspected to be

present, Permittee shall consult with CDFW regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and Fish and Game Code. If a lapse in project-related work of seven days or longer occurs, another focused survey, and if required, consultation with CDFW shall be required before project work can be reinitiated.

- 2.5 **Cannabis Cultivation Policy.** If Cannabis is or becomes cultivated on the project parcel, Permittee shall comply with all requirements of the State Water Resource Control Board (SWRCB) Cannabis Cultivation Policy - Principles and Guidelines for Cannabis Cultivation (Cannabis Cultivation Policy), dated April 16, 2019, or the latest version.

Project Timing

- 2.6 **Work Period.** All work, not including diversion of water, shall be confined to the period **June 15 through October 15** of each year. 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. Limited vegetation removal may occur outside of this work period as per Measure 2.4.
- 2.7 **Extension of the Work Period.** If weather conditions permit, and the Permittee wishes to extend the work period after October 15, a written request shall be made to CDFW **at least 10-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 15.
- 2.8 **Work Completion.** The proposed work shall be completed by no later than **October 15, 2021**. Extensions to this date may be granted on a case by case basis as a minor amendment requested at least 30 days prior to this date. Failure to complete work by this date may result in suspension or revocation of this Agreement. A notice of completed work, including photographs of each site, shall be submitted to CDFW within seven (7) days of project completion.

Vegetation Management

- 2.9 **Prohibited Plant Species.** Permittee shall not plant, seed or otherwise introduce invasive plant species within the Project area. Prohibited invasive plant species include those identified in the California Invasive Plant Council's inventory database, which is accessible at: <https://www.cal-ipc.org/plants/inventory/>.
- 2.10 **Minimum Vegetation Removal.** No native riparian vegetation shall be removed from the bank of the stream, except where authorized by CDFW. Permittee shall limit the disturbance or removal of native vegetation to the minimum necessary to

achieve design guidelines and standards for the Authorized Activity. Permittee shall take precautions to avoid damage to vegetation outside the work area.

- 2.11 **Vegetation Maintenance.** Permittee shall limit vegetation management (e.g., trimming, pruning, or limbing) and removal for the purpose of stream crossing or diversion infrastructure placement/maintenance to the use of hand tools. Vegetation management shall not include treatment with herbicides.
- 2.12 **Avoidance of Nesting Birds.** Vegetation maintenance/removal as necessary within the scope of the project shall be confined to the period commencing August 16 and ending February 28, of any year in which this Agreement is valid, provided the work area is outside of the actively flowing stream. Work may continue during precipitation events provided stream flows have not risen into work areas and sediment delivery will not result.

General Stream Protection Measures

- 2.13 **Fish and Aquatic Amphibians.** If possible, work shall be conducted when the affected stream channel is void of surface water. If surface water is present during construction, the Permittee shall: a) have a biologist or other qualified professional survey the site and adjacent area for fish, amphibians, and turtles three days or less before commencing project activities and b) if fish, amphibians, or turtles are detected, CDFW's Greg O'Connell will be contacted by phone or email at (707) 441-5790 or gregory.oconnell@wildlife.ca.gov and work shall not commence until authorized by Mr. O'Connell or another CDFW representative.
- 2.14 **Stream Protection.** No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other material deleterious to fish, plant life, mammals or bird life shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the stream.
- 2.15 **No Dumping.** Permittee shall not deposit, permit to pass into, or place where it can pass into a stream, lake, or other Waters of the State any material deleterious to fish and wildlife, or abandon, dispose of, or throw away within 150 feet of a stream, lake, or other Waters of the State any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.
- 2.16 **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 section 5937.
- 2.17 **Passage of Aquatic Life.** Permitting shall not construct or maintain any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of aquatic life up and down stream. (FGC sections 45 and 5901).

2.18 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.

2.19 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.

2.20 Clean-up. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the ordinary high water mark before such flows occur or the end of the yearly work period, whichever comes first. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.

2.21 Erosion Control Measures

2.21.1 Seed and Mulch. Upon completion of construction operations and/or the onset of wet weather, Permittee shall stabilize exposed soil areas within the work area by applying mulch and seed. Permittee shall restore all exposed or disturbed areas and access points within the stream and riparian zone by applying local native and weed free erosion control grass seeds. Locally native wildflower and/or shrub seeds may also be included in the seed mix. Permittee shall mulch restored areas using at least two to four inches of weed-free clean straw or similar biodegradable mulch over the seeded area. Alternately, Permittee may cover seeding with jute netting, coconut fiber blanket, or similar non-synthetic monofilament netting erosion control blanket.

2.21.2 Erosion and Sediment Barriers. Permittee shall monitor and maintain all erosion and sediment barriers in good operating condition throughout the work period and the following rainy season, defined herein to mean October 15 through June 15. Maintenance includes, but is not limited to, removal of accumulated sediment, replacement of damaged sediment fencing, coir rolls/logs and/or straw bale dikes and ensuring drainage structures and altered streambeds and banks remain sufficiently armored and/or stable. If the sediment barrier fails to retain sediment, Permittee shall employ corrective measures, and notify the department immediately.

2.21.3 Cover Spoil Piles. Permittee shall have readily available erosion control

materials such as wattles, natural fiber mats, or plastic sheeting, to cover and contain exposed spoil piles and exposed areas in order to prevent sediment from moving into a stream or lake. Permittee shall apply and secure these materials prior to rain events to prevent loose soils from entering a stream, lake, or other Waters of the State.

- 2.21.4 Prohibition on Use of Monofilament Netting.** To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament 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.
- 2.22 Site Management Plan.** If Cannabis is or becomes cultivated on the project parcel, Permittee shall submit to CDFW the initial preparation and subsequent updates to the project's Site Management Plan that is prepared in conformance with the SWRCB Cannabis Cultivation Policy.
- 2.23 Waste Containment and Disposal.** Permittee shall contain all operation associated refuse in enclosed, wildlife proof, storage containers, at all times, and relocate refuse to an authorized waste management facility, in compliance with State and local laws, on a regular and ongoing basis. All refuse shall be removed from the site and properly disposed of, at the close of the cultivation season and/or when the parcel is no longer in use.

Water Diversion for POD-1 (Well #2)

- 2.24 Maximum Diversion Rate.** The maximum instantaneous diversion rate from the water intake shall not exceed **three (3) gallons per minute (gpm)** at any time.
- 2.25 Bypass Flow.** The Permittee shall pass **80% of the flow** at all times to keep all aquatic species including fish and other aquatic life in good condition below the point of diversion.
- 2.26 Seasonal Diversion Minimization.** No more than **200 gallons in any one day** shall be diverted during the low flow season from **May 15 to October 31** of each year. Water shall be diverted only if the Permittee can adhere to the maximum diversion rate and bypass flow conditions of this Agreement.
- 2.27 Measurement of Diverted Flow.** Permittee shall install and maintain an adequate measuring device for measuring the instantaneous and cumulative rate of diversion. This measurement shall begin as soon as this Agreement is signed by the Permittee. The device shall be installed within the flow of diverted water. The Permittee shall maintain records of diversion, and provide information including, but not limited to the following:

- 2.27.1 A log including the date, time and quantity of water diverted from the POD.
- 2.27.2 The amount of water used per day for cannabis cultivation separated out from the amount of water used for other irrigation purposes and other uses of water (e.g., domestic use or fire protection).
- 2.27.3 Permittee shall make available for review at the request of the Department the diversion records required by the SWRCB Cannabis Cultivation Policy.

Water Diversion for POD-2 (Pond)

2.28 **Pond Habitat Characterization and Effects Analysis.** Prior to diverting water, Permittee shall submit (for CDFW review and approval) a habitat characterization of the pond, an effects analysis for the water diversion, and avoidance and minimization measures to ensure the proposed water diversion does not have substantial effects on aquatic life. Water shall not be diverted prior to CDFW approval of avoidance and minimization measures.

Water Diversion Infrastructure

- 2.29 **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.
- 2.30 **Intake Structure Placement.** Infrastructure installed in the streambed (e.g., cistern or spring box) shall not exceed 10 percent of the active channel width and shall not be located in the deepest portion of the channel.
- 2.31 **Intake Screening.** The Permittee shall regularly inspect, clean, and maintain screens in good condition.
 - 2.31.1 The water intake screens shall be securely attached (e.g., threaded or clamped) to the intake line and have a minimum wetted area of 0.25 square feet.
 - 2.31.2 The intakes screen shall be designed so that approach velocity is no more than 0.1 foot per second (fps). Approach velocity is the velocity of the water perpendicular to the screen face measured three inches in front of the screen surface.
 - 2.31.3 A water intake screen with round openings shall not exceed 3/32-inch diameter; a screen with square openings shall not exceed 3/32-inch measured diagonally; and a screen with slotted openings shall not exceed 0.069 inches in width. Slots must be evenly distributed on the screen area.
 - 2.31.4 The water intake screen may be constructed of any rigid material,

perforated, woven, or slotted and should have a minimum of 27% open area. Stainless steel or other corrosion-resistant material is recommended to reduce clogging due to corrosion. Care should be taken not to use materials deemed deleterious to aquatic species.

2.31.5 The screen shall be designed to distribute the flow uniformly over the entire screen area.

2.32 Intake Shall Not Impede Aquatic Species Passage. The water diversion structures shall be designed, constructed, and maintained such that they do not constitute a barrier to upstream or downstream movement of aquatic life.

2.33 Intake Maintenance. Intakes shall be kept in good repair. Intakes shall be inspected periodically and kept clean and free of accumulated algae, leaves or other debris, which could block portions of the screen surface and increase approach velocities at any point on the screen. No part of screen surfaces shall be obstructed

2.34 Exclusionary Devices. Permittee shall keep the diversion structures (e.g. cistern) covered at all times to prevent the entrance and entrapment of amphibians and other wildlife.

2.35 Diversion Intake Removal. Permittee shall plug, cap, block (e.g., with a shut-off valve), or remove all intakes at the end of each diversion season.

2.36 Heavy Equipment Use. No heavy equipment shall be used in the excavation or replacement of the existing water diversion structure. The Permittee shall use hand tools or other low impact methods of removal/replacement. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.

2.37 Diversion Infrastructure Plan (DIP). The Permittee shall submit a DIP for CDFW review and approval prior to diverting water. The DIP shall include a narrative describing the different elements of the water diversion infrastructure, supporting photographs and/or diagrams, and justification of how compliance with the **Water Diversion Infrastructure** conditions will be achieved under this Agreement.

Diversion to Storage

2.38 Water Storage. All water storage facilities (WSFs) (e.g., reservoirs, storage tanks, mix tanks, and bladders tanks), except those specifically authorized by CDFW and included as encroachments in a current Agreement, must be located outside the active 100-year floodplain and outside the top of bank of a stream. Covers/lids shall be securely affixed to water tanks at all times to prevent potential entry by wildlife. Permittee shall cease all water diversion at the point of diversion when WSFs are filled to capacity.

