

ATTACHMENT 3

**CEQA ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION
FOR THE COMMERCIAL MEDICINAL MARIJUANA LAND USE ORDINANCE**

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

APN 221-021-003; Ettersburg Area, County of Humboldt

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Background

Modified Project Description and Project History –

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015, was included in the environmental baseline for the MND and the MND states that “Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting.” The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

The modified project involves a Conditional Use Permit for an existing 19,026 square foot outdoor light deprivation cannabis cultivation operation. Cultivation includes 2 harvest cycle per year. Irrigation water is sourced from an off-stream rainwater catchment pond. Total water storage for the project is 291,715 gallons, including the 273,715 gallon capacity pond and 18,000 gallons of hard tank storage. Annual water use is estimated to be 155,500 gallons (8.17 gallons per square foot per year). The applicant is proposing to dry and cure cannabis onsite, with all further processing proposed off site at a third-party licensed processing facility until the proposed processing building has been constructed to commercial standards. Energy is provided by a 45kw generator and a 25kw generator. The applicant has proposed to install a solar system to supply 13kw of electricity for the project and retaining a generator on site for as needed emergency use.

The project was referred to the Northwest Information Center (NWIC), the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council. Referral responses recommended inadvertent discovery protocol, which has been included in recommended conditions of approval.

Per review of CDFW’s California Natural Diversity Database (CNDDDB) no rare or endangered plant or animal species are mapped on the subject parcel. The nearest NSO activity center located approximately 1.65-miles away. Mapped marbled murrelet habitat is approximately 0.8 miles from the cultivation area. Power at the site is provided by generator, and the applicant has proposed to install a solar array to transition from generator use. The project is conditioned to restrict generator noise to 50 decibels (dB) at 100 feet or

nearest tree line, whichever is closer. Additionally, project conditions require the applicant to transition from supplemental generator use to full solar power to support the project within two years of project approval, after which the generator may be kept on site for emergency use only.

Conditions of approval require the applicant to implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance 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 because of light and noise.

Purpose - Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (MND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more

significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Summary of Significant Project Effects and Mitigation Recommended

A review of Appendix G impacts:

Aesthetics: The project is for 19,026 square foot outdoor light deprivation cannabis cultivation operation. The project will not significantly impact scenic vistas or public views as there are no designated scenic areas on or near the property, and as identified in the Humboldt County General Plan scenic protection of agricultural lands is, for the most part, accomplished by encouraging continued agricultural production and discouraging conversion to residential, commercial, or industrial uses. The farming of cannabis, an agricultural crop, is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project will utilize agricultural land for agricultural purposes as contemplated in the EIR. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. The project will not result in the loss of forest land or conversion of forest land to non-forest use. No impact.

Air Quality: Minimal construction activities are associated with the project. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project would not result in significant sources of greenhouse gas emissions. The project does utilize an unpaved road, and traffic on gravel roads contribute to PM-10, for which the North Coast Air Basin is already in non-attainment, however the EIR for the CCLUO identified this as a significant and unavoidable impact and a Statement of overriding considerations was made by the Board of Supervisors. The use of this gravel road for this cannabis project is therefore not a substantial change or additional significant impact not considered under the EIR.

Biological Resources: The project is in the Ettersburg area adjacent to Salmon Creek. An unnamed intermittent tributary to Salmon Creek runs through the southeast portion of the property. The proposed project will occur in fields that have been in active agricultural operation. Per review of CDFW's California Natural Diversity Database (CNDDDB) no rare or endangered plant or animal species are mapped on the subject parcel. The nearest NSO activity center located approximately 1.65-miles away. Mapped marbled murrelet habitat is approximately 0.8 miles from the cultivation area. Power at the site is provided by generator, and the applicant has proposed to install a solar array to transition from generator use. The project is conditioned to restrict generator noise to 50 decibels (dB) at 100 feet or nearest tree line, whichever is closer. Additionally, project conditions require the applicant to transition from supplemental generator use to full solar power to support the project within two years of project approval, after which the generator may be kept on site for

emergency use only. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species. Less than significant impact.

