



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

3015 H Street Eureka CA 95501
Phone: (707)445-7541 Fax: (707) 268-3792

Hearing Date: September 19, 2019

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: **Yoel Bilsky Conditional Use Permit**
Application Number 11616
Record Number: PLN-11616-CUP
Case Numbers CUP-16-306; CUP-17-045; CUP-17-046;
CUP-17-047; CUP-17-048
Assessor's Parcel Number (APNs) 315-221-018; 315-222-004; 315-146-017

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Please contact Devin Sutfin, Planner, at 707-268-3778 or by email at dsutfin1@co.humboldt.ca.us if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date September 19, 2019	Subject Conditional Use Permits	Contact Devin Sutfin
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Project Description Five Conditional Use Permits for 3.88 acres (169,012) square feet of new mixed light cultivation.

Project Location: The project is located in Humboldt County, in the Maple Creek area, on both sides of Maple Creek Road, approximately 7.5 Miles south from the intersection of Butler Valley Road and Maple Creek Road, on the property known as 23416 and 23550 Maple Creek Road and the property known to be in the south half of the southwest quarter of Section 34, Township 04 North, Range 03 East.

Present Plan Land Use Designations: Agriculture Grazing (AG), Density: 20-160 acres per unit; Residential Agriculture (RA40-160), Density: 40-160 acres per unit; Timberland (T), Density: 40-160, 2017 General Plan, Slope Stability: High Instability (3).

Present Zoning: Agriculture Exclusive (AE), Minimum building site area is 160 acres (B-5(160); Timberland Production (TPZ); Unclassified (U).

Application Number: 11616

Case Number: CUP-16-306; CUP-17-045;
CUP-17-046; CUP-17-047; CUP-17-048

Assessor Parcel Numbers: 315-221-018; 315-222-004; 315-146-017

Applicant
Yoel Bilsky
PO Box 508
Bayside CA 95524

Owner
Yoel Bilsky
PO Box 508
Bayside CA 95524

Agent
Lenders Construction Services
Jeff Smith
PO Box 6218
Eureka, CA 95502

Environmental Review: The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines.

State Appeal Status: The proposed project is NOT appealable to the California Coastal Commission

Major Issues: Inconsistency with Humboldt County Code, lack of adequate information to support making required findings for approval, and uncooperative applicants.

YOEL BILSKY

Case Numbers CUP-16-306; CUP-17-045; CUP-17-046; CUP-17-047; CUP-17-048

Assessor's Parcel Numbers 315-221-018; 315-222-004; 315-146-017

Recommended Commission Action

1. Describe the applications as on the consent agenda;
2. Survey the audience for any person who would like to discuss the applications;
3. If no one requests discussion, make the following motion to deny the applications as part of the consent agenda:

Find the project exempt from environmental review pursuant to State CEQA Guidelines Section 15270, make the finding that the project site is in violation of Humboldt County Code and that the applicant has not provided the County the information necessary to make the required findings for approval and adopt the Resolution denying the proposed Yoel Bilsky project.

Executive Summary: For Planning Commission consideration is an application under the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) for Conditional Use Permits for Yoel Bilsky consisting of 3.88 acres of new mixed light cultivation. The proposed project is located on Assessor's Parcel Numbers 315-221-018; 315-222-004; and 315-146-017 which total approximately 515 acres. Staff is recommending denial of the project because the applicant has violated County ordinance requirements after the application was submitted and has been unresponsive to County requests for information and efforts to resolve the violations. The site continues to be in violation of County code. The submitted application does not include evidence to support making the required findings under Section 312-17.1 of the Humboldt County Code (required findings for all permits). This project is not consistent with section 314-55.4.8.1, which states that all commercial cannabis cultivation, processing, manufacture, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws. By initiating new cultivation without approval, the applicant has violated the Humboldt County Code, as well as violated various provisions of state law as described below. In addition, the project is in a Williamson Act Preserve and it is unclear how the proposed cultivation would conform with the Williamson Act Contract's terms and conditions. Finally, approval of the project as proposed would require the merger of three parcels and the Department has not received an application for merger.

Analysis: The application(s) for Conditional Use Permits were received on December 2, 2016. On October 25, 2017, the applicant received a Notice of Violation from the California Department of Fish and Wildlife (CDFW) regarding multiple violations of the Fish and Game Code (Attachment 1). Upon receiving a copy of the notice from CDFW, the department initiated an investigation of possible county code violations and removed the project from processing status on or around December 15, 2017. On January 9, 2018 a site inspection was performed by a Building Inspector which verified that unauthorized cultivation occurred in 2017 and that some cultivation was located within streamside management areas. On February 4, 2018, the applicant was contacted by letter notifying him of the violations and requested a meeting (Attachment 2). Following the letter in March 2018, the Department took the extraordinary step of drafting a Compliance Agreement contract to provide an instrument to facilitate the possibility of a third-party assuming control of the project (Attachment 3). The terms of the Compliance Agreement included, among other items, penalties totaling \$140,000. On May 10, 2018 the Director met with the applicant's attorney to discuss the Compliance Agreement. On May 17, 2018 there was another meeting that included the District Attorney's office as the applicant was facing potential prosecution for the Fish and Game Code violations. There has been not documented contact with the applicant, applicant's agent or attorney regarding this project since the May 2018. On May 17, 2019, the department sent the applicant

a letter stating that if he did not establish contact within two weeks, the project would be scheduled for denial (Attachment 4).

Even if the above violations were resolved and penalties paid, the application remains deficient in many areas making approval impossible at this time. For example, the Bear River Band Tribal Historic Preservation Officer requested a cultural resource survey which has not been received. The project is in a Williamson Act Preserve and it is unclear how the proposed cultivation would conform with the Williamson Act Contract's terms and conditions. An initial study has not been conducted to determine whether there is the potential for a significant environmental impact per CEQA and HCC 312-6.2.1. Finally, approval of the project as proposed would require the merger of three parcels and the Department has not received an application for merger.

Summary: The submitted application does not include enough evidence to support making the required findings under Section 312-17.1. Because new cultivation was initiated without a permit, the project is not consistent with section 314-55.4.8.1, which states that all commercial cannabis cultivation, processing, manufacture, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws. Finally, the department has attempted to contact the applicant and the applicant has failed to respond.

ALTERNATIVES: The Planning Commission could elect to direct staff to continue to attempt to reach the applicant to resolve the outstanding issues and continue processing the application in accordance with HCC Section 312-4.1 et seq. However, given that staff has made multiple attempts to contact the applicant and he has been unresponsive, staff does not recommend this alternative.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 19-**

Case Numbers CUP-16-306; CUP-17-045; CUP-17-046; CUP-17-047; CUP-17-048

Assessor Parcel Numbers: 315-221-018; 315-222-004; 315-146-017

Makes the required findings for certifying compliance with the California Environmental Quality Act and denies the Yoel Bilsky Conditional Permits request.

WHEREAS, Yoel Bilsky submitted an application for new mixed light cannabis cultivation located on APNs 315-221-018; 315-222-004; 315-146-017; and

WHEREAS, The County Planning and Building Department has reviewed the submitted applications and evidence; and

WHEREAS, In 2017, Yoel Bilsky initiated new cultivation in excess of 80,000 square feet without a permit in violation of 314-55.4.8.2.1; and

WHEREAS, The projects were removed from processing status on or around December 15, 2017 because of apparent violations of Humboldt County Code; and

WHEREAS, Yoel Bilsky was notified of the violations of Humboldt County Code on February 4, 2018; and

WHEREAS, Yoel Bilsky was offered a Compliance Agreement through his attorney to resolve the violations and did not respond; and

WHEREAS, Yoel Bilsky was contacted on May 17, 2019 and given two weeks to respond or the projects would be denied; and

WHEREAS, the Department has not received a response addressing the violations; and

WHEREAS, Section 312-17.1.3 of the Humboldt County Code requires the County to make the finding that the proposed development conforms with all applicable standards and requirements of these regulations in order to approve a permit; and

WHEREAS, The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines; and

WHEREAS, A public hearing was held on the matter before the Humboldt County Planning Commission on September 19, 2019.

