

ATTACHMENT 3

Resolution Establishing a Cap on the Number Permits and Acres
Which May Be Approved for Commercial Cannabis Cultivation

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

RESOLUTION NO. 18-43

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT ESTABLISHING A LIMIT (CAP) ON THE NUMBER OF PERMITS AND ACRES WHICH MAY BE APPROVED FOR COMMERCIAL CANNABIS CULTIVATION WITHIN UNINCORPORATED AREAS OF THE COUNTY OF HUMBOLDT.

WHEREAS, California Government Code Section 65850, et seq. authorizes counties to regulate land use, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, the Board of Supervisors has adopted a series of comprehensive amendments to the Humboldt County Zoning Regulations, governing commercial activities involving the Cultivation, Processing, Manufacturing, and Distribution of Cannabis within the unincorporated areas of the County of Humboldt, known as the Commercial Cannabis Land Use Ordinance (CCLUO); and

WHEREAS, pursuant to the California Environmental Quality Act, a Programmatic Environmental Impact Report was prepared for the Commercial Cannabis Land Use Ordinance, which evaluated, mitigated, and disclosed potentially significant environmental impacts from the proposed ordinance amendments (CCLUO); and

WHEREAS, during adoption of the Commercial Cannabis Land Use Ordinance the Board of Supervisors certified that the Final Environmental Impact Report (FEIR) prepared for the CCLUO had been completed in compliance with CEQA, making the findings required by Public Resources Code Section 21081(a) and CEQA Guidelines Sections 15091 and 15092, including adoption of a Statement of Overriding Considerations pursuant to Public Resources Code Section 21081 (b) and CEQA Guidelines Section 15093; and

WHEREAS, the Commercial Cannabis Land Use Ordinance includes provisions for the Board of Supervisors to establish by separate resolution a limit (cap) on the number of permits and acres which may be approved for Open Air Cultivation Activities (including Outdoor and Mixed-Light Cultivation, and Nurseries) and Indoor Cultivation within each of the twelve (12) discrete planning watersheds of Humboldt County; and

WHEREAS, by approving this Resolution, the Board of Supervisors establishes a limit on the number of permits and acres permits which may be approved for Open Air Cultivation Activities (including Outdoor and Mixed-Light Cultivation, and Nurseries) and Indoor Cultivation to ensure that further permitting beyond that limit will not proceed until the County has performed further analysis of the condition of these planning watersheds, including review of water flow data and applicable studies or information prepared by the following state and local agencies: California Department of Fish & Wildlife, North Coast Regional Water Quality Control Board, State Water Resources Control Board, and the Department of Forestry and Fire Protection.

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NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Board of Supervisors, that the Board finds as follows based on the administrative record:

1. An Environmental Impact Report (EIR) (SCH# 2017042022) was prepared and certified for the Commercial Cannabis Land Use Ordinance, which evaluated and addressed the potential environmental impacts from the ongoing regulation of commercial cannabis activities, including a limit on the number of permits and acres of cultivation. No additional review is required under section 15162 of the CEQA Guidelines because establishing a limit on the number of permits and acres of cultivation consistent with the EIR will not cause new significant environmental effects or a substantial increase in the severity of previously identified significant effects. No substantial changes in the circumstances under which the resolution is being adopted will require any revisions of the certified Environmental Impact Report (EIR). There is no substantial new information which was not known and could not have been known with the exercise of reasonable diligence at the time that the EIR was certified that shows this resolution setting a limit on the number of permits and acres of cultivation consistent with the EIR will have any significant effects not discussed in the EIR, or that the significant effects examined in the EIR will be substantially more severe.
2. It is appropriate to limit the total number of Open Air Cultivation (including Outdoor and Mixed-Light Cultivation, and Nurseries) and Indoor Cultivation permits granted as well as the total permitted acreage of cultivation as shown in the following table.

Cap Distribution		
Watershed	Permits	Acres
Cape Mendocino	650	223
Eureka Plain	89	31
Lower Eel	336	116
Lower Klamath	161	56
Lower Trinity	169	58
Mad River	334	115
Middle Main Eel	360	125
Redwood Creek	141	49
South Fork Eel	730	251
South Fork Trinity	86	29
Trinidad	19	6
Van Duzen	425	146
TOTAL	3,500	1,205