Cultural Resources: The project was referred to the Northwest Information Center (NWIC), the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council. Referral responses recommended inadvertent discovery protocol, which has been included in recommended conditions of approval. No Impact.

Energy: As the project is for an existing cannabis operation generators have historically been utilized for operations. Energy is provided by a 45kw generator and a 25kw generator. The applicant has proposed to install a solar system to supply 13kw of electricity for the project and retaining a generator on site for as needed emergency use. The project has been conditioned to install the proposed solar array within two years, after which time the generators may be used for emergency backup power only. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. The project occurs on flat land that has historically been used for agriculture. Less than significant impact.

Greenhouse Gas Emissions: As the project is for an existing cannabis operation generators have historically been utilized for operations. Energy is provided by a 45kw generator and a 25kw generator. The applicant has proposed to install a solar system to supply 13kw of electricity for the project and retaining a generator on site for as needed emergency use. The project has been conditioned to install the proposed solar array within two years, after which time the generators may be used for emergency backup power only. Minimal traffic is expected under the project as it is for an existing cannabis farm. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers and herbicides in a existing structure and fuel for use in farm equipment will be stored in tanks with secondary containment. All hazardous materials are required to be stored in a locked area with secondary containment in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as a high fire risk area; however no significant wood framed structures will be constructed as part of this project. The project would not impair emergency response or create a significant risk from wildfire. Less than significant impact.

Hydrology and Water Quality: Irrigation water is sourced from an off-stream rainwater catchment pond. Total water storage for the project is 291,715 gallons, including the 273,715-gallon capacity pond and 18,000 gallons of hard tank storage. Annual water use is estimated to be 155,500 gallons (8.17 gallons per square foot per year). The average rainfall for the three lowest precipitation years from 1991 to 2023 is approximately 46.41 inches annually. Given the surface area of the pond (9,100 square feet), the applicant can

collect approximately 263,281 gallons per year in a low rainfall year. The project is enrolled in the State Water Resources Control Board General Order and has submitted a Site Management Plan detailing measures taken to protect water quality and prevent sedimentation. The project will not degrade any water sources or contribute to sedimentation. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned for Agriculture. The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact.

Mineral Resources: No mining is proposed. The project will not result in the loss of availability of a known mineral resources that would be of value to the region and the residents of the state. The project will not result in the loss of availability of a locally important mineral resource recover site. No impact.

Noise: The project is located in actively managed agricultural land. Noise sources from the operation will include typical farm equipment. The construction and dismantling of temporary hoop houses would create minimal noise. The applicant is proposing to process cannabis on site in a proposed 900 square foot metal processing building. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The project is conditioned to restrict generator noise to 50 decibels (dB) at 100 feet or nearest tree line, whichever is closer. Project conditions require the applicant to transition from supplemental generator use to full solar power to support the project within two years of project approval, after which the generator may be kept on site for emergency use only. There is no reason to believe the noise source will be increased substantially onsite. The project will not result in the generation of excessive groundborne vibration or noise levels. No impact.

Population and Housing: The project is for cannabis cultivation. No housing is proposed nor is any removal of housing proposed. The project will not induce substantial unplanned population growth in an area nor displace substantial numbers of existing people or housing necessitating the construction of replacement housing. No impact.

Public Services: The project is for cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

Recreation: The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. No impact.

Transportation: The project site is accessed via a driveway intersecting Serendipity Road via Upper Samuels Ranch Loop Road via Thomas Road via Salmon Creek Road, the latter two of which are County maintained and identified by the County Public Works

Department as suitable for commercial cannabis operations. The majority of the access road has been evaluated by an engineer in May of 2023 for a separate cannabis permit and found to be the functional equivalent of a category 4 roadway. There will be a maximum of three employees onsite during peak operations. As this is an existing operation, a significant increase in traffic is not expected under the project.

The project has been conditioned to enroll in a Road Maintenance Association to share costs associated with the maintenance and improvements of the access roads. Less than significant impact.

Tribal Cultural Resources: The project was referred to the Northwest Information Center (NWIC), the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council. Referral responses recommended inadvertent discovery protocol, which has been included in recommended conditions of approval. Less than significant impact.