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Planning Commission that:

1. The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines; and

2. The proposed project is not consistent with section 314-55.4.8.1 of the Humboldt County Code because it has not operated in compliance with state and local laws; and
3. The applicant has not provided the information necessary to determine consistency with County Ordinance; and
4. The required findings for approval in Section 312-17.1 of the Humboldt County Code cannot be made; and.
5. Conditional Use Permits Case Numbers CUP-16-306; CUP-17-045; CUP-17-046; CUP-17-047; CUP-17-048 is denied as recommended.

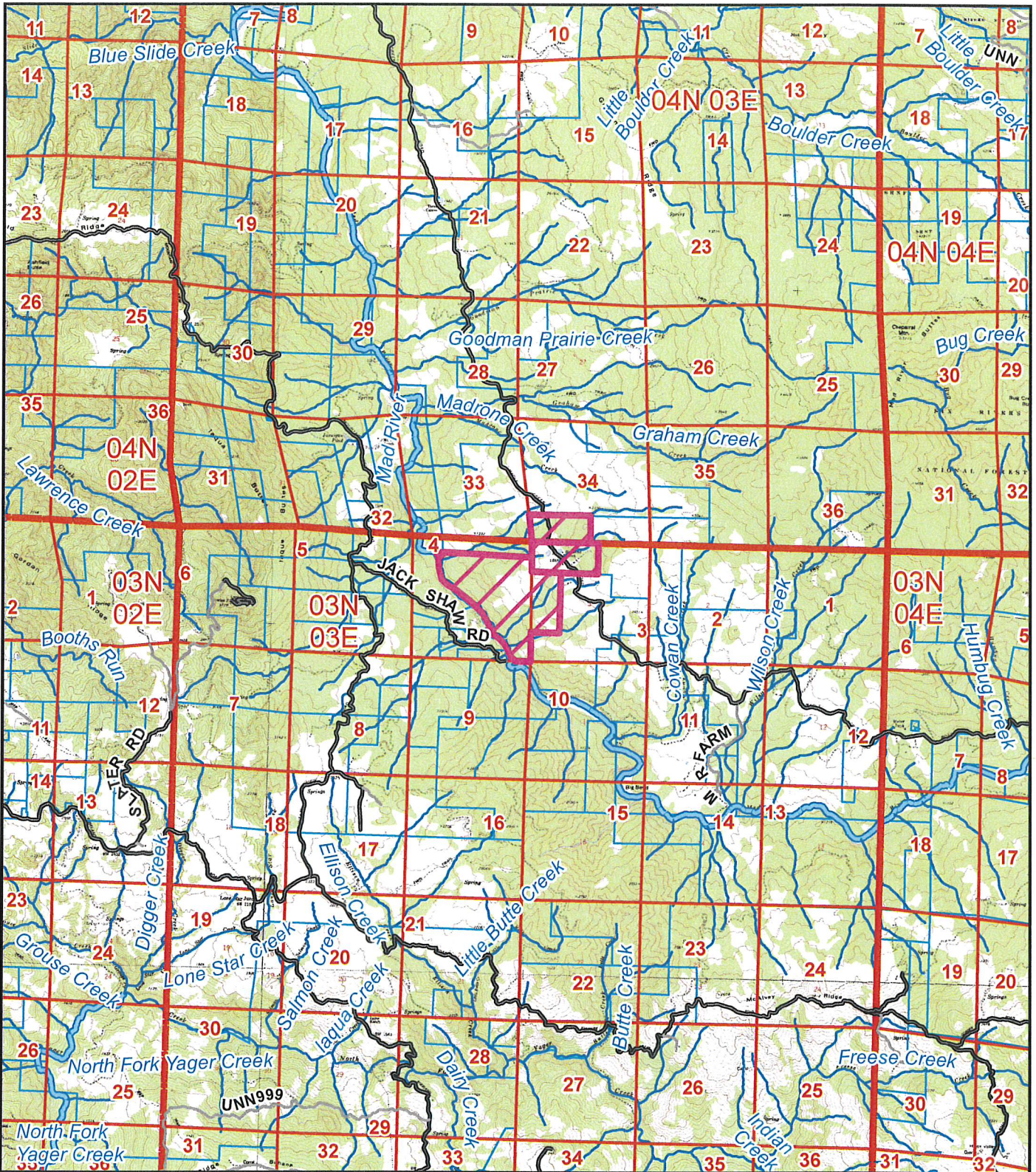
Adopted after review and consideration of all the evidence on September 19, 2019.

The motion was made by Commissioner ____ and seconded by Commissioner ____.


AYES: Commissioners:
NOES: Commissioners:
ABSTAIN: Commissioners:
ABSENT: Commissioners:
DECISION: Motion carries

I, John Ford, Secretary to the Planning Commission 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 Commission at a meeting held on the date noted above.

John Ford
Director, Planning and Building Department



**TOPO MAP
PROPOSED YOEL BILSKY
MAPLE CREEK AREA**

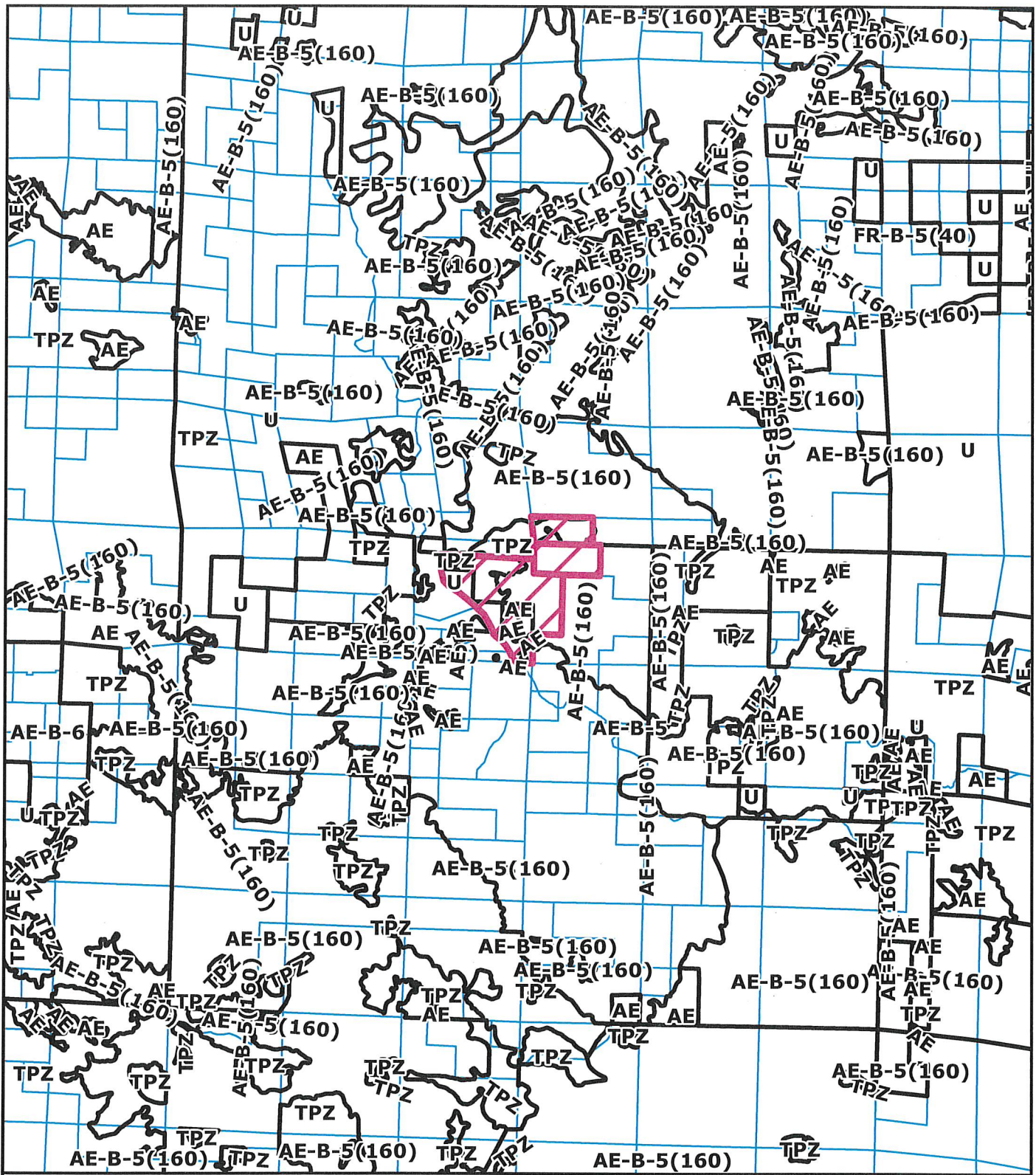
Project Area =  **CUP-16-306; CUP-17-045; CUP-17-046; CUP-17-047; CUP-17-048**