- 2.39 Water Storage Maintenance. WSFs shall have a float valve to shut off the diversion when tanks are full to prevent overflow. Water shall not leak, overflow, or overtop WSFs at any time. Permittee shall regularly inspect all WSFs and infrastructure used to divert water to storage and use and repair any leaks.
- 2.40 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.41 Limitations on Impoundment and Use of Diverted Water. The Permittee shall impound and use water in accordance with a valid water right, including any limitations on when water may be impounded and used, the purpose for which it may be impounded and used, and the location(s) where water may be impounded and used.
- 2.42 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:
https://www.waterboards.ca.gov/waterrights/water_issues/programs/registrations/.

Reservoirs

- 2.43 Reservoirs. Shall be appropriately designed, sized, and managed to contain any diverted water in addition to precipitation and storm water runoff, without causing erosion. The Permittee shall install an overflow spillway that will withstand a 100-year flood event, designed with a dispersal mechanism, or low-impact design. The spillway shall be designed and placed to allow for a minimum of two-feet of freeboard.
- 2.44 Diversion. Water shall be diverted to reservoirs only if the Permittee can adhere to the diversion rate, bypass flow, season of diversion and all other relevant conditions of this Agreement.
- 2.45 No Stocking. Stocking of fish, wildlife, or plant of any kind, in any Waters of the State, including reservoirs, shall be prohibited without written permission from the department pursuant to Section 6400 of the Fish and Game Code.
- 2.46 Invasive Species Management for Reservoirs. Permittee shall implement an invasive species management plan prepared by a Biologist for any existing or proposed reservoir. The plan shall include, at a minimum, an annual survey for invasive aquatic species, including the American bullfrog (*Lithobates catesbeianus* = *Rana catesbeiana*). The Biologist, if appropriate, shall implement eradication measures if invasive aquatic species are identified as part of the survey.
- 2.46.1 Bullfrog Management Plan. If bullfrogs are observed, they shall be appropriately managed. Management of bullfrogs, including annual

draining and drying of ponds, shall follow the guidelines in Exhibit A. A copy of the annual monitoring report, shall be submitted to CDFW in accordance with the reporting measures described in Exhibit A and in the Reporting Measures section of this Agreement.

- 2.47 Seasonal Diversion Minimization.** To minimize adverse impacts to native pond breeding amphibians (when present) the following diversion minimizations apply: From November 1 to March 31, the Permittee shall divert water at a rate no greater than the rate of water flowing into the pond (i.e., water diversion shall not decrease the pond depth). From April 1 – September 1, when native larval amphibians are present, the Permittee shall cease diverting water once the pond volume is one third of the maximum pond volume. To comply with this measure; the Permittee shall establish a fixed visual marker(s) (e.g., stage plate) in the pond as a reference for water level thresholds.
- 2.48 Wildlife Entrapment Prevention.** If open reservoirs have plastic lining, slopes greater than 2:1, or if there is any potential for wildlife entrapment, Permittee shall install several exit ramps to prevent wildlife entrapment. Exit ramps shall meet the following requirements: installed at no greater than 2:1 slope, securely fixed at the upslope end, made of solid material (e.g. wood), and be a minimum length of 1.5 times the radius of the pond.
- 2.49 Water Quality and Habitat Maintenance of On-Stream Ponds.** To minimize adverse impacts to native pond breeding amphibians (when present) and downstream fish and wildlife resources, the following protection measures apply: Inflow shall equal outflow April 1 – December 1 of each year. Outflow water temperatures shall not be increased greater than 2 degrees Celsius above inflow temperatures at any time of the year. To demonstrate compliance with this measure Permittee shall submit monthly water temperature data (Celsius) for the months of May-October 2020 at the inlet of the pond or just upstream of the pond, in the pond near the outlet and just downstream of the pond. This data shall be submitted by December 31, 2020 and include Lat/Long of the three sampling locations. If water temperature exiting the pond is increased two degrees Celsius or more over the water entering the pond, Permittee shall provide a plan to remediate the increased water temperature.
- 2.50 Inspection.** Ponds will be inspected by a licensed geologist or engineer to determine if the embankment and spillway are appropriately designed for 100-year flows and associated debris and to evaluate potential risks to downstream resources. Additional work and amendments to the Agreement may be required.

Stream Crossings

- 2.51 Road Approaches.** The Permittee shall treat road approaches to new or re-constructed permanent crossings to minimize erosion and sediment delivery to the watercourse. Permittee shall ensure road approaches are hydrologically

disconnected to the maximum extent feasible to prevent sediment from entering the crossing site, including when a Stream Crossing is being constructed or reconstructed. Road approaches shall be armored from the crossing for a minimum of *50 feet in both directions*, or to the nearest effective water bar or point where road drainage does not drain to the crossing, with durable, clean, screened, angular rock.

2.52 Excavated Fill. Excavated fill material shall be placed in upland 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.

2.53 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.

2.54 Crossing Maintenance. The Permittee shall provide site maintenance for the life of the structures, including, but not limited to, re-applying erosion control to minimize surface erosion and ensuring drainage structures, streambeds and banks remain sufficiently armored and/or stable.

2.54.1 The placement of armoring shall be confined to the work period when the stream is dry or at its lowest flow

2.54.2 No heavy equipment shall enter the wetted stream channel.

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

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

2.54.5 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.

2.55 Isolation of Work Site. 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. Permittee shall adhere to the following conditions:

2.55.1 Stream Diversion. Stream flow shall be diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of

hoses.

2.55.2 Coffer Dams. Prior to the start of construction, Permittee shall isolate the work area. Cofferdams shall be installed to divert stream flow; isolate and dewater the work site; catch and retain sediment-laden water; and minimize sediment transport downstream. 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 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. Permittee shall use only clean, non-erodible materials such as sand bags, on-site rock, and/or plastic sheeting. Mineral soil shall not be used in the construction of cofferdams.

2.55.3 Stranded Aquatic Life. Once coffer dams are installed, a qualified biologist or other qualified professional trained to identify listed species 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 suitable aquatic habitat 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. The Department staff who prepared this agreement shall be contacted immediately if any of these species are detected.

2.55.4 Dewatering. Permittee shall catch and retain sediment-laden water and minimize sediment transport downstream. Flowing water shall be cleanly bypassed and/or prevented from entering the work area through pumping or gravity flow, and cleanly returned to the stream below the work area. Permittee shall divert stream flow around the work site in a manner that minimizes turbidity, siltation, and pollution, and does not result in erosion or scour downstream of the diversion.

2.55.5 Remove any Materials upon Completion. Permittee shall remove any turbid water and sediment present in the work area prior to restoring water flow through the project site, and place them in a location where they cannot enter the Waters of the State. Permittee shall remove all materials used for the temporary stream flow bypass after the Authorized Activity is completed.

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

2.56 Culvert Installation.

- 2.56.1 Permanent culverts shall be sized to accommodate the estimated 100-year flood flow [i.e. ≥ 1.0 times the width of the bankfull channel width or the 100-year flood size, whichever is greater], including debris, culvert embedding, and sediment loads.
- 2.56.2 If the project is located in a high to very high Fire Hazard Severity Zone as designated by CAL FIRE, CDFW recommends culvert materials consist of corrugated metal pipe (CMP). Use of High Density Polyethylene (HDPE) pipe is discouraged.
http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_zones_maps
- 2.56.3 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.
- 2.56.4 Culvert shall be installed to grade (not perched or suspended), 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). The Permittee shall ensure basins are not constructed and channels are not be widened at culvert inlets.
- 2.56.5 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.
- 2.56.6 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.
- 2.56.7 Project Inspection. The Project shall be inspected by NorthPoint Consulting Group or a licensed professional to ensure that the stream crossings were installed as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

2.57 Fords, Armored Fill and Vented Crossings.

- 2.57.1 Fords, armored and vented crossings are considered permanent watercourse encroachments and shall be designed and sized to accommodate the 100-year flood flow plus associated sediment and debris.
- 2.57.2 Fords, armored and vented crossings and hydrologically-connected road approaches shall be maintained as necessary to avoid delivery of fine sediment to the watercourse below.
- 2.57.3 Fords, armored and vented crossings shall be sufficiently outsloped to minimize aggradation of suspended sediments at the crossing.
- 2.57.4 The lowest point of fords, armored and vented crossings shall be constructed within or directly over the original stream channel, to the extent feasible, in order to contain high flows up to twice bank-full and to avoid diversion potential.
- 2.57.5 Armor material shall be comprised of durable angular screened quarry rock of sufficient size and placement to minimize mobilization during a 100-year storm event. Wood may be used for armoring if sound, tight-grained, redwood is applied and sufficiently keyed into the fillslope to resist movement during a 100-year storm event.
- 2.57.6 If maximum fill heights exceed 15 feet or fills exceed 500 cubic yards of fill, rock sizing, armoring thickness, chute width and chute depth shall be calculated and sized using the nomograph provided in Figure 23 of Cafferata et al (2017).
- 2.57.7 Stream crossing spillway fill slopes shall be armored from roadbed to the natural channel in a manner sufficient to prevent significant scour or removal of armor during high flows. Scour is expected through road surface rock cap.
- 2.57.8 Fords shall only be used when the fording surface is dry.
- 2.57.9 Project Inspection. The Project shall be inspected by NorthPoint Consulting Group or a licensed professional to ensure that the stream crossings were installed as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 **CDFW Notification of Work Initiation.** The Permittee shall contact CDFW within the seven-day period **preceding the beginning of work** permitted by this Agreement. Information to be disclosed shall include Agreement number, and the anticipated start date.
 - 3.1.1 Prior to commencing work, Permittee shall provide to CDFW for review preconstruction FYLF survey notes and observations.
- 3.2 **Work Completion.** The proposed work shall be completed by no later than **October 15, 2021**. Extensions to this date may be granted on a case by case basis as a minor amendment requested at least 30 days prior to this date. Failure to complete work by this date may result in suspension or revocation of this Agreement. **Notification of completion will include photographs of the completed work, erosion control measures, waste containment and disposal, and a summary of any CNDDDB submissions** and shall be submitted to CDFW, LSA program at 619 Second Street, Eureka, CA 95501 **within seven (7) days** of project completion.
- 3.3 **Project Inspection.** The Project shall be inspected by NorthPoint Consulting Group or a licensed professional to ensure that the stream crossings were installed as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project. The Permittee shall submit the **Project Inspection Report** to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501
- 3.4 **Measurement of Diverted Flow.** Copies of the **Water Diversion Records** shall be submitted to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501 no later than **December 31** of each year beginning in **2019**.
- 3.5 **Invasive Species Management for Reservoirs.** The Permittee shall submit all required documents described in the Invasive Species Management for Reservoirs, **Bullfrog Management Plan (Exhibit A)** no later than **December 31** of each year. The Bullfrog Management Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.
- 3.6 **Pond Habitat Characterization and Effects Analysis.** Prior to diverting water, Permittee shall submit (for CDFW review and approval) a habitat characterization of the pond, an effects analysis for the water diversion, and avoidance and minimization measures to ensure the proposed water diversion does not have substantial effects on aquatic life. Water shall not be diverted prior to CDFW approval of avoidance and minimization measures.
- 3.7 **Water Quality and Habitat Maintenance of On-Stream Ponds.** In accordance with Water Quality and Habitat Maintenance of On-Stream Ponds Measure, the Permittee shall submit all required information for Water Quality and Habitat Maintenance of Ponds no later than **December 31, 2020**.