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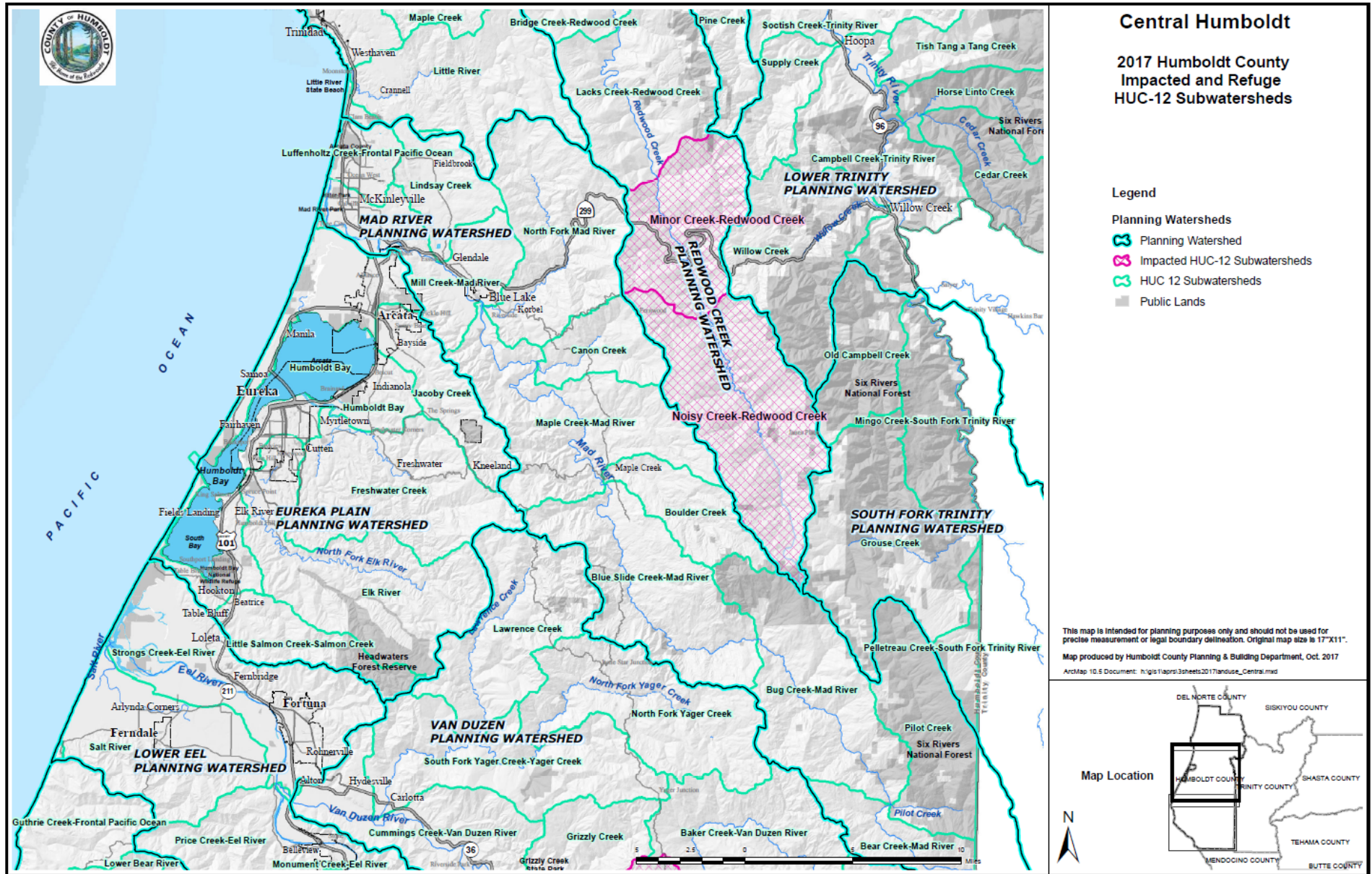
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3. Certain subwatersheds are hereby declared to be impacted by low streamflows due to high concentrations of current cannabis cultivation activities. Additionally, certain other subwatersheds are hereby declared to be refuges critical to the recovery strategy for key populations of California Coho Salmon, as well as a number of other aquatic species currently listed pursuant to the federal Endangered Species Act. These subwatersheds are identified by their USGS HUC-12 (Hydrological Unit Code) names and grouped by planning watershed in the following table and mapping. Permits for new Open Air Cultivation Activities (including Outdoor and Mixed-Light Cultivation, and Nurseries) and Indoor Cultivation Activities or expansion of lawful pre-existing sites shall be temporarily prohibited within these subwatersheds, until all known pre-existing cultivation sites (established or in operation prior to January 1, 2016) have either been suspended, permitted, or are under a compliance agreement to remediate pursuant to the Retirement, Remediation, and Relocation provisions of the Commercial Cannabis Land Use Ordinance, found in section 314-55.4 of Division 1, Title III of Humboldt County Code.

Impacted & Refuge HUC-12 Subwatersheds by Planning Watershed
PLANNING WATERSHED #1 CAPE MENDOCINO
* <i>Headwaters Mattole River</i>
Middle Mattole River
Upper Mattole River
PLANNING WATERSHED #8 REDWOOD CREEK
Noisy Creek-Redwood Creek
Minor Creek-Redwood Creek
PLANNING WATERSHED #9 SOUTH FORK EEL RIVER
Redwood Creek
Salmon Creek
* <i>Sprowel Creek</i>
PLANNING WATERSHED #12 VAN DUZEN RIVER
Hoagland Creek-Van Duzen River
Butte Creek
Little Van Duzen River
* <i>Refuge watersheds</i>

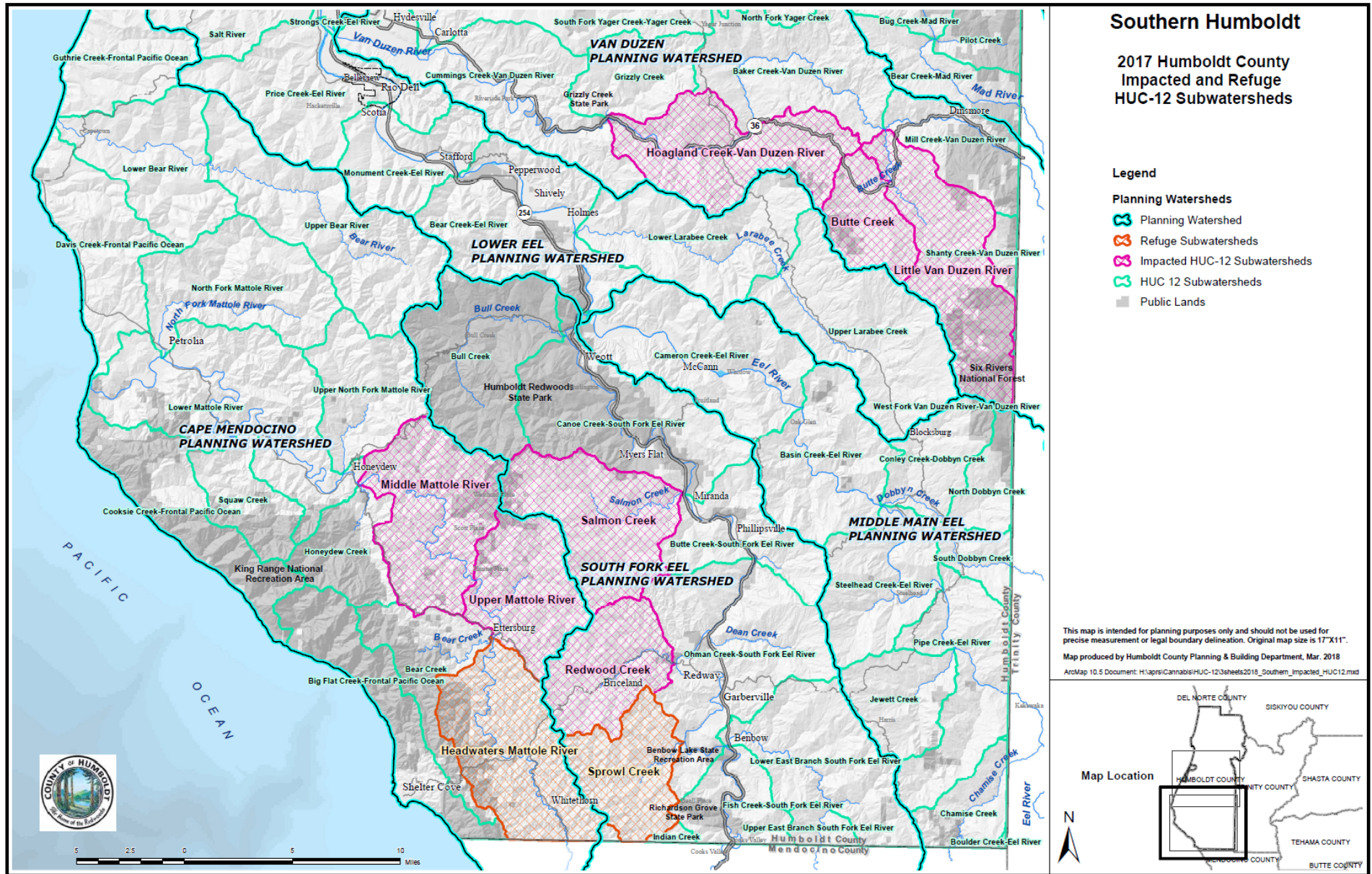
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4. Following the establishment of a countywide cap on the total number of permits and acreage of cultivation that may be approved, beginning in May of 2019, the Board of Supervisors agrees to conduct an annual review of the limits and prescribed distribution of permitting and acreage allowances found in the above table. Review shall occur at a noticed public hearing held during a meeting of the Board of Supervisors, during which the Board shall receive and consider a report providing an update on local permitting efforts. The report shall provide information detailing the number and status of all applications received, permits approved, compliance agreements that have been executed, and code enforcement actions undertaken by the Department. Law enforcement and other relevant officials from local and state agencies shall be contacted and invited to provide and present input and information to be considered by the Board during annual review. After holding a public hearing and considering all information and testimony received, the Board may choose to establish new caps on acreage and permits as well as change their distribution within watersheds.

Adopted May 8, 2018

Adopted on motion by Supervisor Fennell, seconded by Supervisor Bass, and the following vote:

AYES: Supervisors: Bass, Fennell, Sundberg, Bohn
NAYS: Supervisors: Wilson
ABSENT: Supervisors: --
ABSTAIN: Supervisors: --



RYAN SUNDBERG, CHAIRMAN,
HUMBOLDT COUNTY BOARD OF SUPERVISORS

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: 

Ryan Sharp, Deputy Clerk

Date: May 8, 2018