APN: 315-221-018; 315-222-004; 315-146-017


T04N R03E S34; T03N R03E S4; T03N R03E S3 HB&M (MAD RIVER BUTTES)

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.





**ZONING MAP
PROPOSED YOEL BILSKY
MAPLE CREEK AREA**

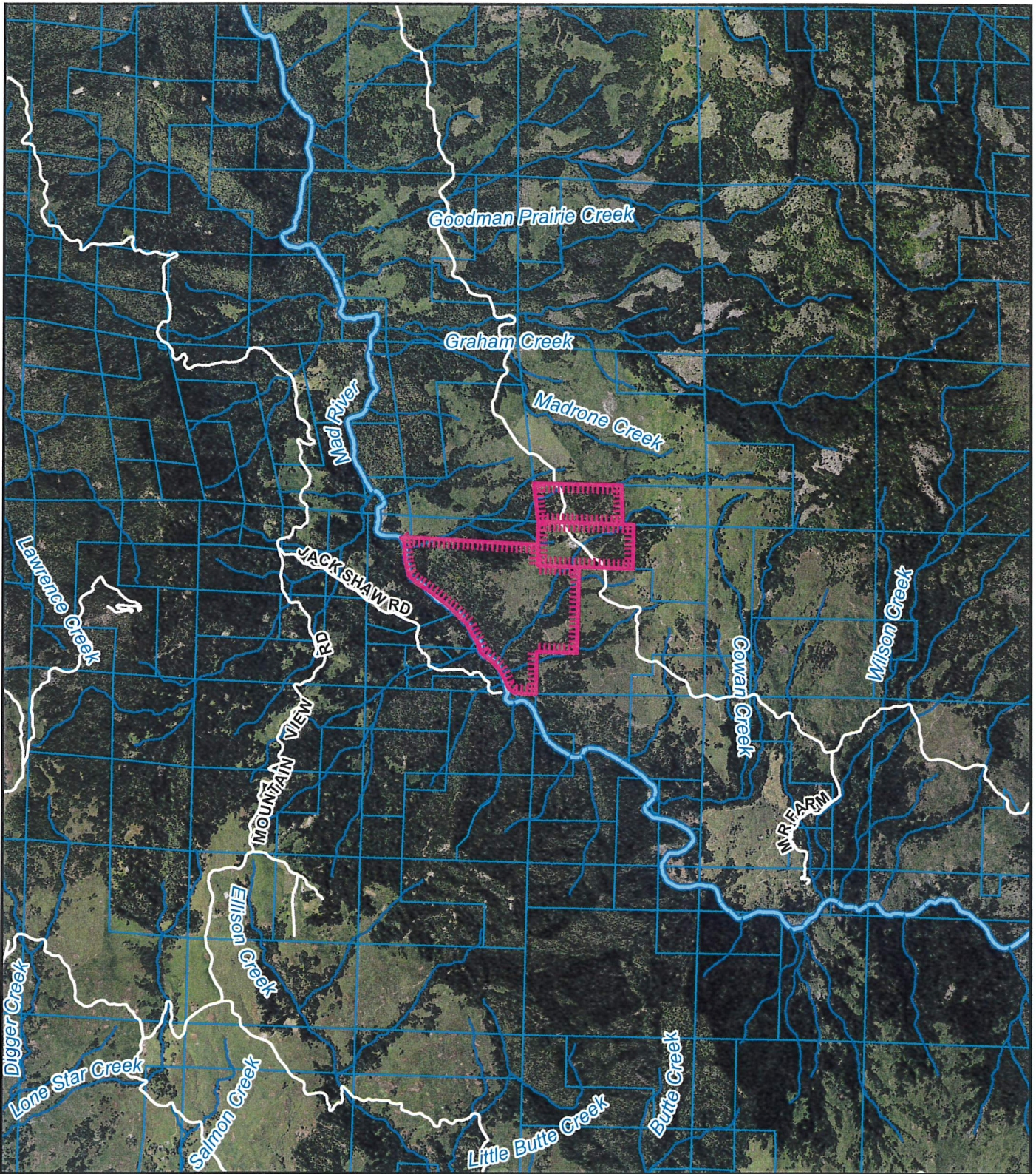
Project Area =  CUP-16-306; CUP-17-045; CUP-17-046; CUP-17-047; CUP-17-048

APN: 315-221-018; 315-222-004; 315-146-017


T04N R03E S34; T03N R03E S4; T03N R03E S3 HB&M (MAD RIVER BUTTES)

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.





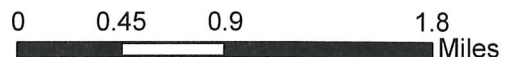
**AERIAL MAP
PROPOSED YOEL BILSKY
MAPLE CREEK AREA**

Project Area =  **CUP-16-306; CUP-17-045; CUP-17-046; CUP-17-047; CUP-17-048**

APN: 315-221-018; 315-222-004; 315-146-017

T04N R03E S34; T03N R03E S4; T03N R03E S3 HB&M (MAD RIVER BUTTES)