- 3.8 **Pond Inspection.** The Permittee shall submit to CDFW an **inspection report for ponds within 60 days** from the effective date of this agreement. The report shall be prepared by a qualified geologist or engineer licensed in the State of California and include recommendations regarding stability and erosion potential minimizations.
- 3.9 **Site Management Plan.** The Permittee shall submit to CDFW the project's **current draft of the Site Management Plan** if it was not included in the Notification. If the Site Management Plan is still in preparation, Permittee shall submit it and all **subsequent revisions and updates** within 30 days of submittal to the SWRCB.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Michael Bobillot
P.O. Box 470
Salyer, CA, 95563
707-499-5739
mikebobillot@gmail.com

To CDFW:

Department of Fish and Wildlife
Attn: Lake and Streambed Alteration Program – Greg O'Connell
Notification #1600-2019-0376-R1
619 Second Street
Eureka, California 95501

LIABILITY

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 Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or 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. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the Fish and Game Code including, but not limited to, Fish and Game Code sections 2050 *et seq.* (threatened and endangered species), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 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, section 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, section 699.5).

EXTENSIONS

In accordance with Fish and Game Code section 1605, subdivision (b), 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, 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, section 699.5). CDFW shall process the extension request in accordance with Fish and Game Code section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code section 1605, subd. (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 Fish and Game Code section 1605, subdivision (a)(2) requires.

EXHIBITS

The documents listed below are included as exhibits to the Agreement and incorporated herein by reference.

Exhibit A. Bullfrog Monitoring and Management Plan

AUTHORITY

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

AUTHORIZATION

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

CONCURRENCE

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

FOR MICHAEL BOBILLOT

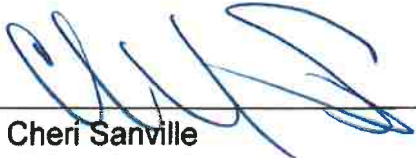


Michael Bobillot

9-3-19

Date

FOR DEPARTMENT OF FISH AND WILDLIFE



Cheri Sanville
Senior Environmental Scientist Supervisor

9/13/19

Date

Prepared by: Greg O'Connell, Environmental Scientist, August 4, 2019

EXHIBIT A.

BULLFROG MONITORING AND MANAGEMENT PLAN FOR 1600-2019-0376-R1

GENERAL BULLFROG INFORMATION

The American bullfrog (*Lithobates catesbeianus* = *Rana catesbeiana*); hereafter bullfrog, is an invasive non-native species in California and poses a significant threat to California's native fish and wildlife resources. Bullfrogs were introduced in California over 100 years ago from eastern parts of the United States as a food supply, but have since caused substantial ecological consequences. Bullfrogs are considered highly invasive and are well documented to be prey upon a variety of fish and wildlife species, including some that are rare, threatened, and endangered. Human modifications to the environment provide favorable condition to bullfrogs such as artificially created agricultural ponds, canals and ditches where warm still water occurs. As a result bullfrogs have spread throughout California.

Efforts to control bullfrogs have been met with varying degrees of success because: 1) bullfrogs can be difficult to detect and go dormant from fall through winter, 2) bullfrogs often take cover in difficult areas to manage (e.g. dense vegetation), 3) they can travel long distances to colonize and re-colonize areas, 4) they have high reproductive output, 5) they are weary and readily flee perceived threats, and 6) they can survive physical trauma remarkably well. CDFW scientific staff recognizes there is an urgent and immediate need to develop improved bullfrog management strategies to protect California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public. Public support and implementation of bullfrog control in California is an important conservation strategy that will help protect natural resources for future generations.

MONITORING

The Project reservoir(s) shall be monitored for bullfrog presence on an annual basis with a minimum of five total surveys, no less than two weeks apart, throughout the months of May-July

- All pond survey effort must be made by a person knowledgeable in bullfrog identification (see Appendix A for reference photos);
- Survey efforts shall include listening for bullfrog calls and slowly walking the complete perimeter of the pond at night* (dusk or later) while shining a flashlight to detect movement and eye-shine

If bullfrogs are not detected upon completion of five total surveys, or at any other time of the year incidentally, removal efforts are not required that year.

*Day time monitoring can also be conducted to aid detection but is not required under this plan.

SUCCESS CRITERIA

The level of effort needed to successfully manage bullfrog populations varies with infestation levels. This plan shall be considered successfully implemented if sufficient effort is provided to prevent adult bullfrogs from reproducing in the reservoir(s) each year, and no bullfrog life-stages can be detected. Bullfrogs are capable of traveling long distances over-land, and on-going

efforts will be required to ensure dispersing bullfrogs do not colonize the reservoir(s) at a future time.

OPTIONS FOR MANAGEMENT

Two management methods may be employed for controlling bullfrogs under this plan and include:

- Manual direct removal
- Reservoir de-watering (Hydro-modification)

Implementing both reservoir de-watering and manual direct removal is currently believed to be the most effective method of managing bullfrog infestations. For reservoirs that are heavily infested with juvenile bullfrogs and/or tadpoles, reservoir dewatering may be necessary to break the bullfrog's life cycle and prevent on-going reproduction. Prior to conducting reservoir dewatering activities, please coordinate with CDFW Scientist Greg O'Connell at gregory.oconnell@wildlife.ca.gov

Direct Removal

All direct removal efforts must be made by a person knowledgeable in bullfrog identification.

- Removal efforts must occur during, but are not be limited to the active/breeding season, occurring May – July;
- A minimum of **five** efforts throughout the season are considered necessary;
- Direct removal efforts are typically most effective when conducted at night with use of lights but can also be conducted during the day;
- Direct removal must include working the entire perimeter of the reservoir;
- A rubber raft or small boat may be necessary to successfully remove some individuals;
- A team of two individuals or more is often helpful, one person for shining lights and/or operating a boat and the other person to perform removal efforts;
- Bullfrog tadpoles must be removed and dispatched and must not be relocated or kept as pets.

Management Authorization

Take of bullfrogs is specifically allowed in the California Code of Regulations (CCR), Title 14 (T-14) section 5.05(a)(28), under the authority of a sport fishing license. There is no daily bag limit, possession limit or hour restriction, but bullfrogs can only be taken by hand, hand-held dip net, hook and line, lights, spears, gigs, grabs, paddles, bow and arrow or fish tackle.

Alternatively, FGC Section 5501 allows CDFW, as limited by the commission, to issue a permit to destroy fish that are harmful to other wildlife. The regulations have addressed this under Section CCR T-14 226.5 Issuance of Permits to Destroy Harmful Species of Fish in Private Waters for Management Purposes. This allows the CDFW to issue free permits to destroy harmful aquatic species by seining and draining.

Pond Dewatering

Pond dewatering may be appropriate if the reservoir can be successfully dewatered without adversely affecting stream resources. Careful planning and coordination with CDFW, is necessary to ensure potential impacts to stream resources can be addressed, prior to commencing with pond draining. Discharge of polluted water to waters of the state may require permitting from other agencies with permitting authority, such as the Regional Water Quality Control Board.

In general, bullfrog tadpoles require two years to develop into frogs, whereas native amphibians only require one year. Therefore, draining a reservoir every year is intended to interrupt bullfrog tadpole development, dramatically decrease bullfrog populations and allow for reduced efforts as a measure of adaptive management. Typically in Northern California, reservoir draining should occur in September through October to avoid impacts to sensitive native amphibian and fishery resources. While draining occurs, direct removal efforts should be employed as described above if possible.

REPORTING

A written log shall be kept of monitoring and management efforts and shall be provided to CDFW **each year** by December 31. The written log shall include: 1) date and time of each monitoring and management effort, 2) approximate number of each bullfrog life stage detected and/or removed per effort, and 3) amount of time spent for each monitoring and management effort.

APPENDIX A. BULLFROG REFERENCE PHOTOS



This is a photo of a Bullfrog tadpole. (Photo taken by Mike van Hattem).



The photos shown in this Appendix demonstrate a medium sized adult bullfrog that was removed from Ten Mile Creek, Mendocino County. Note the bullfrog has a large tympanum, (circular ear drum shown with an arrow) and **does not** have distinct ridges along its back (dorsolateral folds). Photo taken by Wes Stokes.



The bullfrog has somewhat distinct mottling and **the underside of the bullfrogs hind legs are not shaded pink or red.**

HUMBOLDT COUNTY DEPARTMENT OF PUBLIC WORKS
ROAD EVALUATION REPORT

PART A: Part A may be completed by the applicant

Applicant Name: New Earth Farms, LLC APN: 524-072-010

Planning & Building Department Case/File No.: Apps# 12260

Road Name: Staton Lane (complete a separate form for each road)

From Road (Cross street): Co Route 8L100

To Road (Cross street): Staton Lane

Length of road segment: 0.70 miles Date Inspected 01/14/19

Road is maintained by: County Other Private
(State, Forest Service, National Park, State Park, BLM, Private, Tribal, etc)

Check one of the following:

Box 1 The entire road segment is developed to Category 4 road standards (20 feet wide) or better. If checked, then the road is adequate for the proposed use without further review by the applicant.

Box 2 The entire road segment is developed to the equivalent of a road category 4 standard. If checked, then the road is adequate for the proposed use without further review by the applicant.

An equivalent road category 4 standard is defined as a roadway that is generally 20 feet in width, but has pinch points which narrow the road. Pinch points include, but are not limited to, one-lane bridges, trees, large rock outcroppings, culverts, etc. Pinch points must provide visibility where a driver can see oncoming vehicles through the pinch point which allows the oncoming vehicle to stop and wait in a 20 foot wide section of the road for the other vehicle to pass.

Box 3 The entire road segment is not developed to the equivalent of road category 4 or better. The road may or may not be able to accommodate the proposed use and further evaluation is necessary. Part B is to be completed by a Civil Engineer licensed by the State of California.

The statements in PART A are true and correct and have been made by me after personally inspecting and measuring the road.

Signature



04/18/2019

Date

Greyson Adams

Name Printed



Humboldt County Department of Public Works
1106 Second Street
Eureka, CA 95501

Subject: New Earth Farms, LLC. – Humboldt County APN: 524-072-010 - Apps no.: 12260
Road Evaluation Report photos



Figure 1: RP-1 on confluence of private drive with CO Route 8L100. Road is utilized by applicant and adjacent landowners for private property access.



Figure 2: RP-2 on private drive. Road is utilized by applicant and adjacent landowners for private property access.



Figure 3: RP-3 on private drive. Road is utilized by applicant and adjacent landowners for private property access.





Figure 4: RP-4 on private drive. Road is utilized by applicant for private property access.



Figure 5: RP-5 on Private drive. Road is utilized by applicant for private property access.



Route Map


APN: 524-072-010

New Earth Farms, LLC.