Utilities and Service Systems: Solid waste is taken to the Redway Transfer Station in an amount the service station is capable of handling. The project will provide portable toilets and handwashing stations for cultivation staff while permanent ADA accessible facilities are developed. Water for propagation and cultivation is sourced from an onsite rainwater catchment pond. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. There will be no significant new structures that will increase the risk of wildfire other than the 1,900 square foot ancillary nursery. All structures will comply with all building and fire codes. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 19,026 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:

- Operations Plan and Plot Plan
- Site Plan
- Site Management Plan
- Road Evaluation
- County GIS

Other CEQA Considerations

Staff suggests no changes for the revised project.

EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT

See **Purpose** statement above.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial project for which the MND was adopted.

Project impact analysis of conformance to the Mitigated Negative Declaration Substituted Mitigation Monitoring and Reporting Program

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.10(o) and 55.4.10(c)).

- The project was referred to the Northwest Information Center (NWIC), the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council. Referral responses recommended inadvertent discovery protocol, which has been included in recommended conditions of approval. The project site meets or exceeds the setbacks from tribal cultural resources.

Mitigation Measure 2: Curing violations of state, county code (55.4.11(a)).

- The project is for existing cultivation and project approval includes a compliance agreement to cure unresolved violations of state or county code.

Mitigation Measure 3: Required setbacks from watercourses, wetlands, and Environmentally Sensitive Habitat Areas (55.4.11(d)).

- The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel contains several intermittent streams and the project site meets or exceeds the setbacks to streamside management areas.

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

- The project is for 19,026 square feet of existing cultivation in an Unclassified (U) zone which requires a Conditional Use Permit. The project complies with the requirements described in 55.4.8.2 et seq.

Mitigation Measure 5: Retirement, Remediation, and Relocation Program (55.4.14)

- The project is not participating in the Retirement, Remediation, and Relocation program therefore this mitigation measure does not apply.

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for existing cultivation consistent with baseline conditions which is eligible in an Unclassified (U) zone. No new increased cultivation will occur. The project was referred to CalFire who declined to comment on the project.

Mitigation Measure 7: Use of fertilizer, pesticide, fungicide, rodenticide, or herbicide (55.4.11(j)).

- The project operations plan describes measures that will be taken to properly store and handle hazardous materials. Compliance with the operations plan is a condition of project approval. The use of anticoagulant rodenticide is prohibited. The project is conditioned requiring the applicant to provide written compliance with the Certified Unified Program Agency (CUPA) requirements.

Mitigation Measure 8: Diversion of surface water and trucked water (55.4.11(l)-(m)).

- The project utilizes a rainwater catchment pond for irrigation. No surface water is utilized, and the use of trucked water is disallowed except in an emergency.

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

- The project uses a generator for power, and has been conditioned to transition to generator use for emergency backup power only. The project is conditioned requiring that noise from the generator will not exceed 50 decibels at 100 feet or the edge of the tree line, whichever is closer.

Mitigation Measure 10: Storage of Fuel (55.4.11(p)).

- The project is conditioned that fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

Mitigation Measure 11: Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).

- Project conditions require the applicant to provide a statement declaring they are an agricultural employer as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code).
- The project includes proposed onsite ancillary processing, and the operations plan describes processing practices and employee safety standards.

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

- No mixed light cultivation is proposed on the property, however the ancillary nursery will utilize lighting. Project conditions require the applicant to comply with

International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and design structures to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). Project conditions also require the applicant to shield greenhouses such that little to no light escapes between sunset and sunrise.

Mitigation Measure 13: Humboldt Artisanal Branding Provision (55.4.15).

- The proposed project is for more than 3,000 square feet therefore this measure does not apply.

Mitigation Measure 14: Sunset Clause for applications

- The application was received on August 23, 2016, prior to the sunset of the ordinance.

Based upon this review, the following findings are supported:

FINDINGS

1. The proposed project will permit an existing cannabis operation and bring the operation into compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.
3. For the current proposed project, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

CONCLUSION

Based on these findings it is concluded that an Addendum to the certified MND is appropriate to address the requirements under CEQA for the current project proposal. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.