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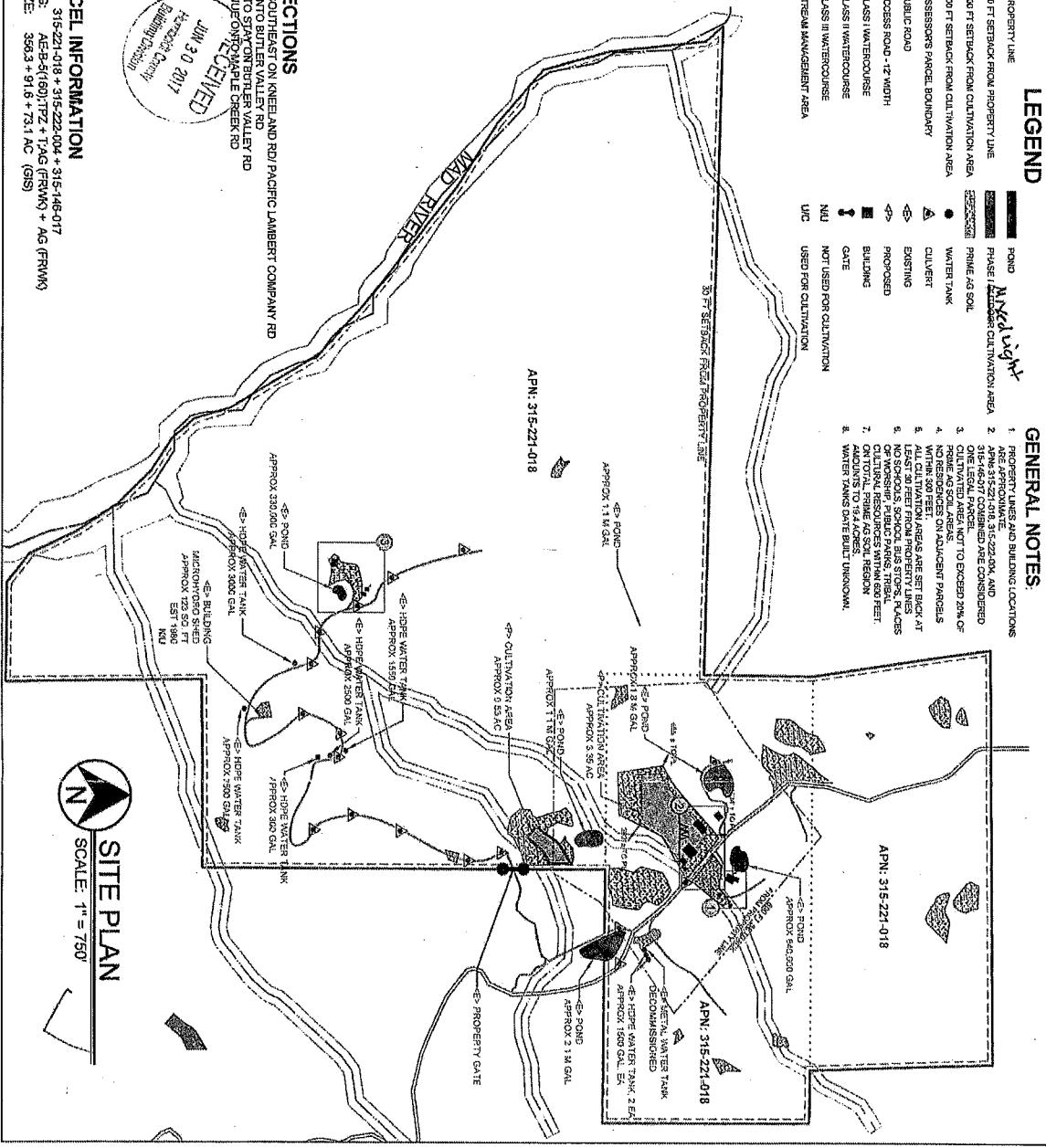
PARCEL INFORMATION
 APN: 315-221-018 + 315-222-004 + 315-148-017
 ZONING: AEB-8(60)T2Z + T2AG (FRM) + AG (FRM)
 LOT SIZE: 369.3 + 91.6 + 73.1 AC (GIS)

RECEIVED
 JULY 30 2017
 Hazardous Waste
 Building Division

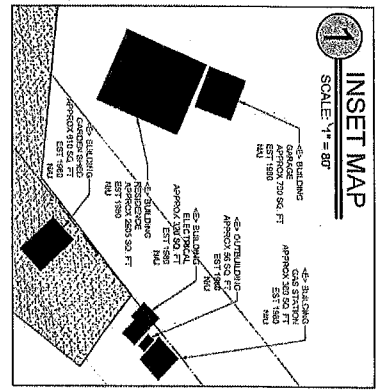
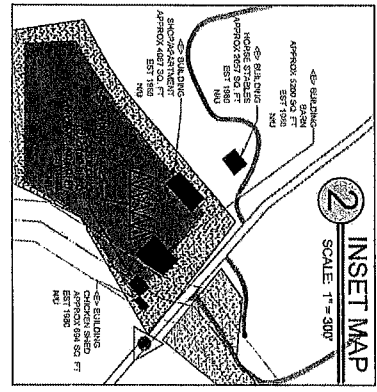
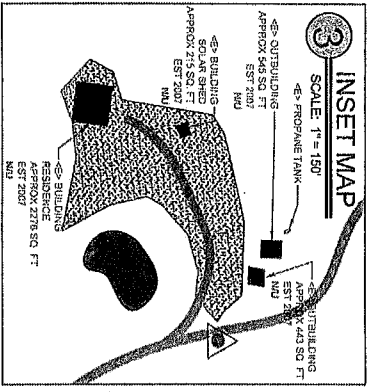
DIRECTIONS
 HEAD SOUTH/EAST ON KNEELAND RD/PACIFIC LAMBERT COMPANY RD
 LEFT ONTO BUTLER VALLEY RD
 RIGHT TO STAY ON BUTLER VALLEY RD
 CONTINUING ON MAPLE CREEK RD

- LEGEND**
- PROPERTY LINE
 - 30 FT SETBACK FROM PROPERTY LINE
 - 300 FT SETBACK FROM CULTIVATION AREA
 - 600 FT SETBACK FROM CULTIVATION AREA
 - ASSESSORS PARCEL BOUNDARY
 - PUBLIC ROAD
 - ACCESS ROAD - 12' WIDTH
 - CLASS I WATERCOURSE
 - CLASS II WATERCOURSE
 - CLASS III WATERCOURSE
 - STREAM MANAGEMENT AREA
 - POUND
 - PHASE I/II/III CULTIVATION AREA
 - PRIME A3 SOIL
 - WATER TANK
 - CLVERT
 - EXISTING
 - PROPOSED
 - BUILDING
 - GATE
 - NOT USED FOR CULTIVATION
 - USED FOR CULTIVATION

- GENERAL NOTES.**
1. ADJACENT LOTS AND BUILDING LOCATIONS ARE NOT TO BE CONSIDERED.
 2. APNs 315-221-018, 315-222-004, AND 315-148-017 COMBINED ARE CONSIDERED CULTIVATED AREA NOT TO EXCEED 20% OF PRIME A3 SOIL AREAS.
 3. WITHIN 300 FEET OF ADJACENT PARCELS ALL CULTIVATION AREAS ARE SET BACK AT LEAST 30 FEET FROM PROPERTY LINES.
 4. ALL CULTIVATION AREAS ARE CLASS I, CLASS II, OR CLASS III WATERCOURSES.
 5. ALL CULTIVATION AREAS ARE SET BACK AT LEAST 30 FEET FROM PROPERTY LINES.
 6. ALL CULTIVATION AREAS ARE SET BACK AT LEAST 30 FEET FROM PROPERTY LINES.
 7. ALL CULTIVATION AREAS ARE SET BACK AT LEAST 30 FEET FROM PROPERTY LINES.
 8. WATER TANKS DATE BUILT UNKNOWN.