Apps. No.: 12260



Legend

 Access Road

 APN: 524-072-010

 RP

Google Earth

2000 ft




Rifleway Ln

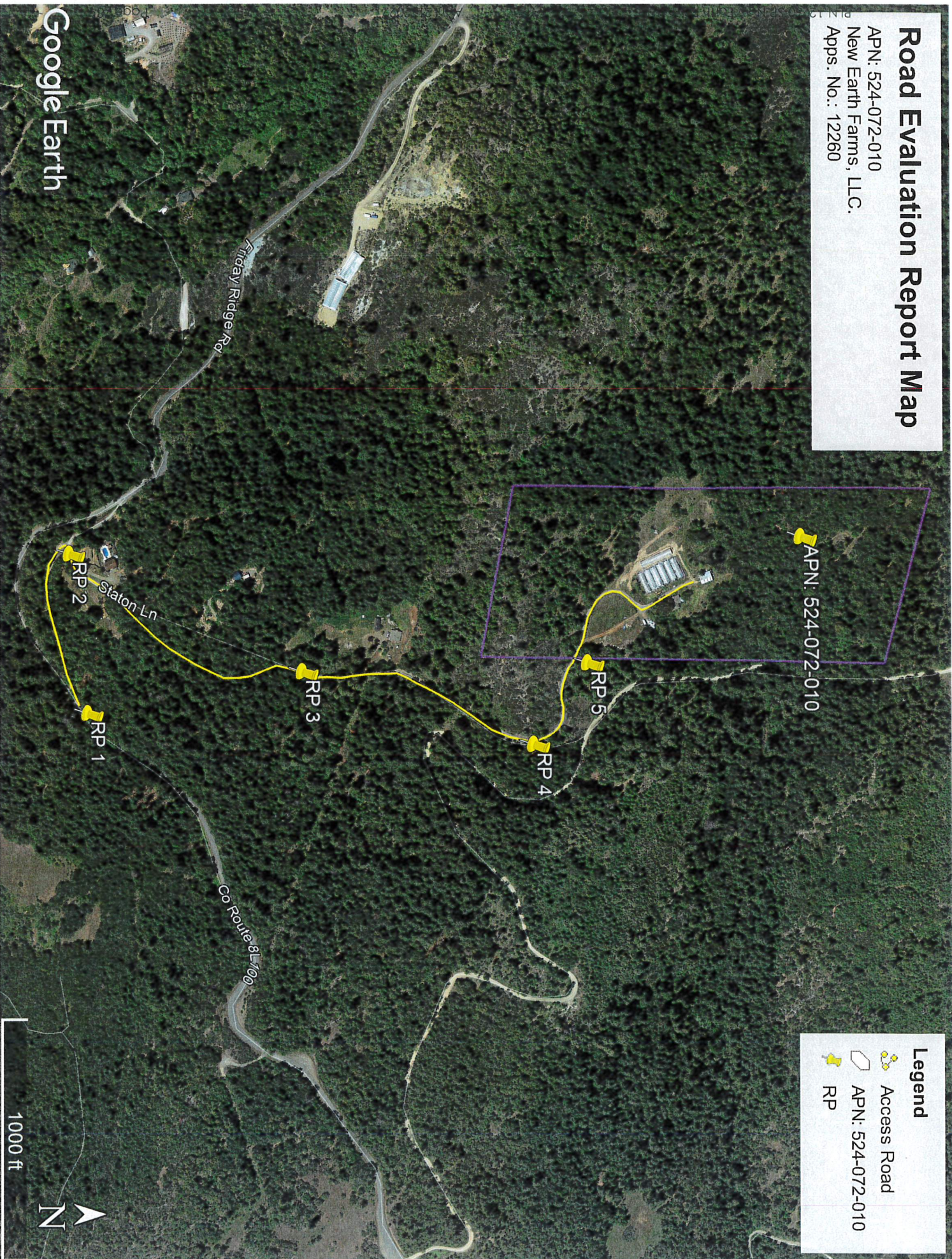
Road Evaluation Report Map

APN: 524-072-010
New Earth Farms, LLC.
Apps. No.: 12260

APN: 524-072-010

Legend

-  Access Road
-  APN: 524-072-010
-  RP



Google Earth



**Wetland and Watercourse Evaluation
New Earth Farms
Willow Creek
Humboldt County, CA.
APN#: 524-072-010**

Prepared by
J. Regan Consulting
Eureka, CA.
November 2021

For
**MAD RIVER PROPERTIES, INC.
MCKINLEYVILLE, CA.**

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Introduction

This report is intended to serve as documentation of assessment of selected potential wetland, pond, and watercourse features found within the subject parcel (highlighted on attached site plan). This report is the result of in field survey, reviews of relevant scientific literature, and professional knowledge. The subject area was assessed for the presence of jurisdictional waters of both the State of California and of the United States of America, methodologies used are described below.

Setting

The subject parcel (APN# 524-072-101) is located at 600 Station Lane outside of the City of Willow Creek, Humboldt County, California.

Methods

Wetlands and Waters

An assessment of a small ponded/potential wetland feature which occurs on the subject parcel was conducted by interpretation of aerial photography and resource maps courtesy of Google Earth, Humboldt County Web GIS, correspondence with the landowner, and United States Fish and Wildlife Service (USFW) National Wetland Inventory. This assessment was supplemented by in field survey of the subject areas on 24 October 2021. In field survey and photo documentation was conducted by Mr. Mike Atkins.

Watercourses were identified using the U.S. Army Corps of Engineers (ACOE) "Guide to Ordinary High Water Mark (OHWM) Delineation for Non-Perennial Streams in the Western Mountains, Valleys, and Coast Region of the United States" (Mercel, Licvar 2014).

Wetland conditions were assessed using guidelines in the ACOE Wetland Delineation Manual Technical Report Y-87-1 (referred to as the 1987 manual) and the Draft Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys and Coast Region. The 1987 manual provides technical guidelines for identifying wetlands, distinguishing them from non-wetlands, and provides methods for applying the technical guidelines.

This wetland and waters evaluation also utilized techniques from the technical manual A Hydrogeomorphic Classification of Wetlands (Brinson 1993) wherein wetlands are classified by land position and hydrologic regime.

Explicit in the ACOE definition is the consideration of three environmental parameters: Hydrology, Vegetation, and Soils. Positive wetland indicators of all three parameters are normally present in wetlands recognized under federal jurisdiction. The ACOE methodology requires one positive indicator from each parameter in order to make a positive wetland determination. Indicators of wetland hydrology include drainage patterns, drift lines, sediment deposits, watermarks, and visual observations of saturated soils and/or inundation.

Watercourses were classified as either Seasonal (Intermittent or Ephemeral) or Perennial.

During this investigation vegetation and hydrologic indicators were used, this study does not include taxonomy or mapping of soils.

Vegetation

Vegetation communities within and surrounding the wetland/pond feature in question were assessed by photo interpretation, knowledge of regional vegetation communities, and communication with property owners.

The ACOE Manual (1987) directs that presence of a single individual of hydrophytic species does not mean that hydrophytic vegetation is present. However, hydrophytic vegetation is considered to be present if 50% of the dominant species have indicator status of OBL, FACW or FAC.

- Obligate (OBL)—usually occurs within a wetland (estimated probability 99%)
- Facultative-wet (FACW)—usually occurs in wetlands (estimated probability 67-99%)
- Facultative (FAC)—equally likely to occur in wetlands or non-wetlands (estimated probability 33-67%)
- Facultative-upland (FACU)—usually occurs in non-wetlands (estimated probability 1-33%)
- Upland (UPL)—occurs almost always in non-wetlands (estimated probability 99%)
- Not listed (NL)—scored as an upland plant and calculated as such on wetland determination forms

Hydrology

Indicators of active watercourse and wetland hydrology include drainage patterns, defined channel banks, presence of an ordinary high water mark (OHWM), drift lines, sediment deposits, watermarks, and visual observations of saturated soils and/or inundation. Visual observations of surface water or soil saturation and drainage patterns were determined by observing any signs of surface flow into or through the subject parcel during the site visit. Aerial imagery was used courtesy of Google Earth and Humboldt County Web GIS and supplemented by site photos from both 14 January 2019 and 24 October 2021.

Results

Feature 1. Man-made Pond/Wetland

This feature is man-made and maintained. The area in question is composed of a bermed and diked area along the channel of an ephemeral watercourse. The man-made berms impound seasonal water inputs from the small ephemeral channel and act as a rainwater catchment during seasonal rain events. During the winter months when the ephemeral channel may be flowing the area fills with water and should be classified as a “man-made water supply reservoir that supports native aquatic species” similar to a stock pond common on cattle ranches in the area. For the purposes of classification, the area should not be considered a wetland when full as the water depth exceeds several feet (the outlet on the berm is quite high) generally precluding

emergent vegetation except on the shallow edges of the pond within the berm. Below I have attached a photo of the site when full in the winter months. Note that the berm itself does not have a significant riparian vegetation community except for several small trees (likely cottonwood) near the outlet side, a small, maintained path runs along the top of the berm. There are hydric plant species (*Juncus* spp.) along the waterline, which is usual for farm and stock ponds.

During the summer the site no longer receives water inputs and begins to dry down exposing the flat bottom which, once exposed, does contain a suite of plant species most of which are suited for wetland habitats and portions of the pond with emergent hydric vegetation may be classified as palustrine seasonal emergent freshwater wetland. The pond does not appear to fully dry down as evidenced by the 2021 photo taken after minimal rains in a year of well below average rainfall. The vegetation exposed by the dry down of the pond appears to be a mix of hydric and non-hydric grasses and forbs both native and non-native. With more hydric species occurring along the waterline and likely following the receding waters at the season progresses. Vegetation furthest away from the waters edge appears to transition to a mix of hydric and non-hydric species late in the season as the waterline draws away from the berm. This is also common to many rain fed stock ponds in the region. The 2021 photo is taken from the top of the berm near the outlet.

It may be assumed that the soils within the bermed feature will show evidence of hydric conditions as they are under water for most of the year.

Classification of these features as man-made pond and wetland features is not surprising as water is purposely impounded within the berm maintaining suitable hydrology nearly all year long.

Photo 1. Winter Pond 14 January 2019



Photo 2. Dry Season Pond 24 October 2021



Recommendations

The ephemeral watercourse is a natural feature which requires a buffer during permitted activities in Humboldt County. The Humboldt County General Plan §314.61 Streamside and Wetland Management Area Ordinance (SWMAO) calls for a 50-foot Streamside Management Area (SMA) buffer for ephemeral streams as does the current cannabis cultivation ordinance, this buffer distance should be measured from the top of bank on the ephemeral channel (no significant riparian vegetation is present). Any work within this SMA buffer or within the ephemeral channel itself requires a permit from the county as well as the California Department of Fish and Wildlife (CDFW) prior to commencement of work.

