

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified Copy of Portion of Proceedings for the Meeting of February 4, 2025

RESOLUTION NO. 25 –

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT REVOKING THE MANA FARM CONDITIONAL USE PERMIT, RECORD NUMBER PLN-12280-CUP FOR APN 208-111-028.

WHEREAS, on December 22, 2016, Rockaway Investments submitted an application for a Conditional Use Permit for the operation of an existing 10,000 square foot cannabis farm. This operation would include the drying and curing of the cannabis cultivated on the farm; and

WHEREAS, on July 1, 2021, the Humboldt County Planning Commission approved the Conditional Use Permit/Special Permit for record number PLN-12280-CUP; and

WHEREAS, after the close of all appeal periods the Conditional Use Permit was issued with an effective date of July 16, 2021 ; and

WHEREAS, on September 9, 2022, an annual cannabis inspection occurred and noted outstanding conditions of approval that had not been met; and

WHEREAS, on April 4, 2023, the transfer of Rockaway Investments to Kathy Ann Hall was completed; and

WHEREAS, on August 2, 2023, an annual cannabis inspection occurred, where several non-compliances were such as supplemental lighting and hazardous storage concerns. Several conditions of approval remained outstanding; and

WHEREAS, on November 27, 2023, the noted non-compliances from the past inspection were remedied. The outstanding conditions of approval, had not yet been completed; and

WHEREAS, on July 26, 2024, an annual cannabis inspection occurred where water records and reporting were noted as not being available; and

WHEREAS, on October 23, 2024, California Department of Fish and Wildlife Warden Joshua Zulliger contacted the Humboldt County Planning Department regarding an approved search warrant for APN 208-111-028 and 208-111-022 and requested a representative be present on October 24, 2024.

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WHEREAS, on October 24, 2024, a search warrant was executed by the California Department of Fish and Wildlife, the Humboldt County Sheriff's Department, California Department of Cannabis Control, the California State Water Resources Control Board, and Humboldt County Planning and Building Department; and

WHEREAS, on October 31, 2024, a permit suspension letter was sent by certified mail to the permit holder of PLN-12280-CUP. An email was also sent to both the permit holder and their agent. Finally, the letter of Suspension was posted on the entry gate to the properties.

WHEREAS, on November 14, 2024, the permit holder of PLN-12280 submitted an appeal notice of the permit suspension and paid all required fees.

WHEREAS, on November 14, 2024, Notices of Public Hearing were sent to the permit holder of PLN-12280-CUP; and

WHEREAS, on December 10, 2024, a revised notice of hearing was sent to the permit holder.

WHEREAS, the Board of Supervisors held a duly-noticed public hearing on February 4, 2025, and reviewed, considered, and discussed the application and appeal for the Conditional Use Permit and reviewed and considered all public testimony and evidence presented at the hearing.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that the Board of Supervisors makes all the following findings:

1. FINDING: **Project Description:** Revocation of a Conditional Use Permit for cannabis cultivation on APN 208-111-028.

EVIDENCE: Project File: PLN-12280-CUP

2. FINDING: **CEQA:** The requirements of the California Environmental Quality Act have been complied with.

EVIDENCE: The revocation is exempt from environmental review pursuant to Section 15321 of the CEQA Guidelines (Enforcement Actions by Regulatory Agencies).

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3. FINDING: The permit has been exercised contrary to the terms and conditions of such approval.

EVIDENCE: a) The permit was granted with two types of conditions, those that must be done within a set time frame and those that are ongoing. The conditions with a time frame were enforced through a Compliance Agreement which has been extended to allow the permit holder to complete the actions specified by those conditions. The permit holder has acted in such a way as to violate the on-going conditions as follows:

- Condition #5 - 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. This requirement refers to the use of the approved well and other water resources on and around the property. As a result of the October 24, 2024 warrant inspection a Notice of Violation was issued by the Water Board due to the illegal diversion of water from Little Larabee Creek.
- Condition #11 - Comply with the terms of any applicable Streambed Alteration (1600) Permit obtained from the California Department of Fish & Wildlife. This permit includes a 5-year timeline from date of submittal for compilation or request an extension. Neither of these options have occurred. The LSAA issued for the property was to allow replacement of an undersized culvert. This is the limit of what the LSAA allows. In order to divert water from a stream, an LSAA is required. The absence of this provision in the LSAA does not allow the diversion of water.

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- Condition #15 - The groundwater well shall be inspected annually to evaluate drawdown, and the potential for the well to go dry. This evaluation should include a standard pump test to be conducted during the dry season. The yearly drawdown evaluation is a required ongoing condition to determine if the well is functioning properly and providing the necessary water for irrigation. At this time of permit approval CDFW was concerned that the well due to location was not adequate to provide the water needed and the farmer would be tempted to withdraw water from Little Larrabee Creek. No such testing had occurred since the permit was approved in 2021. A well drawdown test was submitted after the date of the warrant inspection and after the date of the permit suspension, however this well drawdown test raises more questions than it answers. It was completed during the wet season and was for only two hours, and it shows substantial drawdown of the well, with the well pumping being reduced significantly and the water level being undeterminable less than 1 hour after starting the pump test. This pump test does not demonstrate that the well is capable of producing the water necessary for irrigation of the cannabis throughout the season. Equipment for a diversion of water leading to the cannabis site was found and confiscated indicating that the well is not adequate to provide the needed water. In the CDFW inspection report is a picture showing the well is was not connected raising the question of whether it was being used.
- Condition #22 - Generators and associated fuels shall be located outside of the floodplain and a minimum of 150 feet from streams (measured horizontally from the outer edge of the riparian or top of bank, whichever is greater. Generators and associated fuels shall be kept in secondary containment for capturing fuel leaks and located in a housing structure for noise attenuation. These items were found within ten feet of Little Larabee Creek.

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- Condition #23 and #24 - Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. All refuse shall be contained in wildlife proof containers, always, and relocated to an authorized waste management facility, in compliance with State and local laws, on a regular and on-going basis. These requirements are meant to protect wildlife and the environment at large, particularly in regard to discarded monofilament (wildlife entrapment) and disposal of hazardous chemicals such as used oil. During the inspections, refuse was found to be uncontained.

4. FINDING:

The use for which the permit was granted is so conducted as to be a public nuisance. The manner in which the site has been operated is a nuisance in that the operator has illegally used water from an unpermitted source, potentially depriving fish and wildlife of water supplies, the junk and hazardous materials left around the site (particularly in and adjacent to the creek) have the potential to degrade water quality in Little Larabee Creek and to adversely affect wildlife.

EVIDENCE:

- a) In two previous inspections the permit holder has been made aware of the need to constrain hazardous materials (COA 24b) and solid waste (COA 23b) but has failed to address this. These chemicals included gasoline, fertilizers, and pest control chemicals. Monofilament netting was found to be uncontained on the site, which could lead to animal entrapment. Inspection reports for 2023 and 2024 reminded the permit holder regarding ongoing issues of hazardous materials being stored improperly and solid waste uncontained on the property.
- b) A warrant inspection resulted in the discovery of a water diversion from Little Larabee Creek. This was not a permitted diversion and removal of water from the stream in an unauthorized and unmonitored way has the potential to adversely affect aquatic wildlife.

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- c) The use of the gas-powered generator and pump introduced gasoline and oil into the aquatic environment of the Creek channel. These materials are hazardous to aquatic species and to wildlife.

APPEAL OF SUSPENSION AND ARGUMENT AGAINST REVOCATION

- 1. FINDING:** Mana Farms' argument that all cultivation was irrigated utilizing the approved well onsite is not supported by the facts and the statement that "all diversion infrastructure in and near Little Larabee Creek was removed by resource protection agents during the 24 October 2024 compliance inspection" does not resolve the violation of illegal diversion which occurred.

- EVIDENCE:** a) The issue is not whether the pump has been removed, the issue is that there is strong evidence that water was being diverted out of Little Larabee Creek in association with this County approved cannabis cultivation site. As noted in the staff report and the provided photographic evidence, a gas generator and pump was utilized in Little Larabee Creek with wet polyethylene pipe directly leading to the cannabis cultivation area and water storage tanks. This fact is also noted in the North Coast Regional Water Quality Control Board Notice of Violation letter dated November 22, 2024, on page 14 and the Memorandum from the Department of Fish and Wildlife dated November 19, 2024. Furthermore, the fact that the unapproved diversion has been removed by the Department of Fish and Wildlife Game Wardens does not dispute the fact that its use was a violation of the permit.

- 2. FINDING:** Mana Farms statement that they currently are covered by a LSAA because the LSAA was transferred to the new owner is not relevant to the violation.

- EVIDENCE:** a) It is true that the LSAA 1602 was transferred to the current permit holder. The LSAA is to allow replacement of a culvert. It does not allow diversion of water from Little Larabee Creek. The existence of an LSAA does not address the violations being presented to the Board of Supervisors as grounds for revocation.

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3. FINDING: Mana Farms statement that they are working to update the site plan does not resolve the inconsistency with the operation and its approved permit.

EVIDENCE: a) To date, the revised site plan has not been approved. The site submitted to date is not consistent with either the approved permit or with what exists on the ground. The site plan fails to show the approved drying area and storage shed near the existing well. Furthermore, the site plan does not reflect the current configuration of the drying and vegging building near greenhouse #2.

4. FINDING: Mana Farms argument that the well drawdown test in Condition 15b is not required until October 2025 is not accurate.

EVIDENCE: a) This statement confuses Condition 15b requiring a yearly drawdown evaluation with conditions imposed to correct unpermitted improvements at the time of permit issuance. The ordinance allows a permit holder one year to develop a plan to address the unpermitted improvements and an additional year to complete the work. The requirement for yearly drawdown testing is not a corrective action but an ongoing action to monitor the sufficiency of the well. This is an ongoing condition that should have occurred yearly since the permit was approved. No such testing has occurred since the permit was approved in 2021. Since no testing has occurred, it cannot be proven that the approved well is functioning properly and providing the required irrigation for cannabis cultivation.

NOW, THEREFORE, based on the above findings and evidence, the Board of Supervisors does hereby:

- a. Adopt the findings set forth in this resolution; and
- b. Denies the Appeal of the Permit Suspension and Revokes the Conditional Use Permit for APN 208-111-028; and

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on

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February 4, 2025, by the following vote:

Dated: _____

Supervisor Michelle Bushnell, Chair
Humboldt County Board of Supervisors

Adopted on motion by Supervisor _____, Seconded by Supervisor _____, and the following vote:

AYES: Supervisors: --

NAYES: Supervisors: --

ABSENT: Supervisors: --

ABSTAIN: Supervisors: --

STATE OF CALIFORNIA

County of Humboldt

I, Tracy Damico, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my Office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

Tracy Damico
Clerk of the Board of Supervisors of the County
of Humboldt, State of California