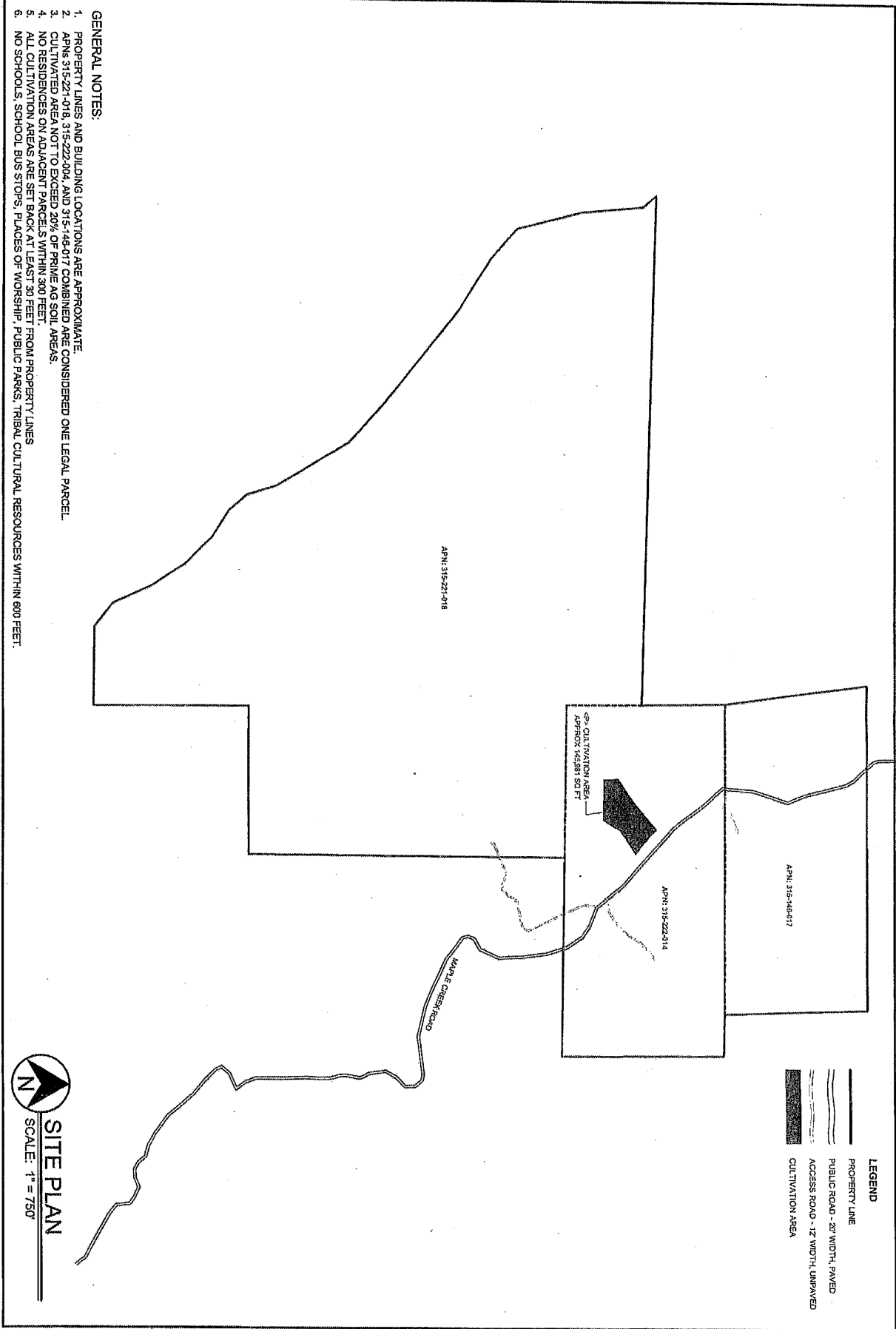
SITE PLAN
 SCALE: 1" = 750'



EXISTING SITE PLAN
CULTIVATION PERMIT

APN: 315-221-018, 315-222-004, 315-148-017
 SITE ADDRESS: 23416 MAPLE CREEK RD., KORBEL, CA 95549
 APPLICANT: YOEL BILSKY
 PHONE NO: (707) 362-7143





- GENERAL NOTES:**
1. PROPERTY LINES AND BUILDING LOCATIONS ARE APPROXIMATE.
 2. APNs 315-221-018, 315-222-004, AND 315-146-017 COMBINED ARE CONSIDERED ONE LEGAL PARCEL.
 3. CULTIVATED AREA NOT TO EXCEED 20% OF PRIME AG SOIL AREAS.
 4. NO RESIDENCES ON ADJACENT PARCELS WITHIN 300 FEET.
 5. ALL CULTIVATION AREAS ARE SET BACK AT LEAST 30 FEET FROM PROPERTY LINES.
 6. NO SCHOOLS, SCHOOL BUS STOPS, PLACES OF WORSHIP, PUBLIC PARKS, TRIBAL CULTURAL RESOURCES WITHIN 600 FEET.

LEGEND

- PROPERTY LINE
- PUBLIC ROAD - 20' WIDTH, PAVED
- ACCESS ROAD - 12' WIDTH, UNPAVED
- CULTIVATION AREA

SITE PLAN
SCALE: 1" = 750'

EXISTING SITE PLAN		APN: 315-221-018, 315-222-004, 315-146-017
CULTIVATION PERMIT		SITE ADDRESS: 23416 MAPLE CREEK RD., KNEELAND, CA 95649
DATE: 12/12/16	DRAWN: CO	APPLICANT: YOEL BILSKY
PAPER SIZE: ANSI B	CHECKER: KM	PHONE NO: (707) 362-7143
JOB NO: 06038.04	SHEET NO: 1	

MOTHER EARTH ENGINEERING
920 BANDA BOULEVARD, SUITE 203
ARROYO, CA 95021 707-638-8551

016

ATTACHMENT 1
October 25, 2017 Notice of Violation from CDFW



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Region 1 - Northern
 619 2nd Street
 Eureka, CA 95501
 (707) 441-2075
www.wildlife.ca.gov

EDMUND G. BROWN, Jr., Governor
 CHARLTON H. BONHAM, Director



CUP
 CUP
 CUP

October 25, 2017

Certified Mail:
 #7017 1070 0000 9047 4649

Mr. Yoel Mauro Bilsky
 P.O. Box 508
 Bayside, CA 95524

Subject: Notice of Violation of Fish and Game Code Sections 1602, 5650, and 5652 in
 Conjunction with Marijuana Cultivation

Dear Mr. Bilsky:

#11629

#13395

On September 29, 2017, Department of Fish and Wildlife (Department) staff visited your parcels (APN's: 315-221-018, 315-222-004, and 315-146-017) located on Unnamed Tributaries to the Mad River near Maple Creek, CA in Humboldt County. During this visit, Department staff observed the activities described in Table 1 (2nd page), which are subject to Fish and Game Code (FGC) sections 1602, 5650, and 5652. Staff also observed active marijuana cultivation in conjunction with these activities.

Fish and Game Code (FGC) section 1602 requires a person to submit a written notification to the Department before: 1) substantially diverting or obstructing the natural flow of a river, stream, or lake; 2) substantially changing the bed, channel, or bank of a river, stream, or lake; 3) using any material from the bed, channel, or bank of a river, stream, or lake; and/or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake. Hence, any person who engages in an activity subject to FGC section 1602 without first notifying the Department violates section 1602.

FGC sections 5650 and 5652 make it unlawful to pollute waters of the state. FGC section 5650 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state any substance or material deleterious to fish, plant life, mammals, or bird life, including, but not limited to gasoline and oil, as well as sediment. FGC section 5652 makes it unlawful to deposit in, permit to pass into, or place where it can pass into waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark of the waters of the state, any garbage, refuse, or waste, among other materials.

Conserving California's Wildlife Since 1870

73

Table 1. Violation location and description

Violation #	FGC Violation	Latitude/Longitude	Description
1	1602	40.6757, -123.8324	Water diversion from an on-stream pond
2	1602	40.6755, -123.8322	Water diversion from an on-stream pond
3	1602	40.6671, -123.8338	Discharge of substantial water volume from micro-hydro to a stream that was not the water source
4	1602/5650	40.6698, -123.8371	Newer culvert installed, not to grade, causing erosion
5	1602/5650	40.6709, -123.8378	Road built across intermittent Class III stream, no infrastructure
6	1602/5652	40.6689, -123.8368	Cannabis cultivation encroachment into pond/wetland buffer
7	1602/5652	40.6733, -123.8357	Cannabis cultivation location within swale/Class III intermittent stream
8	1602	40.6664, -123.8350	Existing 30" culvert is falling and undersized, constricting channel
9	1602	40.6689, -123.8334	Class III stream diverted to inside ditch, then through 18" culvert, misaligned
10	1602/5650	40.6688, -123.8329	Newer culvert installed, too short, causing erosion
11	1602	40.6690, -123.8312	Existing 12" culvert not aligned and not to grade
12	1602	40.6700, -123.8323	Water diversion from Class II stream
13	1602	40.6713, -123.8301	Existing 12" culvert, constricting channel
14	1602	40.6765, -123.8266	On-stream concrete dam with flashboards that diverts water

In the Department's view, notification under FGC section 1602 was required because the activities substantially altered and obstructed flow in Unnamed Tributaries to the Mad River. However, the Department was unable to locate a notification for these activities. In order to address these violations, you will need to immediately stop diverting water for cannabis cultivation.