The pond/wetland feature is completely man-made. This feature does not appear to require a buffer under the SWMAO as the feature consists entirely of a man-made water detention system (Humboldt County Code §314.61.1.7.6) and should not be considered an “Other Wet Area” which are natural ponds or vernal pools (Humboldt County Code § 314.611.7.6.4). Humboldt County Code §314.61.1.7.6.6 includes buffer widths for naturally occurring wetlands but explicitly notes that “No buffer shall be required for manmade wetlands except wetlands created for mitigation purposes.” Under current cannabis cultivation guidelines this feature should be regarded as a “man-made water supply reservoir that supports native aquatic species” (a class IV watercourse) and should not be given a protective buffer, however, work within the established riparian vegetation zone (within the berm) does require further permitting from resource agencies. While the seasonal wetland located within the berm may be considered jurisdictional (even when man-made) by ACOE, the ACOE guidelines do not impose buffers on wetland features. However, any work, encroachment, import or removal of fill or soils within the bermed wetland area may require permits from ACOE.

Conditions and Limitations

This report is based on conditions observed and recorded during photo interpretation, correspondence with landowners, and field visits in 2021. This report has not been reviewed nor has concurrence with the conclusions been obtained. Verification by agencies may be necessary in the future. Land use practices and regulations can change thereby affecting conditions and delineation results described herein.

This report and accompanying maps and data should be transmitted to the appropriate agents for review and included in any application for permits necessary for completion of any proposed development projects on the subject property.

Significance of waters and the necessity for mitigation during development is decided by regional agents of the appropriate federal, state, and local agencies if and when the site is reviewed for permitting purposes.

This report was prepared for exclusive use; consultants are not liable for any actions arising out of the reliance of any third party on the information contained in this report.

Please feel free to call with any questions.

James Regan



Botanist/Wetland Delineator
707-845-0821

References

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<http://www.fws.gov/wetlands/>

U.S.D.I – F.W.S. (United States Department of the Interior, Fish and Wildlife Service). 1996. *National List of Vascular Plant Species that Occur in Wetlands: 1996 National Summary*. Ecology Section, National Wetlands Inventory, FWS, report dated March 3, 1997. 209 pp.

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
Building Inspection Division	✓	Comments	Attached
Division Environmental Health	✓	Conditional Approval	Attached
Public Works, Land Use Division	✓	Conditional Approval	Attached
CAL FIRE	✓	No Comments	Attached
California Department of Fish & Wildlife		No Response	Attached – Planning staff request for comments
United States Forest Service: Six Rivers	✓	Denial	Attached
Northwest Information Center	✓	Further Study	On file and confidential
Hoop Valley Tribe		No Response	
Tsungwe Council	✓	Comments	On file and confidential
Klamath-Trinity Joint Unified School District		No Response	
Willow Creek Fire Protection District		No Response	
Humboldt County Agricultural Commissioner		No Response	
Humboldt County District Attorney		No Response	
Humboldt County Sheriff		No Response	
North Coast Unified Air Quality Management District		No Response	
Pacific Gas & Electric Company		No Response	
North Coast Regional Water Quality Control Board		No Response	
State Water Resources Control Board – Division of Water Rights		No Response	

M/TOM

7/7



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7245

1/28/2021

Project Referred To The Following Agencies:

AG Commissioner, County Counsel, District Attorney, Environmental Health, Sheriff, PW Land Use, **Building Inspections**,
US Forest Service: Six Rivers National Forest, FPD: Willow Creek, RWQCB, NCUAQMD, School District: Klamath-Trinity
JUSD, Cal Fish & Wildlife, Division of Water Resources, CalFire, CA Division of Water Rights, Hoopa Valley Tribe, NWIC,
Tsnungwe Council, PGE

Applicant Name Key Parcel Number 524-072-010-000

Application (APPS#) PLN-12260-CUP **Assigned Planner** Megan Acevedo

Please review the above project and provide comments with any recommended conditions of approval. To help us log your response accurately, please include a copy of this form with your correspondence.

Questions concerning this project may be directed to the assigned planner for this project between 8:30am and 5:30pm Monday through Friday.

County Zoning Ordinance allows up to 15 calendar days for a response. If no response or extension request is received by the response date, processing will proceed as proposed.

If this box is checked, please return large format maps with your response.

Return Response No Later Than: 2/12/2021

Planning Clerk
County of Humboldt Planning and Building Department
3015 H Street
Eureka, CA 95501
Email: PlanningClerk@co.humboldt.ca.us **Fax:** (707) 268 - 3792

We have reviewed the above application and recommend the following (please check one):

- Recommend Approval. The department has no comment at this time.
- Recommend Conditional Approval. Suggested conditions attached.
- Applicant needs to submit additional information. List of items attached.

Recommend Denial. Attach reasons for recommended denial.

Other Comments: Please see BLD comments sheet

DATE: 7-15-2021

PRINT NAME: Tom DeBertein



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
BUILDING DIVISION

3015 H STREET EUREKA CA 95501
PHONE: (707) 445-7245 FAX: (707) 445-7446

Building Division's Referral Comments for Cannabis Operations:

Accela Record No: PLN-12260-CUP APN: 524-072-010

The following comments apply to the proposed project, (check all that apply).

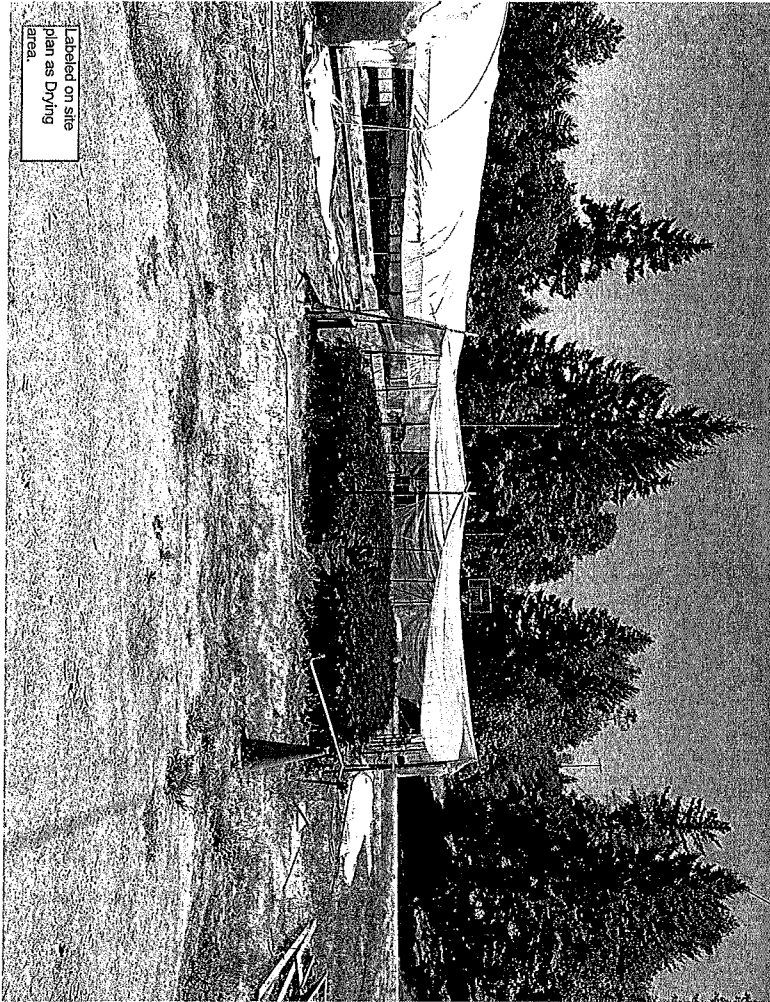
- Site plan appears to be accurate.
- Site plan is not accurate, submit revised site plan showing the following items:
 - All grading including ponds and roads,
 - Location of any water course including springs,
 - All structures including size and use and all setbacks from each other, above stated items, and property lines.
 - Graded flats at well, GH 1-6, and storage barn.
 - Stream diversion into pond, dam at road crossing.
- Existing operation appears to have expanded as follows: _____
Cannabis plans where labeled "Drying area" on site plan.

- Proposed new operation has already started.
- Development is near a wet area. If yes, distance from development: within pond/wetlands SB
- Development is near a Steam side Management Area (SMA). If yes, distance from development: within SMA
- Recommend approval based on the condition that all required grading, building, plumbing, electrical, and mechanical permits and or Agricultural Exemptions are obtained.
- Other Comments: It appears water from pond is being pumped into tanks or irrigation system.
Raft with piping can be seen in pond. Depth of pond is man made with a dam.

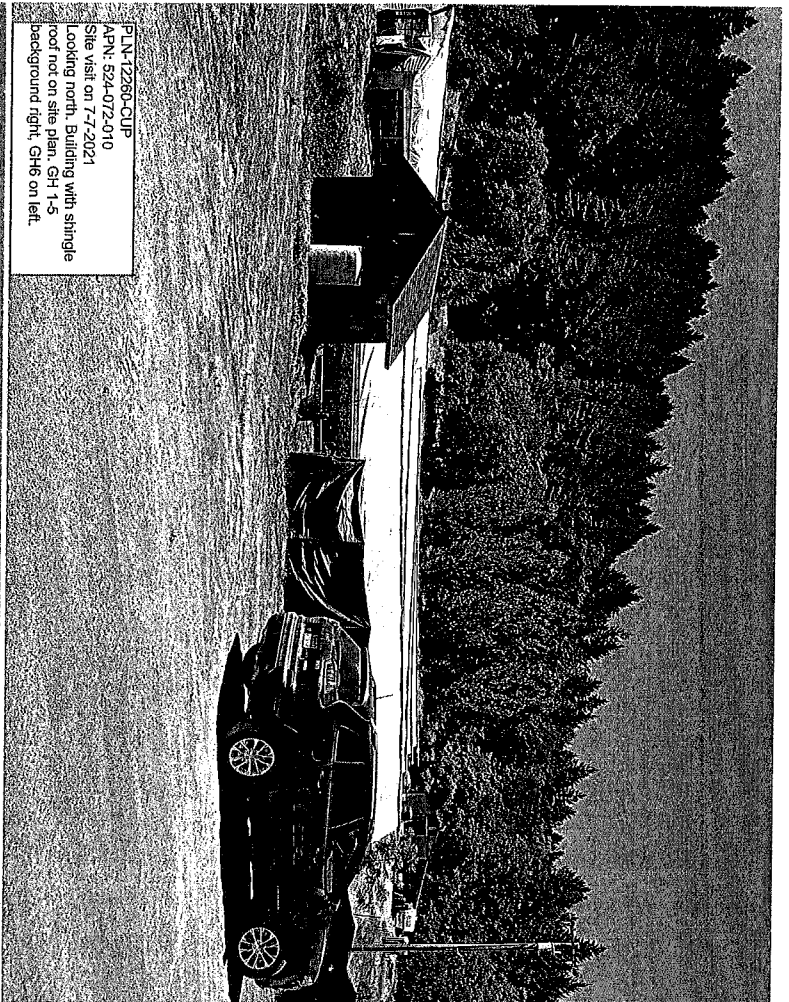
Name: Tom Doberstein

Date: 7-15-2021

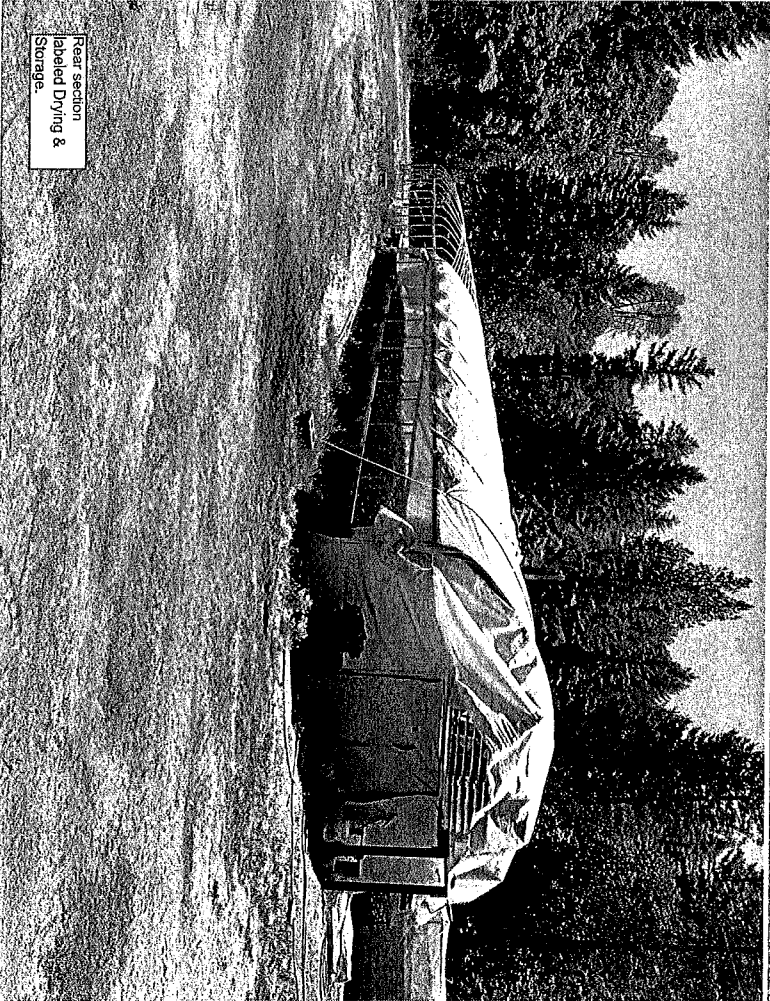
Note: Please take photographs and save them to the Planning Accela record number.



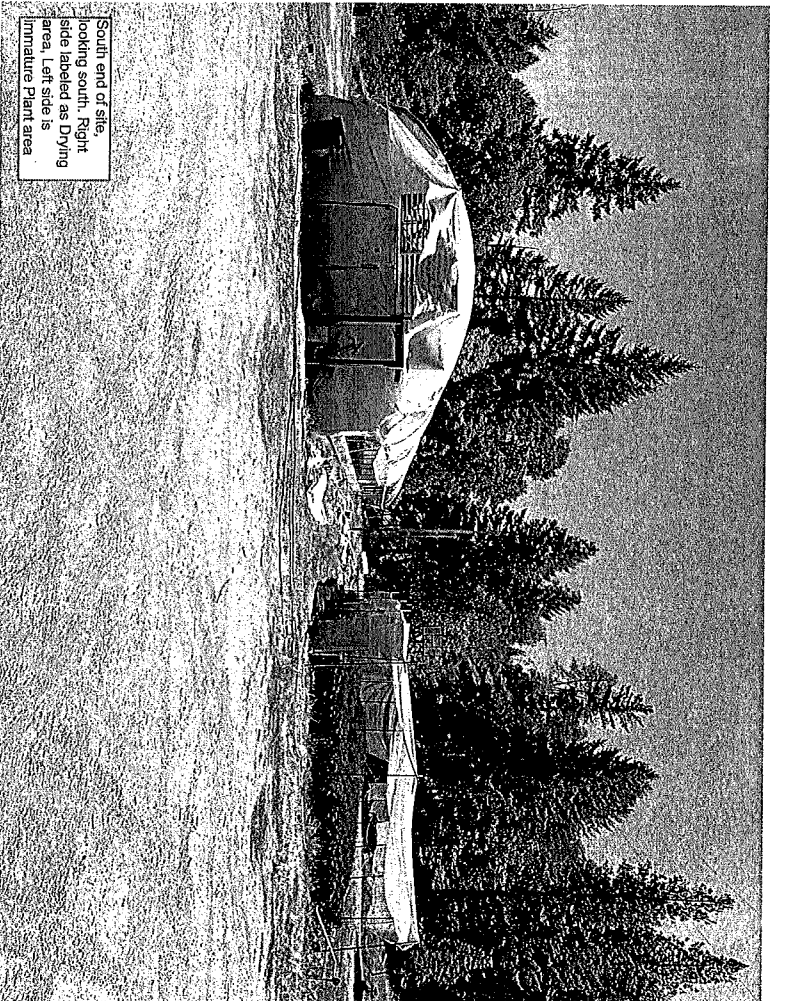
Labeled on site plan as Drying area.



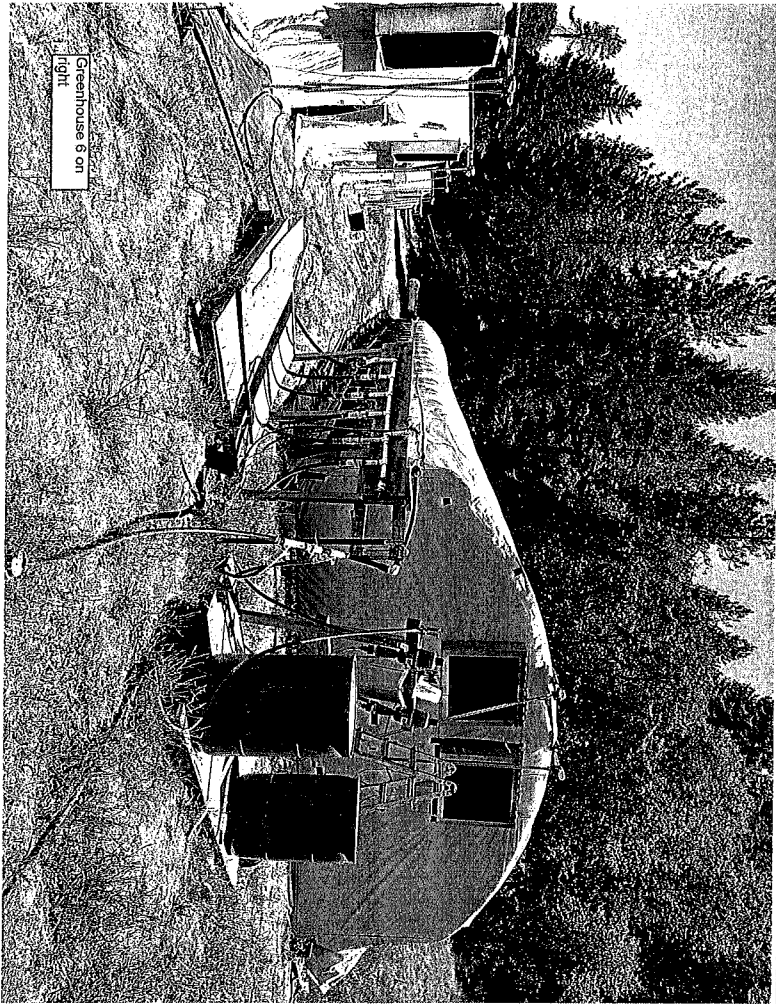
PLN-12260-CUP
APN: 524-072-010
Site visit on 7-7-2021
Looking north. Building with shingle roof not on site plan. GH 1-5 background right. GH6 on left.



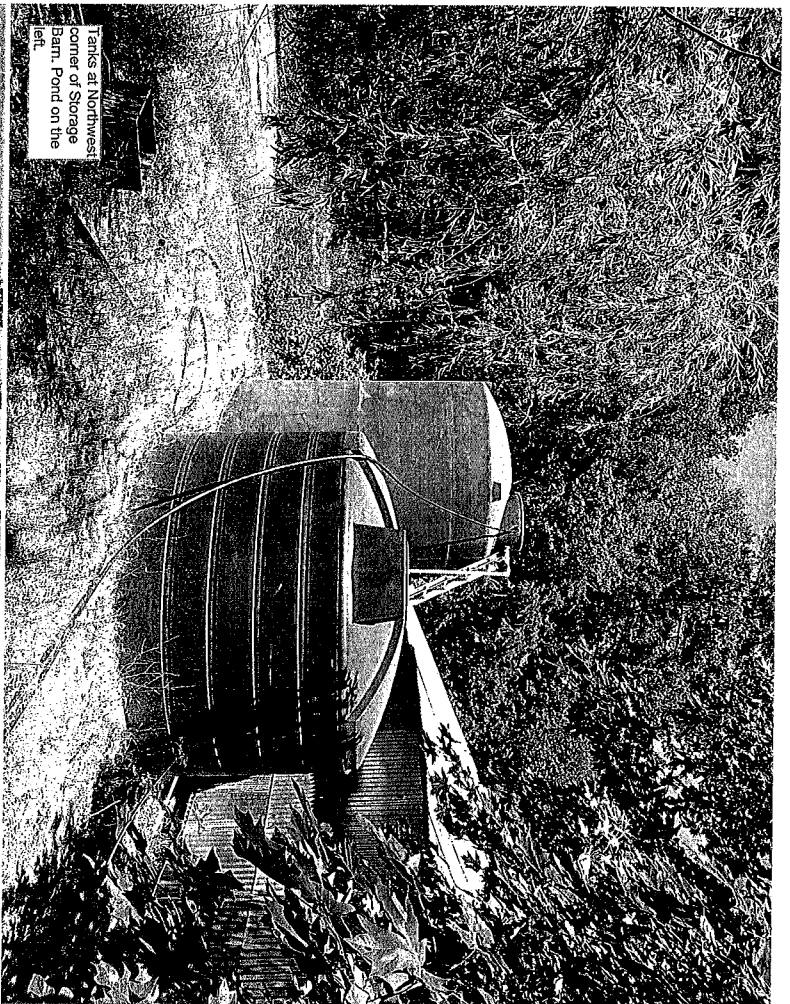
Rear section labeled Drying & Storage.