A person who violates FGC sections 1602, 5650, and 5652 in conjunction with the cultivation or production of marijuana is subject to significant penalties or fines. Specifically, the Department may impose civil penalties administratively against any person found by the Department to have violated these FGC sections in connection with the production or cultivation of marijuana following a complaint and, if requested, a hearing.

The Department may request a maximum civil penalty of \$8,000 for each violation of FGC section 1602, and \$20,000 for each violation of FGC section 5650 or 5652. Each day the violation occurs or continues to occur constitutes a separate violation. (Fish & G. Code, § 12025, subds. (b)(1)(A), (2); (e).) Also, the District Attorney or the Attorney General may enforce a violation of FGC section 1602 and FGC section 5650 civilly.

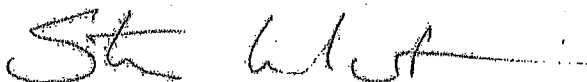
Mr. Yoel Bilsky
October 25, 2017
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Specifically, under FGC sections 1615 and 5650.1, a person who violates FGC section 1602 or 5650 is subject to a maximum civil penalty of \$25,000 for each violation. The District Attorney or the Attorney General may also enforce a violation of FGC sections 1602, 5650, and 5652 criminally. Under FGC section 12000, each violation is a misdemeanor.

As a first step to address this matter, the Department requests you contact the Fish and Wildlife Warden assigned to this case at robert.mengel@wildlife.ca.gov or the Watershed Enforcement Scientist assigned to this case at david.manthorne@wildlife.ca.gov or 707-441-5900 within 14 days of the date of this letter. The Department may propose certain actions to protect fish and wildlife resources that have been or could be affected by the activities described above, and may ask you to submit a written notification and fee for the activities. While the Department, District Attorney, or Attorney General may still decide to initiate an enforcement action against you if they determine these activities are in violation of FGC sections 1602, 5650, or 5652, we encourage you to respond to this notice so that we may better assess the activity and limit any damage to resources.

The Department appreciates your cooperation.

Sincerely,



Lieutenant Steve White
Watershed Enforcement Team

cc: California Department of Fish and Wildlife
Steve White, Robert Mengel, Josh Zulliger, Scott Bauer, Laurie Harnsberger, Curt Babcock, Jeremy Valverde, David Manthorne
steve.white@wildlife.ca.gov, robert.mengel@wildlife.ca.gov,
joshua.zulliger@wildlife.ca.gov, scott.bauer@wildlife.ca.gov,
laurie.harnsberger@wildlife.ca.gov, curt.babcock@wildlife.ca.gov,
jeremy.valverde@wildlife.ca.gov, david.manthorne@wildlife.ca.gov

State Water Resources Control Board
Taro Murano
taro.murano@waterboards.ca.gov

Northcoast Regional Water Quality Control Board
Diana Henriouille-Henry and Adona White
diana.henriouille@waterboards.ca.gov, adona.white@waterboards.ca.gov

Mr. Yoel Bilsky
October 25, 2017
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Humboldt County

Steven Santos, John Ford, Steve Werner, Michelle Nielsen, Robert Russell, Kyle Holt, Conan Moore, Kerry Ireland, Jeff Connor, Brian Bowes, Charles Fielder, Bernadette Arwood

sasantos@co.humboldt.ca.us, lford@co.humboldt.ca.us,
swerner@co.humboldt.ca.us, michelle.nielsen@co.humboldt.ca.us,
rrussell@co.humboldt.ca.us, kholt@co.humboldt.ca.us, cmoore@co.humboldt.ca.us
kieland@co.humboldt.ca.us, jconnor@co.humboldt.ca.us,
bbowes@co.humboldt.ca.us, cfielder@co.humboldt.ca.us,
barwood@co.humboldt.ca.us

ATTACHMENT 2
February 4, 2018 Violation Notice Letter from Department



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT

3015 H Street Eureka CA 95501
Fax: (707) 268-3792 Phone: (707)445-7541

Sent via US Mail and Email
February 4, 2018

Yoel Bilsky
PO Box 508
Bayside CA 95524

Skylar Giordano
2430 Travis Court
McKinleyville CA 95519

Subject: APN 315-221-018 Apps # 12745 and 11616

Dear Mr Giordano and Bilsky:

This letter summarizes the status of your above referenced applications on parcel 315-221-018. We are unable to process your applications for the following reasons:

1. The total square footage applied for between the two applications exceeds what is allowed for the parcel. Application 11616 mentions the possibility of a merger of parcels but as of the date of this letter, no merger application has been received.
2. For application 12745:
 - a. There is no proof of pre-existing cultivation
3. For application 11616:
 - a. there is no evidence provided of the existence of prime ag soils to support new cultivation
4. Site inspection by the department and CDFW and as well as review of aerial imagery indicates that up to 90,000 square feet of unauthorized cannabis cultivation occurred in 2017. This is a violation of the Humboldt County Code and will likely result in fines.

Please contact the department no later than February 23, 2018 to set up a meeting to discuss the violations. The violations must be resolved first before processing of the applications can resume. If we do not receive a response by this date, this will become a code enforcement matter.

Once the violations are resolved, significant additional submittals and project revision will likely be required.

If you have any questions regarding this letter, I can be reached at the above address or at (707) 268-3749.

Steven Santos
Senior Planner

CC: Jeff Smith
PO Box 6218
Eureka CA 95502

Praj White, Manhard Consulting (via Email)

ATTACHMENT 3
March 2018 Draft Compliance Agreement

**COMPLIANCE AGREEMENT
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
YOEL BILSKY**

This Compliance Agreement (“Agreement”) entered into this day of March____, 2018 by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as “COUNTY,” and Yoel Bilsky, as owner, beneficial owner, tenant or occupier of, or other person or entity who has allowed a violation to occur on the property described as Assessor’s Parcel Number 315-221-018 located on Maple Creek Road in the Community of Maple Creek/Korbel, California (“Subject Property”), hereinafter referred to as “RESPONSIBLE PARTY,” is made upon the following considerations:

RECITALS:

WHEREAS, on or about November 15, 2017, COUNTY, the Humboldt County Planning and Building Department conducted an inspection of the Subject Property utilizing aerial imagery in response to complaints received from the Department of Fish and Wildlife of alleged nuisances and/or other violations of local, state and/or federal law (“Violations”) that had occurred and/or existed on the Subject Property; and

WHEREAS, after conducting an inspection of the Subject Property and receiving notification from Department of Fish and Wildlife, the Humboldt County Planning and Building Department determined that the following Violations had occurred and/or existed on the Subject Property:

- Construction without permits; and
- Grading without permits; and
- Development within a Streamside Management Area; and
- A Violation of the Commercial Medical Marijuana Ordinance consisting of cultivation of approximately 80,000 square feet of cannabis without a permit.

WHEREAS, on or about February 4, 2018, the Humboldt County Planning and Building Department sent a letter to the RESPONSIBLE PARTY with a copy of the Notice of Violation from Department of Fish and Wildlife pertaining to the Violations that had occurred and/or existed on the Subject Property; and

WHEREAS, RESPONSIBLE PARTY hereby acknowledges, for purposes of this Compliance Agreement, that the Violations have occurred and/or exist on the Subject Property; and

WHEREAS, RESPONSIBLE PARTY hereby accepts full responsibility, without condition, for making the required corrections and/or repairs set forth in the **Corrective Actions** of this agreement; and

WHEREAS, in exchange for RESPONSIBLE PARTY’s promise to settle and resolve, as set forth herein, the Violations that occurred and/or existed on the Subject Property, COUNTY is willing to stay enforcement; and

WHEREAS, in the event RESPONSIBLE PARTY does not correct the Violations that have occurred and/or exist on the Subject Property within the timeframes set forth herein, and COUNTY does not extend the time allowed to resolve such Violations, the County may impose a code enforcement action; and

WHEREAS, COUNTY and RESPONSIBLE PARTY desire to enter into an agreement which sets forth each party's rights and obligations regarding the settlement and resolution of the Violations that have occurred and/or exist on the Subject Property; and

WHEREAS, RESPONSIBLE PARTY acknowledges and agrees that nothing set forth herein shall be deemed to waive or reduce any applicable permit fees, including, without limitation, double fees, or administrative civil penalties imposed; and

WHEREAS, RESPONSIBLE PARTY acknowledges and agrees that nothing set forth herein shall preclude COUNTY from investigating and enforcing any and all new Violations that occur and/or exist on the Subject Property after execution of this agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto mutually agree as follows:

AGREEMENT:

1. INCORPORATION OF RECITALS:

The foregoing recitals are hereby incorporated into this Agreement by reference as if fully set forth below.

2. RIGHTS AND OBLIGATIONS OF RESPONSIBLE PARTY:

By executing this Agreement, RESPONSIBLE PARTY, for itself, and its assignees and successors in interest, agrees as follows:

A. Monetary Settlement of Penalties and Costs.

1. RESPONSIBLE PARTY shall pay the sum of **One Hundred Forty Thousand Dollars exactly (\$140,000.00)** in settlement of the above-referenced administrative civil penalty, due and payable on the Effective Date of this Agreement.
2. RESPONSIBLE PARTY acknowledges and agrees that COUNTY will incur Administrative Costs subsequent to the Effective Date of this Agreement to administer this Agreement including but not limited to inspection and verification for compliance. Accordingly, RESPONSIBLE PARTY agrees to pay a **Not To Exceed** amount of **Four Thousand Five Hundred Dollars (\$4,500)** within **twenty-one (21) calendar days** of receiving COUNTY's invoice for Administrative Costs COUNTY incurred subsequent to the Effective Date of this Agreement.
3. RESPONSIBLE PARTY shall be jointly and severally liable for all amounts listed in Section 2.A.

- B. Corrective Actions.** RESPONSIBLE PARTY shall take all of the following corrective actions in accordance with the timeframes set forth herein, in order to abate the Violations described on or before **one year from the Effective Date of this agreement:**

1. Apply for and obtain a demolition permit for all of the structures on the Property that have a nexus to marijuana cultivation. The structures, soil containers and soil must all be removed no later than three weeks after the Effective Date, including any necessary erosion control work. All of the solid waste generated by this cleanup must be disposed of in the proper manner and care must be taken to ensure that nutrients in the waste soil do not leach into a watercourse.
 2. Submit a restoration plan, designed by a qualified professional, to return the graded areas and roadways to native contours/vegetation within eight weeks of the Effective Date. The restoration plan must be reviewed and approved by the County prior to implementation. All work required by the restoration plan must be completed within one year of the approval of the restoration plan or issuance of any required permits for the restoration plan.
 3. Submit a complete application for all of the permits, including but not limited to a grading permit, required to complete the restoration plan within eight weeks of the effective date. All work required by these permit(s) must be completed within one year of the issuance of the permit.
 4. Immediately remove all commercial quantities of marijuana or marijuana products from the Property.
 5. All water infrastructures that supported marijuana cultivation, including spring-boxes, cisterns, water tanks or bladders, and water lines must be removed and properly disposed of no later than three weeks after the Effective Date.
 6. Submit a restoration plan, designed by a qualified professional, to return the Streamside Management Area to native contours/vegetation with eight weeks of the Effective Date. All work required by the restoration plan must be completed within one year of the approval of the restoration plan or issuance of any required permits for the restoration plan.
- C. **Receipt of Applicable Permits.** RESPONSIBLE PARTY shall apply for and receive, at its own expense, any and all applicable local, state and/or federal permits prior to taking the corrective actions set forth herein. RESPONSIBLE PARTY shall respond to any and all requests for information necessary to process permit applications within **ten (10) business days** after receipt of such request. All permits issued pursuant to the terms and conditions of this Agreement shall be picked up from the COUNTY within **five (5) business days** after the issuance thereof.
- D. **Consent to Inspection.** RESPONSIBLE PARTY shall permit COUNTY and any other duly authorized local, state and or federal agencies to conduct any and all inspections of the Subject Property that may be required to determine whether RESPONSIBLE PARTY is complying with the terms and conditions of this Agreement.
- E. **Property Transfers.** RESPONSIBLE PARTY will not sell, transfer, mortgage, lease or otherwise dispose of the Subject Property until the corrective actions set forth herein are completed or until the Responsible Party first furnishes the grantee, transferee, mortgagee or lessee with a true and correct copies of the above-referenced Notice of Violation and this

Agreement. RESPONSIBLE PARTY shall provide COUNTY with a signed and notarized statement from the grantee, transferee, mortgagee or lessee which acknowledges the receipt of true and correct copies of the above-referenced Notice of Violation and this Agreement, and full acceptance of the responsibility, without condition, for taking the corrective actions set forth herein.

- F. **Effect of Noncompliance.** In the event that RESPONSIBLE PARTY fails to comply substantially with the terms and conditions of this Agreement, the County may impose a Notice of Violation on the Subject Property. At this point in time the administrative penalty, as well as any unpaid portion of the Administrative Costs incurred by COUNTY during the investigation of the Violations set forth in this Agreement will become immediately due and payable.

3. **RIGHTS AND OBLIGATIONS OF COUNTY:**

By executing this Agreement, COUNTY, for itself, and its assignees and successors in interest, agrees as follows:

- A. **Stay of Enforcement and Collection Actions.** COUNTY shall not take any enforcement or collection actions regarding the administrative civil penalty imposed pursuant to the above-referenced Notice of Violation. However, in the event RESPONSIBLE PARTY fails to abide by the terms of this Agreement, COUNTY shall be entitled to take any and all appropriate enforcement and/or collection actions pursuant to Chapters 1 and 2 of Division 5 of Title III of the Humboldt County Code.

4. **TERM:**

This Agreement shall begin upon execution by both parties ("Effective Date") and shall remain in full force and effect until **one year after the Effective Date of this agreement**, unless sooner terminated or extended as provided herein.

5. **TERMINATION:**

COUNTY may immediately terminate this Agreement, upon notice, if RESPONSIBLE PARTY fails to comply with the terms of this Agreement within the time limits specified herein, or violates any ordinance, regulation or other law applicable to its performance herein.

6. **NOTICES:**

Any and all notices required to be given pursuant to the terms and conditions of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: Planning and Building Department
Attention: Robert Russell
3015 H Street
Eureka, California 95501

RESPONSIBLE PARTY: Yoel Bilsky
P.O. Box 508
Bayside, CA 95524

7. **CONFIDENTIAL INFORMATION:**

In the performance of this Agreement, each party hereto may receive information that is confidential under local, state or federal law. Each party hereby agrees to protect all confidential information in conformance with any and all applicable local, state and federal laws, regulations, policies, procedures and standards.

8. **NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:**

By executing this Agreement, RESPONSIBLE PARTY certifies that it is not a Nuclear Weapons Contractor, in that RESPONSIBLE PARTY is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components, as defined by the Nuclear Free Humboldt County Ordinance. RESPONSIBLE PARTY agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if RESPONSIBLE PARTY subsequently becomes a Nuclear Weapons Contractor.

9. **INDEMNIFICATION:**

A. **Hold Harmless, Defense and Indemnification.** RESPONSIBLE PARTY shall hold harmless, defend and indemnify COUNTY and its agents, officers, officials, employees and volunteers from and against, any all claims, demands, losses, damages, liabilities, expenses and costs of any kind or nature, including, without limitation, reasonable attorneys' fees and other costs of litigation, arising out of, or in connection with, RESPONSIBLE PARTY's negligent performance of, or failure to comply with, any of the duties and/or obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

B. **Effect of Insurance.** Acceptance of the insurance required by this Agreement shall not relieve RESPONSIBLE PARTY from liability under this provision. This provision shall apply to all claims for damages related to the performance of RESPONSIBLE PARTY's performance of the duties and obligations set forth in this Agreement regardless of whether any insurance is applicable or not. The policy limits pertaining to the insurance required hereunder shall not act as a limitation upon the amount of indemnification or defense to be provided by RESPONSIBLE PARTY hereunder.