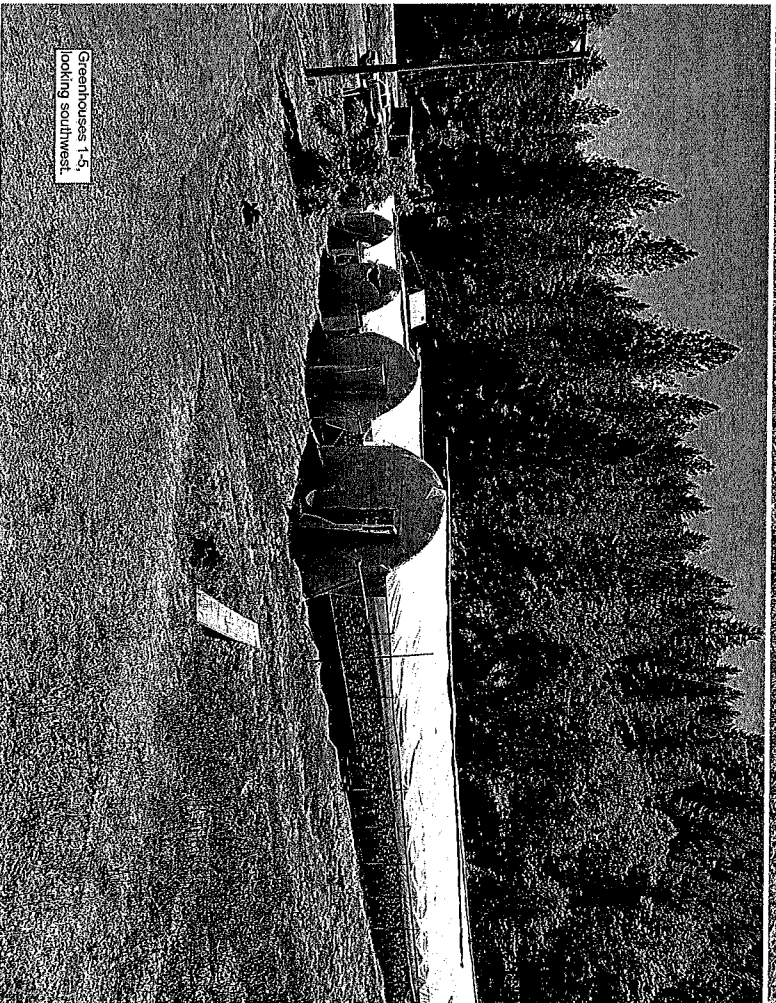
South end of site, looking south. Right side labeled as Drying area. Left side is Immature Plant area.



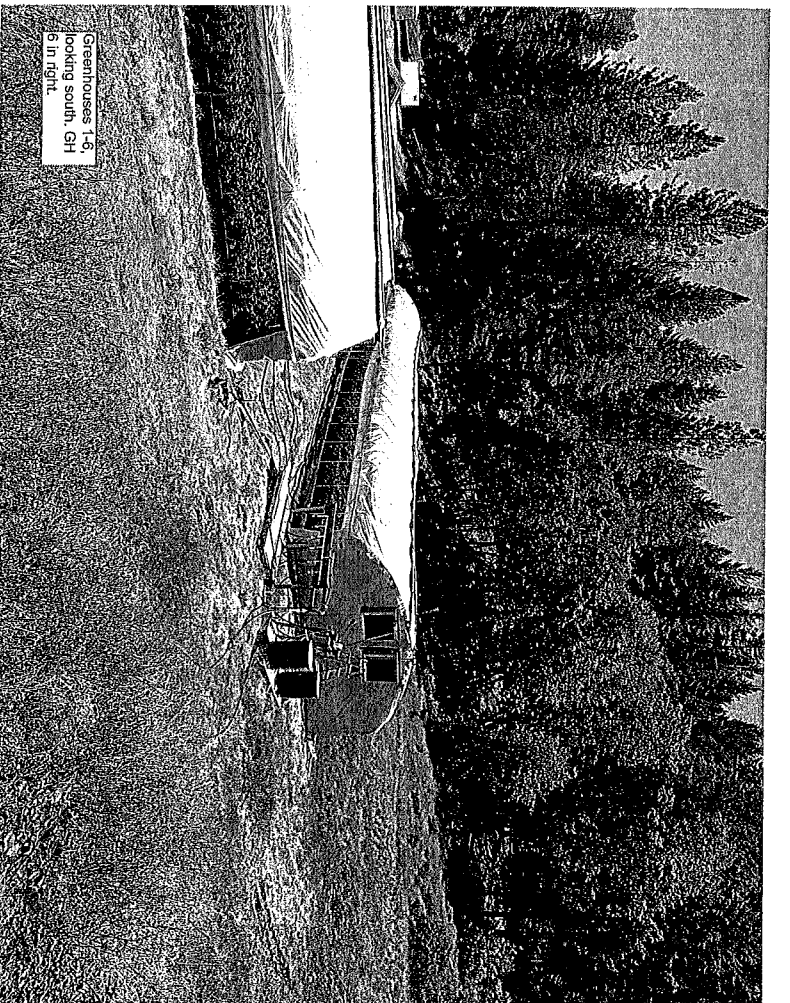
Greenhouse 6 on right



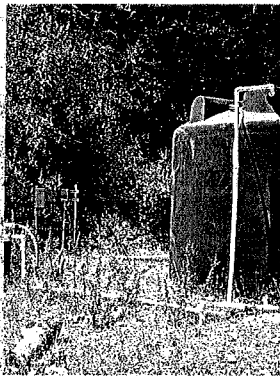
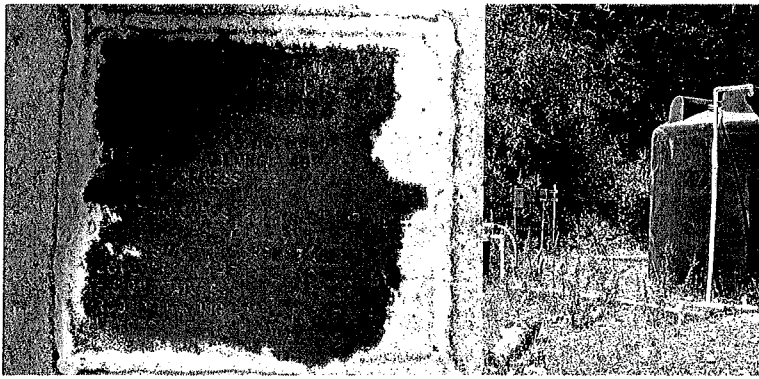
Tanks at Northwest corner of Storage Barn; Pond on the left



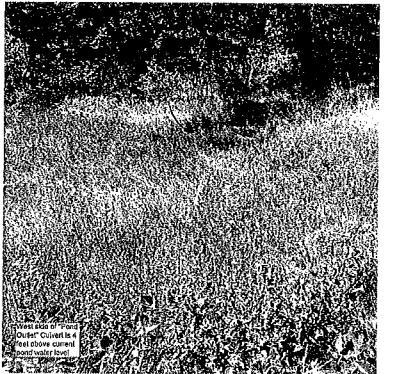
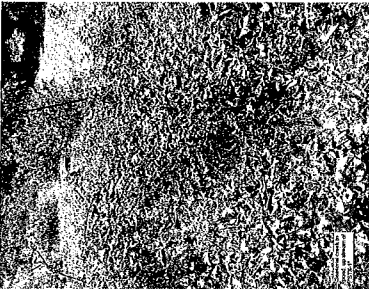
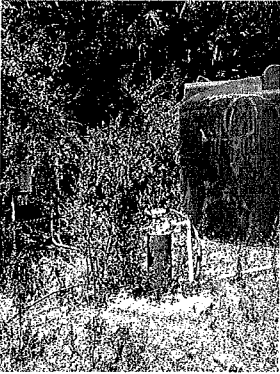
Greenhouses 1-5, looking southwest



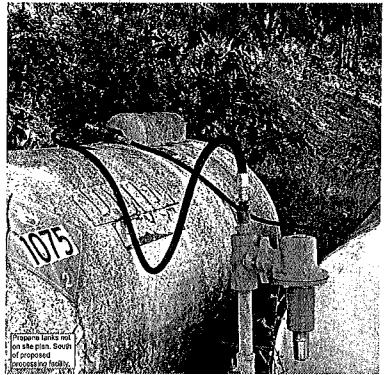
Greenhouses 1-5, looking south, GH 6 in right



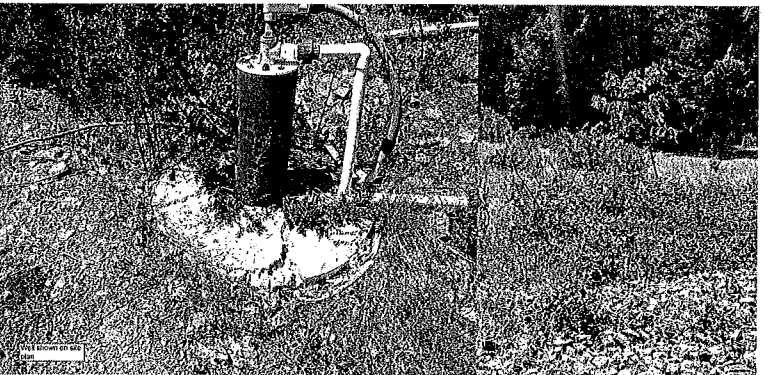
Plan view of "bore
Outlet" site shows
stillwater. Diver gauge
well has been filled for a
road crossing.



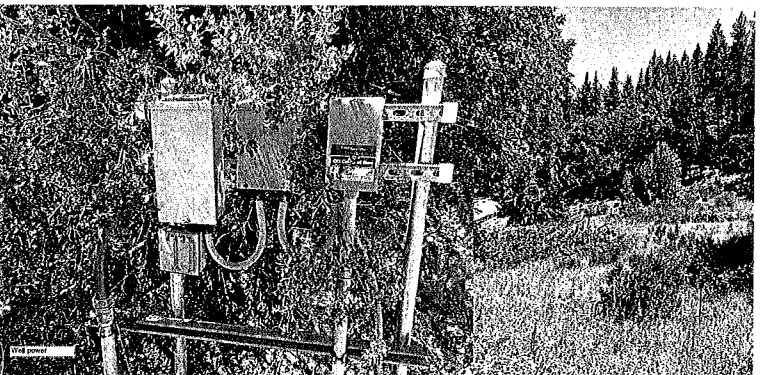
"Outlet" Outlet is a
well above current
ground water level.



Probe is located just
on the plus. South
of proposed
access to facility
containing 1075.



Well enclosure site.



Well enclosure site.

PLN-12260-...

New Earth Farms, ...
Applying for a Spe...

STATUS

> In Referrals
01/28/2021 by ...

LOCATION

> 600 Staton Dr
Willow Creek, ...

CONTACT

> New Earth Far...

WORKFLOW

> 16 total Task
● 6 completed ○
3 active

Summary

Project Description

Workflow

1 Referral Assignments

2 Planning Information

3 GP / Zoning Information

4 CEQA

5 Cannabis

Project Tracking

6 Referral Task Log (2)

Fee (9)

Payment

Workflow History (30)

Comments (6)

Documents (32)

Cancel

Help

Task

Environmental Health

Due Date

02/14/2021

Assigned Date

02/03/2021

Assigned to Department

Environmental Health

Assigned to

Adam Molofsky

Status

Approved with Conditions

Action by Department

Environmental Health

Action By

Adam Molofsky

Status Date

02/04/2021

Start Time

End Time

Hours Spent

0.0

Billable

No

Overtime

No

Comments

Processing activities must be supported by an approved Onsite Wastewater Treatment System (OWTS). Seasonal/outdoor cultivation sites may be supported by portable toilets. Applicant must obtain a permit for, and install, an approved OWTS to support the processing location and either install approved septic systems or provide portable toilets to cultivation areas.

Time Tracking Start Date

Est. Completion Date

In Possession Time (hrs)

Display E-mail Address in ACA
No Display Comment in ACA

Comment Display in ACA

 All ACA Users Record Creator Licensed Professional Contact Owner

Estimated Hours

0.0

Action

Updated

Workflow Calendar



DEPARTMENT OF PUBLIC WORKS
C O U N T Y O F H U M B O L D T
 MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579
 AREA CODE 707

ON-LINE
 WEB: CO.HUMBOLDT.CA.US

PUBLIC WORKS BUILDING
 SECOND & L ST., EUREKA
 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

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

LAND USE 445-7205

LAND USE DIVISION INTEROFFICE MEMORANDUM

TO: Megan Acevedo, Planner, Planning & Building Department

FROM: Kenneth M. Freed, Assistant Engineer

DATE: 02/24/2021

RE:

Applicant Name	NEW EARTH FARMS LLC
APN	524-072-010
APPS#	PLN-12260-CUP

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:

Applicant has submitted road evaluation reports, dated 01/26/21, with Part A –Box 2 checked, certifying that the roads are equivalent to a road Category 4 standard.

Submitted access route map does not match road evaluation report route map or County Web GIS road layer. Submitted access route map has incorrectly labelled USFS 6N13 as Staton Drive.

Whether specifically addressed or not within the road evaluation report, per County Code Section 3112-5, “No roadway grade in excess of 16 percent shall be permitted unless it has been demonstrated to be in conformance with the County Roadway Design Manual.” Where portions of the road have grades that exceed 16%, those portions must be paved and must have an exception request approved. [reference: County Code sections 3111-9 and 3112-5]

// END //

Public Works Recommended Conditions of Approval

(All checked boxes apply)

APPS # 12260

COUNTY ROADS- PROXIMITY OF FARMS:

Applicant is advised that County maintained roads may generate dust and other impacts to farm(s). Applicant shall locate their farm(s) in areas not subject to these impacts. Applicant shall be responsible for protecting their farm(s) against these impacts. Applicant shall hold the County harmless from these impacts. Applicant is advised that a paved road may not always remain paved and Applicant shall locate their farms appropriately. Applicant is advised that the amount of traffic on a road will vary over time which may increase or decrease the impacts.

COUNTY ROADS- FENCES & ENCROACHMENTS:

All fences and gates shall be relocated out of the County right of way. All gates shall be setback sufficiently from the County road so that vehicles will not block traffic when staging to open/close the gate. In addition, no materials shall be stored or placed in the County right of way.

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.

COUNTY ROADS- DRIVEWAY (PART 1):

The submitted site plan is unclear and/or shows improvements that are inconsistent with County Code and/or Department of Public Works policies. The applicant is advised that these discrepancies will be addressed at the time that the applicant applies to the Department of Public Works for an Encroachment Permit. If the applicant wishes to resolve these issues prior to approval of the Planning & Building permit for this project, the applicant should contact the Department to discuss how to modify the site plan for conformance with County Code and Department of Public Works policies. Notes:

COUNTY ROADS- DRIVEWAY (PART 2):

Any existing or proposed driveways that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. This also includes installing or replacing driveway culverts; minimum size is typically 18 inches.

- If the County road has a paved surface at the location of the driveway, the driveway apron shall be paved for a minimum width of 18 feet and a length of 50 feet.
- If the County road has a gravel surface at the location of the driveway, the driveway apron shall be rocked for a minimum width of 18 feet and a length of 50 feet.
- If the County road is an urban road, frontage improvements (curb, gutter, and sidewalk) shall also be constructed to the satisfaction of the Department. Any existing curb, gutter or sidewalk that is damaged shall be replaced.

The exact location and quantity of driveways shall be approved by the Department at the time the applicant applies to the Department of Public Works for an Encroachment Permit.

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.

COUNTY ROADS- DRIVEWAY (PART 3):

The existing driveway will require substantial modification in order to comply with County Code. The applicant may wish to consider relocating the driveway apron if a more suitable location is available.

COUNTY ROADS-PARKING LOT- STORM WATER RUNOFF:

Surfaced parking lots shall have an oil-water filtration system prior to discharge into any County maintained facility.

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.

COUNTY ROADS- DRIVEWAY & PRIVATE ROAD INTERSECTION VISIBILITY:

All driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).

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.

COUNTY ROADS- PRIVATE ROAD INTERSECTION: (AT COUNTY MAINTAINED RD)

Any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. This also includes installing or replacing culverts; minimum size is typically 18 inches.

- If the County road has a paved surface at the location of the access road, the access road shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.
- If the County road has a gravel surface at the location of the access road, the access road shall be rocked for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.

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.

COUNTY ROADS- ROAD EVALUATION REPORT(S):

All recommendations in the Road Evaluation Report(s) for County maintained road(s) shall be constructed/implemented to the satisfaction of the Public Works Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.

// END //

We have reviewed the above application and recommend the following (please check one):

The Department has no comment at this time.

Suggested conditions attached.

Applicant needs to submit additional information. List of Items attached.

Recommend denial.

Other comments.

Date:

Name:

Forester Comments:

Date:

Name:

Battalion Chief Comments:

Summary:

From: [Meghan Ryan](#)
To: ["Van Hatten, Michael@Wildlife"](#)
Cc: ["Johnson, Cliff"](#); [Max C. Hilken](#); [Megan Marruffo](#)
Subject: APPS #12260 - New Earth Farms, LLC - APN: 524-072-010/PROJECTED HEARING DATE: MARCH 3, 2022
Date: Wednesday, February 16, 2022 8:42:00 PM
Attachments: [12260 LSA 7.27.2021.pdf](#)

Hi Mike – I am reviewing the New Earth Farms, LLC, project and did not see any CDFW comments in the file. I am reaching out to see if CDFW has questions or comment on this application. There is Final SAA on file (attached). Conditions of approval require the applicant to adhere to and implement the agreement and coordinate with CDFW on the Bullfrog Management Plan. Additionally, noise and light attenuation measures are also conditions and the applicant must demonstrate these standards are met prior to continued use of artificial lighting and noise-generating equipment.

The project description is the following:

A Special Permit for 10,000 square feet (SF) of pre-existing mixed light cultivation. Ancillary propagation is proposed to occur in one 20' by 50' (1,000 SF) sub section of a 20' by 120' (2,400 SF) greenhouse. Irrigation water will be sourced from rainwater catchment infrastructure consisting of an existing residence, a proposed drying and processing building, and a proposed 230,000-gallon water storage tank. Estimated annual water usage is currently 150,000 gallons. There will be a total of 247,500 gallons of onsite water storage. Processing activities including drying, curing, and trimming will occur in a proposed 2,500-square-foot structure. Power will be provided by Pacific Gas and Electric Company (PG&E) as the site is already grid tied with an existing power drop, a generator will be onsite to be used as an emergency source of power.

Please let me know if CDFW has any additional comments or question on this project.

Best,
Meghan



Meghan Ryan
Planning Director
LACO Associates
Eureka | Ukiah | Santa Rosa | Chico
Advancing the quality of life for generations to come
707 443-5054
<http://www.lacoassociates.com>

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COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING
 3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7245



1/28/2021

Project Referred To The Following Agencies:

AG Commissioner, County Counsel, District Attorney, Environmental Health, Sheriff, PW Land Use, Building Inspections, US Forest Service, Six Rivers National Forest, FPD: Willow Creek, RWQCB, NCUAQMD, School District: Klamath-Trinity JUSD, Cal Fish & Wildlife, Division of Water Resources, CalFire, CA Division of Water Rights, Hoopa Valley Tribe, NWIC, Tsungwe Council, PGE

Applicant Name Key Parcel Number 524-072-010-000

Application (APPS#) PLN-12260-CUP **Assigned Planner** Megan Acevedo

Please review the above project and provide comments with any recommended conditions of approval. To help us log your response accurately, please include a copy of this form with your correspondence.

Questions concerning this project may be directed to the assigned planner for this project between 8:30am and 5:30pm Monday through Friday.

County Zoning Ordinance allows up to 15 calendar days for a response. If no response or extension request is received by the response date, processing will proceed as proposed.

If this box is checked, please return large format maps with your response.

Return Response No Later Than: 2/12/2021

Planning Clerk
 County of Humboldt Planning and Building Department
 3015 H Street
 Eureka, CA 95501
Email: PlanningClerk@co.humboldt.ca.us **Fax:** (707) 268 - 3792

We have reviewed the above application and recommend the following (please check one):

- Recommend Approval. The department has no comment at this time.
- Recommend Conditional Approval. Suggested conditions attached.
- Applicant needs to submit additional information. List of items attached.
- Recommend Denial. Attach reasons for recommended denial.

Other Comments: Transportation of cannabis over Forest Service lands and easements is illegal. See accompanying 2018 letter from the

DATE: 02/01/2021 PRINT NAME: George Frey Six Rivers National Forest Supervisor to the County on this issue. Lands and Minerals



United States
Department of
Agriculture

Forest
Service

Pacific Southwest Region
Six Rivers National Forest

1330 Bayshore Way
Eureka, CA 95501
707-442-1721
TDD: 707-442-1721
Fax: 707-442-9242

File Code: 1500
Date: August 29, 2018



Michelle Nelson
Planning and Building Department
Humboldt County
3015 H Street
Eureka, CA 95501

Dear Ms. Nelson:

Thank you for providing the USDA Forest Service with the opportunity to provide input to Humboldt County's land use regulations governing cannabis cultivation on private property as they relate to National Forest System (NFS) lands.

The use, cultivation and transportation of cannabis on Forest Service lands is illegal. The Comprehensive Drug Abuse Protection and Control Act of 1970, and more specifically Title II of the act (the Controlled Substances Act), lists cannabis as a Schedule 1 drug. The Forest Service does not have discretion to permit activities on NFS lands that will violate the Controlled Substances Act or any other federal law. The Forest Service cannot authorize any activities related to cannabis operations on public land, such as the cultivation, production, transportation, or distribution of supplies or product.

We recommend that applicants for county cannabis permits who are adjacent to or near Forest Service lands have their parcels surveyed by a professional land surveyor to ensure their operations are not trespassing upon or causing impacts to federal lands. Individuals that cause resource damage, including soil erosion and contamination to Forest Service administered lands from illicit acts including the manufacture of cannabis, may be subject to federal criminal and/or civil action. Permit applicants should be aware that transporting cannabis across an existing right of way on federal lands to access a private parcel, is also illegal under federal law, and violators could face federal criminal action.

We appreciate the opportunity to comment on the county's cannabis-use regulations. If you need further information on this subject, please contact me at (707) 441-3531.

Sincerely,

MICHAEL A. GREEN
Acting Forest Supervisor.