10. **INSURANCE REQUIREMENTS:**

Without limiting the indemnification obligations set forth herein, RESPONSIBLE PARTY will obtain or maintain in full force and effect, at its own expense, any and all insurance policies required by law. RESPONSIBLE PARTY will ensure that any and all hired subcontractors have the appropriate insurance for the services provided.

11. RELATIONSHIP OF PARTIES:

It is understood that this Agreement is by and between two (2) independent entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or any other similar association. RESPONSIBLE PARTY shall be solely responsible for the acts or omissions of its agents, officers, employees, assignees and subcontractors.

12. COMPLIANCE WITH APPLICABLE LAWS:

RESPONSIBLE PARTY agrees to comply with any and all local, state and federal laws, regulations, policies and procedures applicable to the performance of the duties and/or obligations set forth herein.

13. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations, or conditions that may affect the provisions, terms or conditions of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

14. REFERENCE TO LAWS AND RULES:

In the event any law, regulation, policy or procedure referred to in this Agreement is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

15. SEVERABILITY:

In the event any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

16. ASSIGNMENT:

RESPONSIBLE PARTY shall not delegate its duties nor assign its rights hereunder, either in whole or in part, without COUNTY's prior written consent. Any assignment by RESPONSIBLE PARTY in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement.

17. AGREEMENT SHALL BIND SUCCESSORS:

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and permitted assigns.

18. WAIVER OF DEFAULT:

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

19. NON-LIABILITY OF COUNTY OFFICIALS AND EMPLOYEES:

No official or employee of COUNTY shall be personally liable for any default or liability under this Agreement.

20. AMENDMENT:

This Agreement may be extended and/or modified at any time during the term of this Agreement upon the mutual consent of both parties; said extensions/modifications may not be unreasonably withheld in order for work to be completed by third party licensed professionals whose ability to commit to and complete work is beyond RESPONSIBLE PARTY's control. No supplement, modification, waiver, extension or termination of this Agreement or any provision hereof shall be binding unless executed in writing by the parties in the same manner as this Agreement.

21. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

22. SUBCONTRACTS:

RESPONSIBLE PARTY shall remain legally responsible for the performance of all terms and conditions of this Agreement, including corrective actions performed by third parties under subcontracts.

23. ATTORNEYS' FEES:

COUNTY and RESPONSIBLE PARTY shall each bear their own costs and attorneys' fees. However, if either party commences any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement, the prevailing party in said action or proceeding shall be entitled to recover, court costs and reasonable attorneys' fees, including the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, collection costs, and such recovery shall include court costs and attorneys' fees on appeal, if applicable. As used herein, "prevailing party" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

24. SURVIVAL:

The duties and obligations of the parties set forth in Section 7 – Confidential Information and Section 9 – Indemnification shall survive the expiration or termination of this Agreement.

25. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in this Agreement, the terms and conditions set forth herein shall have priority.

26. INFORMED CONSENT:

RESPONSIBLE PARTY has had the opportunity to be represented by independent legal counsel of their own choice, and this Agreement was prepared with the joint input of all parties. RESPONSIBLE PARTY further acknowledges that this Agreement was executed freely and voluntarily and with the opportunity for RESPONSIBLE PARTY to receive the advice of independent legal counsel. RESPONSIBLE PARTY is fully aware of its contents and its legal effect.

27. NO REPRESENTATION NOT CONTAINED HEREIN:

Each party acknowledges that no other party, nor any agent or attorney of any party, has made any promise, representation or warranty whatsoever, express or implied, not expressly contained herein, concerning the subject matter hereto so as to induce it to execute this Agreement; and each party acknowledges that it has not executed this Agreement in reliance on any promise, representation or warranty not contained herein.

28. INTERPRETATION:

This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

29. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

30. ENTIRE AGREEMENT:

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties. Any and all acts which may have already been consummated pursuant to the terms and conditions of this Agreement are hereby ratified.

31. AUTHORITY TO EXECUTE:

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party hereto represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day, month and year below written:

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.

Yoel Bilsky:

By: _____

Date: _____

Name: _____

Title: _____

By: _____

Date: _____

Name: _____

Title: _____

COUNTY OF HUMBOLDT:

By: _____

Date: _____

Robert Russell, Deputy Director
Humboldt County Planning and Building Department

NOTE TO NOTARY PUBLIC: If you are notarizing the signatures of persons, signing on behalf of a corporation, partnership, trust, etc., please use the correct notary jurat (acknowledgment) as explained in your Notary Public Law Book.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF HUMBOLDT)

On _____ before me, _____, a

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ATTACHMENT 4
May 17, 2019 Letter from Department



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CANNABIS SERVICES DIVISION

3015 H Street Eureka CA 95501
Fax: (707) 268-3792 Phone: (707)445-7541

May 17, 2019

Yoel Bilsky
PO Box 508
Bayside CA 95524

RE: Permit Application No. 11616, APN 315-221-018

Dear Yoel Bilsky:

The Planning and Building Department has received no contact from you are your agent since May 7, 2018 regarding the violations on the property and the March 2018 offer to enter into a compliance agreement. A substantial response addressing the violation and payment of penalties must be received by May 31, 2019. **If no substantial response is received, the application will be scheduled for revocation.**

If you have questions about this letter, please contact me at 707-268-3749 or santos@co.humboldt.ca.us

Sincerely,

Steven Santos
Senior Planner

ATTACHMENT 5

REQUIRED FINDINGS FOR PERMIT APPROVAL AND STAFF ANALYSIS

Required Findings: To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

The County Zoning Ordinance, Sections 312-1.1.2 (Legal Lot Requirement) and 312-17.1 of the Humboldt County Code (Required Findings for All Discretionary Permits) specify the findings that are required to grant a Special Permit:

1. The proposed development is in conformance with the County General Plan, Open Space Plan, and Open Space Action Program;
2. The proposed development is consistent with the purposes of the existing zone in which the site is located;
3. The proposed development conforms with all applicable standards and requirements of these regulations;
4. The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity;
5. 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 (the midpoint of the density range specified in the plan designation) unless the following written findings are made supported by substantial evidence: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized; and
6. In addition, CEQA states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The proposed project either:
 - a. Is categorically or statutorily exempt; or
 - b. Has no substantial evidence that the proposed project will have a significant effect on the environment and a negative declaration has been prepared; or
 - c. Has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the CEQA Guidelines have been made.

Evidence Supporting the Required Findings: To approve this proposed project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

1. The proposed development must be consistent with the General Plan; 2. Zoning Compliance; 4. Public Health, Safety and Welfare; and 5. Residential Density:

An analysis of the proposed development regarding these findings was not performed because the applicant did not meet the threshold criteria required in finding #3

3. Conforms with applicable standards and requirements of these regulations:

This project not consistent with section 314-55.4.8.1, which states that all commercial cannabis cultivation, processing, manufacture, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws. By initiating new cultivation without approval, the applicant has violated the Humboldt County Code, and has also violated various provisions of state law as described in the staff report. The applicant has not resolved this violation and has been unresponsive to repeated requests for resolution. In addition, the applicant has not provided information to support a finding that the application is consistent with the applicable standards and requirements of the Humboldt County Code.

Due to the above the finding that these applications conform to the applicable standards and requirements of the Humboldt County regulations cannot be made and the applications should therefore be denied.

6. Environmental Impact:

The recommended denial will not adversely impact the environment because it is statutorily exempt from State environmental review per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines.