



**COUNTY OF HUMBOLDT**  
**PLANNING AND BUILDING DEPARTMENT**  
**CURRENT PLANNING DIVISION**

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

Hearing Date: April 15, 2021

To: Humboldt County Planning Commission

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

Subject: **Kings Peak Farms, LLC Conditional Use Permit**  
Record Number PLN-12188-CUP  
Assessor's Parcel Number (APN) 108-024-008  
12999 Kings Peak Rd, Garberville area

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Please contact Alec Barton, Planner (Harris & Associates) at 435-851-4003 or by email at [alec.barton@weareharris.com](mailto:alec.barton@weareharris.com) if you have any questions about the scheduled public hearing item.

## AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
April 15, 2021	Conditional Use Permit	Alec Barton

**Project Description:** Kings Peak Farms seeks a Conditional Use Permit to allow 10,770 square feet (SF) of existing medical cannabis cultivation, consisting of 6,045 SF outdoor cultivation and 4,725 SF mixed light cultivation. A propagation facility/nursery totaling 480 SF is also proposed.

Water for irrigation is currently sourced from a surface water diversion (SIUR Certificate# H100544) from a Class II spring/seep. The surface water diversion is registered with the State Water Resources Control Board, and is derived from an unnamed tributary to the North Fork Bear Creek. Estimated annual water use is 162,000 gallons, which equates to 15 gallons per SF of cultivation area.

Proposed water storage is 164,600 gallons, including 139,600 gallons of existing storage distributed as follows: six (6) 20,000-gallon water bladders (120,000 gallons), three (3) 3,000-gallon plastic tanks (9,000 gallons), two (2) 5,000-gallon plastic tanks (10,000 gallons), and two (2) 300-gallon plastic tanks (600 gallons). There are an additional five (5) 5,000-gallon tanks (25,000 gallons) proposed as part of this project. The water right to divert water (from an unnamed stream on the property) yields approximately 371,470 gallons a year and would allow for full forbearance during the forbearance period.

Drying will occur onsite within 1,950-SF workshop. Further processing would occur at a licensed third party facility. There is an average of four (4) employees utilized throughout the year, and up to six (6) employees during peak operations. Electricity is provided by PG&E and two onsite generators: a Multiquip Whisperwatt 70 kVA generator used to power the nursery and an Isuzu 25 kW diesel generator used for domestic purposes and backup power source.

**Project Location:** The project area is located at 12999 Kings Peak Road (APN 108-024-008), approximately 5 miles west-northwest of the unincorporated community of Ettersburg, located in southern Humboldt County.

**Present Plan Land Use Designations:** Residential Agriculture (RA40) Density: 40 acres per dwelling unit; Slope Stability: E

**Present Zoning:** Unclassified (U)

**Record Number:** PLN-12188-CUP

**Assessor's Parcel Number:** 108-024-008

### Applicant

Kings Peak Farms, LLC  
C/O Anthony Harris  
12999 Kings Peak Road  
Garberville, CA 95542

### Owner

Joshua Cummings  
22059 Rust Ct  
Jenner, CA 95450

### Agents

NorthPoint Consulting Group  
C/O Phil Standish  
PO Box 44  
Eureka, CA 95502

**Environmental Review:** An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of the State CEQA Guidelines.

**State Appeal Status:** Project is NOT appealable to the California Coastal Commission.

**Major Issues:** No major issues/concerns were identified for this project.

**Kings Peak Farms, LLC**  
Record Number: PLN-12188-CUP  
Assessor's Parcel Number: 108-024-008

**Recommended Commission Action**

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

*Adopt the Resolution to:*

1. *Find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO), as described by Section §15164 of the State CEQA Guidelines;*
2. *Make the required findings for approval of the Conditional Use Permit; and*
3. *Approve the Kings Peak Farms, LLC Conditional Use Permit as recommended by staff subject to the recommended conditions.*

**Executive Summary:** Kings Peak Farms seeks a Conditional Use Permit (CUP-16-188) to permit a maximum of 10,770 square feet (SF) of existing medical cannabis cultivation, consisting of 6,045 SF outdoor cultivation and 4,725 SF mixed light cultivation. This permit application is in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO).

The site is zoned as Unclassified (U) and has a land use designation of Residential Agriculture (RA40) as defined in the Humboldt County 2017 General Plan Update. Cultivation will take place in four (4) different areas, totaling 10,770 SF: 1) 34' x 75' greenhouse (2,550 SF outdoor); 2) 34' x 96' greenhouse (3,264 SF outdoor); 3) 34' x 139' greenhouse (4,726 SF mixed light); and 4) a 230-SF outdoor cultivation area.

Drying and trimming would take place onsite within a metal building workshop (1,950 SF). Further processing would occur offsite at a licensed third-party facility. There is an average of four (4) employees utilized throughout the year, and up to six (6) employees during peak operations. Electricity is provided by PG&E and two generators: a Multiquip Whisperwatt 70 kVA generator used to power the nursery and an Isuzu 25 kW diesel generator used for domestic purposes and a backup power source.

**Water Resources**

Water for irrigation is currently sourced from a surface water diversion (SIUR Certificate# H100544) from a Class II spring/seep. The surface water diversion is registered with the State Water Resources Control Board and is derived from an unnamed tributary to the North Fork Bear Creek. Estimated annual water use is 162,000 gallons, which equates to 15 gallons per SF of cultivation area.

A Water Resources Protection Plan (WRPP) was created to protect the water resources of the project area through annual site inspection, monitoring, and reporting of Tier 2 discharges to the North Coast Regional Water Quality Control Board (NCRWQCB). There are no stream crossings located within the property. The applicant is conditioned to meet the corrective actions and recommendations outlined in the WRPP (**Condition 23**). A Lake and Streambed Alteration Agreement (LSAA) has been filed with the California Department of Fish and Wildlife (CDFW) to address all work to be done within the waterways (Certification #1600-2017-0418-R1). The LSAA is for two diversions for domestic use and irrigation, as well as the removal of water diversion infrastructure deemed unnecessary (POD-2).

The proposed project is not located within a Streamside Management Area (SMA).

Proposed water storage is 164,600 gallons, including 139,600 gallons of existing storage distributed as follows: six (6) 20,000-gallon water bladders (120,000 gallons), three (3) 3,000-gallon plastic tanks (9,000 gallons), two (2) 5,000-gallon plastic tanks (10,000 gallons), and two (2) 300-gallon plastic tanks (600

gallons). There are an additional five (5) 5,000-gallon tanks (25,000 gallons) proposed as part of this project. The applicant is conditioned to replace or reinforce the bladders with engineered containment berms capable of containing the stored water in the event of a bladder failure (**Condition 22**).

Estimated annual water usage is 162,000 gallons throughout the cultivation season (April – October), thus meeting the forbearance requirements by having more water available than necessary for cultivation activities.

A surface water diversion has been obtained by the applicant (Certificate No. H100544) from a Class II spring/seep. The Appropriate Right for water usage allows up to 33,478 gallons of water to be diverted during the diversion season (November 1 – March 31), or 223 gallons of water to be pumped per day. The rate of diversion to storage is limited to 14,400 gallons per day (10 gallons per minute x 1,440 minutes/day), pursuant to the current State Water Board's Cannabis Policy 78.

### **Biological Resources**

A list of potential special status plant and wildlife species or habitat was generated in February 2021 using the following information systems: CDFW California Natural Diversity Database, Biogeographic Information and Observation System (BIOS), and Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) (USFWS 2021). Several special status wildlife species are documented within the vicinity of the project area (Appendix A, Biological Resources Report) (**Attachment 3**), including northern spotted owl and foothill yellow-legged frog habitats, both of which occur within 3,330 feet of the project area. Project activities are not expected to produce any adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities.

### **Tribal Cultural Resource Coordination**

A records search was requested from the Northwest Information Center (NWIC). The results indicated there is an existing archaeological site P-12-000278 on site (CA-HUM-262) and recommended a qualified professional assess the status of the resource and provide project specific recommendations (Much 2017). The NWIC also noted that the project area has the possibility of containing unrecorded archaeological sites, due to the passage of time since the previous survey (Levulett 1976), and recommended that a qualified archaeologist conduct further archival and field study for the entire project area to identify any additional existing archaeological resources and provide recommendations. However, the Bear River Band of the Rohnerville Rancheria responded by advising that implementing the standard Inadvertent Discovery Protocol would be sufficient, in the event of unanticipated discoveries of resources and/or human remains (Cooper 2017) (**Condition 13**).

### **Access**

The project area is located at 12999 Kings Peak Road, approximately 5 miles west-northwest of the unincorporated community of Ettersburg in southern Humboldt County. The project area is accessed from Kings Peak Road, which is maintained by the County. The Humboldt County Department of Public Works (DPW) reviewed the project and determined that the entire road segment is developed to the equivalent of a road category 4 standard, and thus is adequate for the proposed use without further review. Nonetheless, DPW recommended standard conditions pertaining to fences and encroachments (**Condition 14**), county roads – driveway and private road intersection visibility (**Condition 15**), and county roads – private road intersection (**Condition 16**).

### **Outdoor Cultivation vs. Mixed Light Cultivation**

The project proposes to cultivate a total aggregate of 10,770 SF (6,045 SF outdoor; 4,725 SF mixed light) in four (4) different areas: 1) 34' x 75' greenhouse (2,550 SF outdoor), 2) 34' x 96' greenhouse (3,264 SF outdoor), 3) 34' x 139' greenhouse (4,726 SF mixed light), and 4) 230-SF outdoor cultivation area.

### **Electrical Power**

Electricity is provided by PG&E and two generators: a Multiquip Whisperwatt 70 kVA generator used to power the nursery, and an Isuzu 25 kW diesel generator used for domestic purposes and a backup power



source. A condition has been added requiring that by 2026 the project area must convert entirely to solar-generated power or power provided by PG&E, and generators will only be used for backup power (**Condition 12**).

### **Conversion Mitigation Plan**

A total of 5.25 acres across four (4) sites were converted to cannabis cultivation without prior authorization between 2010 and 2016.

Site A consists of 3.34 acres, and mitigation include removing slash and stump piles, installing a rocked rolling dip across a road prism, rebuilding an outboard ditch, outsloping an existing dip in the road, and installing a new culvert.

Site B consists of 0.48 acre, and mitigation include slash and stump removal.

Site C consists of 1 acre, and mitigation include slash and stump removal, rocking and lining a drain outlet, and installing a downspout.

Site D consists of 0.43 acre, and mitigation include outsloping the road to divert drainage.

### **California Environmental Quality Act (CEQA)**

Environmental review for this project was conducted through the analysis of all available documentation provided by the applicant. Based on the results of that analysis, staff finds that all aspects of the project have been considered in the Mitigated Negative Declaration (MND) that was adopted by the County for the CMMLUO, and thus has prepared an addendum to the MND for consideration by the Planning Commission (**Attachment 2**).

**RECOMMENDATION:** Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit (CUP).

**ALTERNATIVES:** The Planning Commission could elect to 1) not approve the project, or 2) require the applicant to submit further evidence, or 3) modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

The Planning Commission could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As the lead agency, the Planning and Building Department has determined that the project is consistent with the MND for the CMMLUO as stated above. However, the Commission may reach a different conclusion, in which case, the Commission would continue the item to a future date at least two months later to provide staff adequate time to complete further environmental review.

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT**

**Resolution Number 21-X  
Record Number: PLN-12188-CUP  
Assessor's Parcel Number: 108-024-008**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Kings Peak Farms, LLC, Conditional Use Permit.**

**WHEREAS, Kings Peak Farms, LLC,** submitted an application and evidence in support of approving Conditional Use Permit (CUP-16-188) for the continued operation of an existing 10,770 square foot (SF) cannabis cultivation operation, consisting of 6,045 SF outdoor cultivation and 4,725 SF mixed light cultivation;

**WHEREAS,** the County, prepared an Addendum to the Final Mitigated Negative Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO), adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented, as described by §15162(c) of CEQA Guidelines; and

**WHEREAS,** the Humboldt County Planning Commission held a duly-noticed public hearing on **April 15, 2021**, and reviewed, considered, and discussed the application for the requested Conditional Use Permit and reviewed and considered all evidence and testimony presented at the hearing.

**Now, THEREFORE BE IT RESOLVED,** that the Planning Commission makes all the following findings:

- 1. FINDING:**                      **Project Description:** The application is a Conditional Use Permit CUP-16-188 for the continued operation of an existing 10,770 square foot (SF) cannabis cultivation operation, consisting of 6,045 SF outdoor cultivation and 4,725 SF mixed light cultivation, with appurtenant propagation and drying activities. Electricity is provided by PG&E and two generators (70 kVA and 25 kw). Irrigation water is sourced from a permitted surface water diversion.

**EVIDENCE:**                      a) Project File: PLN-12188-CUP

- 2. FINDING:**                      **CEQA.** The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission has considered the Addendum to and the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016.

- EVIDENCE:**                      a) Addendum to the MND prepared for the proposed project in compliance with CEQA.
- b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
- c) A list of special status plant and wildlife species or habitat was generated in February 2021 using the following information systems: CDFW California

Natural Diversity Database, Biogeographic Information and Observation System (BIOS), and Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) (USFWS 2021). Several special status wildlife species are documented within the vicinity of the project area (Appendix A, Biological Resources Report (Attachment 3), including northern spotted owl and foothill yellow-legged frog habitats, both of which occur within 3,330 feet of the project area. The proposed cultivation activities would not degrade or remove any suitable habitat, or result in noise or disturbance that would adversely impact any protected species. Therefore, potential impacts to biological resources are considered low/unlikely.

- d) A Water Resources Protection Plan (WRPP) was prepared by Pacific Watershed Associates to show compliance with the North Coast Regional Water Quality Control Board Order No. 2015-0023, in order to protect the water quality of waterways within the project area.
- e) A cultural resources database search was requested of the Northwest Information Center (NWIC). The results indicated there is an existing archaeological site P-12-000278 on site (CA-HUM-262) and recommended a qualified professional assess the status of the resource and provide project specific recommendations. However, the Bear River Band of the Rohnerville Rancheria responded by advising that implementing the standard Inadvertent Discovery Protocol would be sufficient, in the event of unanticipated discoveries of resources and/or human remains.

#### **FINDINGS FOR CONDITIONAL USE PERMIT**

### **3. FINDING**

The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

#### **EVIDENCE**

- a) General agriculture is a use type permitted in the Unclassified (U) zoning designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.

### **4. FINDING**

The proposed development is consistent with the purposes of the existing Unclassified (U) zoning district in which the site is located.

#### **EVIDENCE**

- a) All general agricultural uses are principally permitted in the Unclassified (U) zone.
- b) Humboldt County Code section 313-106.6 allows cultivation of up to 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed light cannabis on a parcel over 1 acre, subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for a total of 10,700 SF of cultivation area, consisting of 6,045 SF outdoor and 4,725 SF of mixed light cultivation on a 55-acre parcel, is consistent with the Humboldt County Code and with the Cultivation Area Verification prepared by the County.

**5. FINDING**

The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

**EVIDENCE**

- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned U (HCC 314-55.4.8.2.2).
- b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created in its current configuration by deed recorded before the establishment of county and state subdivision regulations that would have applied to the creation of the parcel.
- c) The project will obtain water from a permitted surface diversion registered with the State Water Resources Control board, and is derived from an unnamed tributary of the North Fork Bear Creek.
- d) The slope of the land where cannabis will be cultivated is less than 15%.
- e) The cultivation of cannabis will not result in the net conversion of timberland. The proposed cultivation area(s) are located within a historical cultivation area. Prior illegal conversion has been conducted on the site and will be abated pursuant to a Conversion Mitigation Plan. The project has been conditioned to mitigate 5.25 acres of land in four areas where unauthorized conversions occurred (**Condition 17**).
- f) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, more than 300 feet from any offsite residence, and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

**6. FINDING**

The cultivation of 10,770 SF of cannabis and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

**EVIDENCE**

- a) The site is accessed by a road that has been certified by a licensed engineer to safely accommodate the amount of traffic generated by the proposed cannabis cultivation.
- b) The site is in a rural part of the County where the typical parcel size is over 40 acres, and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites, which have been approved or are in the application process, will not change the character of the area due to the large parcel sized in the area.
- c) The location of the proposed cannabis cultivation is more than 300 feet from the nearest offsite residence.
- d) Irrigation water will come from a surface water diversion certified with the Water Board (H1000544).
- e) The Appropriate Right for water usage allows up to 33,478 gallons to be diverted from November 1 to March 31. The diversion season is specified by the current State Water Board's Cannabis Policy. The rate of diversion to storage is limited to 14,400 gallons per day (10 gallons/minute x 1,440

minutes/day), pursuant to the current State Water Board's Cannabis Policy 78.

- f) Estimated annual water use is 162,000 gallons. The overall water usage is calculated to be approximately 15 gallons/SF.
- g) Proposed available water storage is 164,600 gallons, which would allow a sufficient volume of storage to meet full forbearance requirements. The estimated annual water usage for cultivation activities is 162,000 gallons.
- h) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection monitoring and reporting to the North Coast Regional Water Quality Control Board (NCRWQCB). As detailed in the Water Resources Protection Plan (WRPP) dated May 2017, at a minimum, the site shall be inspected and monitoring reports prepared for the following activities: 1) before and after any alteration or upgrade to a given stream crossing, road segment, or other controllable sediment discharge site; 2) prior to the start of the water year (October 15) to evaluate site preparedness for storm events and associated storm water runoff; 3) site inspection no later than December 15 of each year; and 4) following any rainfall event with an intensity of 3 inches of precipitation within any 24 hour period. Annual reporting shall be submitted to the NCRWQCB by March 31 of each year. Therefore, runoff to adjacent property and infiltration of water to groundwater resources will not be adversely affected.

## **7. FINDING**

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

### **EVIDENCE**

- a) The parcel currently contains two existing residential units. The approval of cannabis cultivation on this parcel will not conflict with the operation or use of the existing residential units on site.

## DECISION

**NOW, THEREFORE,** based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approve the Conditional Use Permits (PLN-12188-CUP) for Kings Peak Farms, LLC, subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

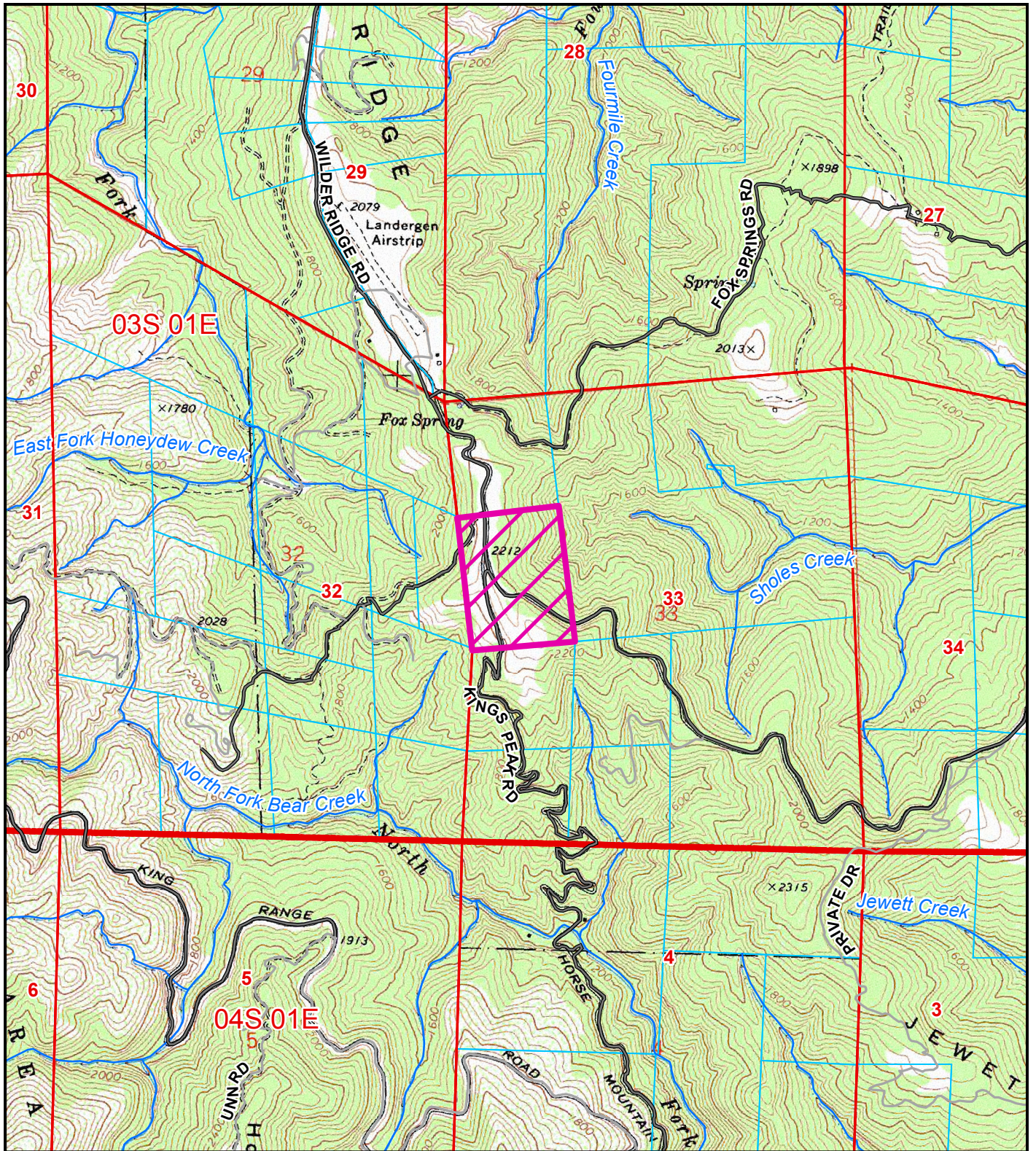
The motion was made by COMMISSIONER \_\_\_\_\_ and second by COMMISSIONER \_\_\_\_\_ and the following ROLL CALL vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
DECISION:	

I, John H. 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 H. Ford, Director  
Planning and Building Department

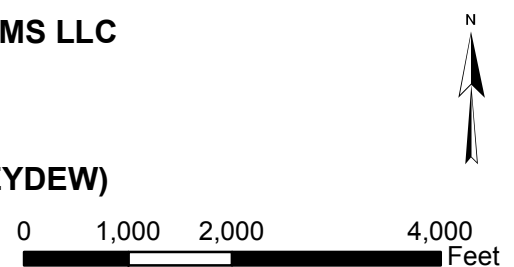




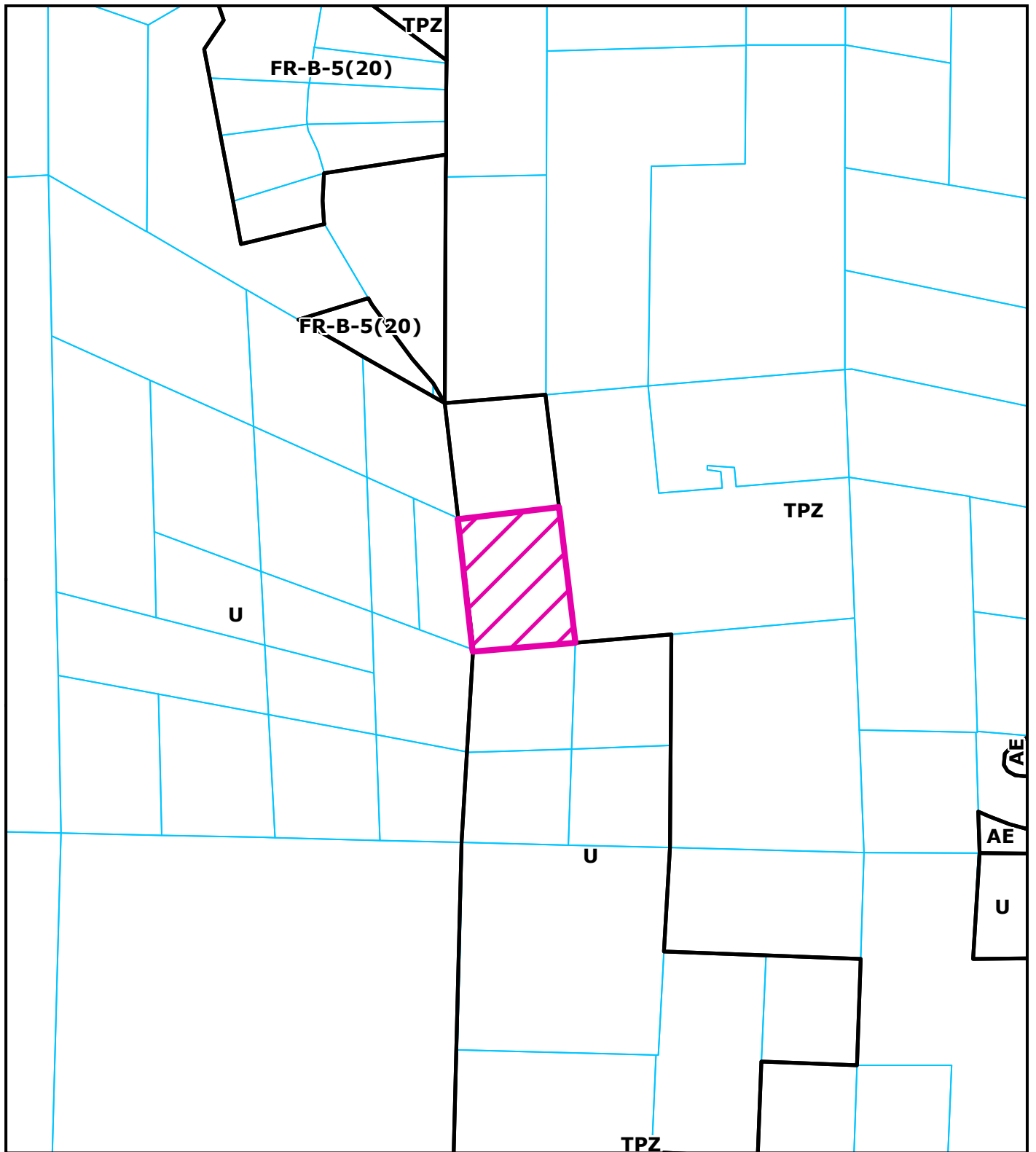
**TOPO MAP**  
**PROPOSED KINGS PEAK FARMS LLC**  
**SHELTER COVE AREA**  
**CUP-16-561**  
**APN: 108-024-008**  
**T03S R01E S33 HB&M (HONEYDEW)**

Project Area = 

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.







Project Area = 

**ZONING MAP  
PROPOSED KINGS PEAK FARMS LLC  
SHELTER COVE AREA  
CUP-16-561  
APN: 108-024-008  
T03S R01E S33 HB&M (HONEYDEW)**

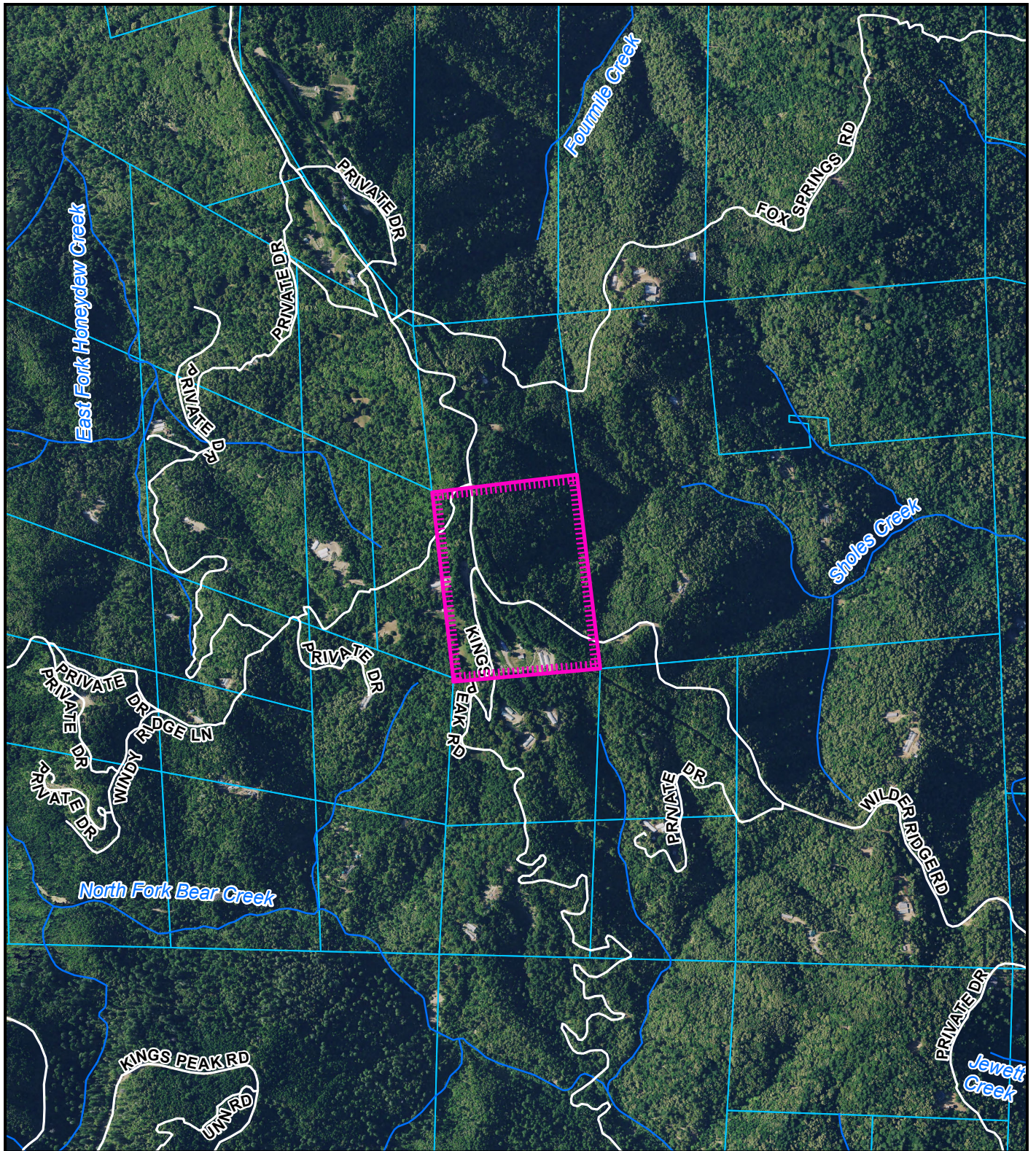


This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

0 1,000 2,000 4,000 Feet



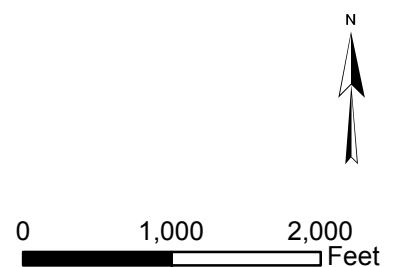




**AERIAL MAP**  
**PROPOSED KINGS PEAK FARMS LLC**  
**SHELTER COVE AREA**  
**CUP-16-561**  
**APN: 108-024-008**  
**T03S R01E S33 HB&M (HONEYDEW)**

Project Area = 

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.





APN: 108-024-008

(APPROX. 0.7 MILES)  
 -EXIT ONTO 642 TOWARDS REDWAY  
 (APPROX. 0.2 MILES)  
 (APPROX. 0.2 MILES)  
 (APPROX. 0.1 MILES) REDWOOD DR.  
 (APPROX. 0.1 MILES)  
 -TURN RIGHT ONTO BRICELAND THORN RD.  
 (APPROX. 10 MILES)  
 (APPROX. 0.1 MILES)  
 -STRAIGHT ONTO EITERSBURG RD.  
 (APPROX. 6.3 MILES)  
 (APPROX. 0.1 MILES)  
 -STRAIGHT ONTO WILDER RIDGE RD.  
 (APPROX. 5.3 MILES)  
 (APPROX. 0.1 MILES)  
 -TURN LEFT ONTO HORSE MOUNTAIN RD.  
 (APPROX. 2.8 MILES)  
 (APPROX. 0.1 MILES)  
 -TURN RIGHT ONTO KINGS PEAK RD.  
 (APPROX. 4.9 MILES)  
 -SITE DRIVEWAY ON LEFT

KNOWS PEAK RAINS CO-OP IS PROPOSING TO PERMIT EXISTING/PROPOSED CANNA-BUS CULTIVATION ACTIVITIES IN ACCORDANCE WITH THE COUNTY OF HUMBOLDT (COUNTY) COMMERCIAL MEDICAL MARIJUANA LAND USE ORDINANCE (CMUO), ORDINANCE NO. 2954. THE OPERATION INCLUDES APPROXIMATELY 10,770 SQUARE FEET (SF) OF CANNA-BUS CULTIVATION AREA OF WHICH 4,720 SF IS MIMED LIGHT. THE PROJECT PROPOSAL INCLUDES THE DEVELOPMENT OF FACILITIES FOR THE CULTIVATION, INCLUDING FACILITIES FOR DRYING, CLIPPING, BINDING OF THE CANNABUS, WATER DIVERSION WORKS AND APPROPRIATE WATER STORAGE.

1. DRAINAGE SCALE AS NOTED, WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SPACED DIMENSIONS.
2. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY INFORMATION DEPICTED HAS BEEN OBTAINED FROM CONSULTING GROUP, INC. HAS NOT VERIFIED THIS PROPERTY BOUNDARY.
3. THERE ARE NO NEARBY SCHOOL, PARKS, RECREATION, OR OTHER PUBLIC SPACES OR TRIBAL RESOURCES WITHIN 600 FEET OF THE EXISTING CULTIVATION AREA.
4. THERE ARE NO RESIDENCES OR ADJACENT PARCELS WITHIN 300 FEET OF THE PROPOSED CULTIVATION AREAS.
5. ALL AREAS OUTSIDE OF THE CANNABIS ACTIVITIES ARE USED IN ACCORDANCE TO THE HUMBOLDT COUNTY LAND USE DESIGNATION.



APPLICANT:  
KINGS PEAK FARMS, LLC,  
17299 KINGS PEAK RD.,  
CARBONVILLE, CA 95542

DEED/CHIEF  
OFFICER:  
256 CITY CENTER DR.  
HOMERUN PARK, CA 94928

APPLICANT AGENT:  
NORTHERN CONSULTING GROUP, INC.  
317 3RD STREET, SUITE 15  
EUKEWA, CA 95501  
(707) 799-6438

SITE ADDRESS:  
APN 108-024-008  
17299 KINGS PEAK RD.,  
CARBONVILLE, CA 95542

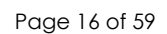
- **PACKAGING**

MIXED LIGHT CULTIVATION = 4,725 SQ FT  
OUTDOOR CULTIVATION = 6,045 SQ FT  
PROPERTY SIZE = ±55.2 ACRES

C0 - SITE PLAN & NOTES
C1 - EXISTING
C2 - PROPOSED

	KING'S PEAK FARMS, LLC.		 <b>NORTHPOINT</b> CONSULTING GROUP, INC. <small>117 Semco Blvd., Arcata, CA 95521</small>	DATE	REVISIONS	DRAWN BY	CHECKED BY
	12999 KINGS PEAK RD. GARBERVILLE, CA 95542	CUP - PLOT PLAN, VICINITY MAP, AND PROJECT NOTES		7/7/19	UPDATED PLOT PLAN PER PLANNER	CC	CC
AS SHOWN	DATE	BY	REVISIONS	DRAWN BY	CHECKED BY		
7/22/20			UPDATED PLOT PLAN PER PLANNER	CC	CC		
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## ATTACHMENT 1

### RECOMMENDED CONDITIONS OF APPROVAL

**APPROVAL OF THE CONDITIONAL USE PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS, WHICH MUST BE SATISFIED BEFORE THE PROVISIONAL CANNABIS CULTIVATION PERMIT CAN BE FINALIZED.**

#### **A. General Conditions:**

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.
2. The applicant is required to pay for permit processing on a time and material basis, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
3. The applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover the staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use, and at the time of annual inspection. A conformance review deposit, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750), shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. **Within three days of the effective date of permit approval**, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Planning and Building Department will file the NOD and will charge this cost to the project.
5. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #6 through #23. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
6. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to: existing and proposed greenhouses, water tanks over 5,000 gallons, existing and proposed structures associated with drying and storage or any activity with a nexus to cannabis, and any noise containment structures as necessary. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan.
7. The applicant shall submit a grading, erosion and sediment control plan prepared by a qualified engineer. The plan shall identify the cubic yards of all grading that has been completed, and any proposed grading. A letter or similar communication from the Building Division verifying that all grading related to the cannabis cultivation operation are permitted, or not needed, will satisfy this condition.

8. The approved building plans shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project by the Building Inspection Division. Sign-off on the Occupancy Permit by the Building Division shall satisfy this requirement.
9. Prior to renewal of the permit, the operator is required to submit to the Department of Environmental Health (DEH), receipts or copy of contract confirming sufficient use of portable toilets to serve staff for the duration of the first year, or provide written assessment from a qualified septic consultant confirming a Tier 0 status for the addition of an onsite wastewater treatment system serving the dwelling (Department of Environmental Services).
10. The applicant shall install a water monitoring device on source of surface water diversion if/when utilized and on storage tanks/bladders as applicable to monitor water used for cannabis irrigation separate from domestic use.
11. The applicant shall submit a lighting plan for all mixed light cultivation/light deprivation cultivation areas. The lighting plan shall be reviewed and approved by the Director of Planning and Building.
12. The applicant shall obtain a permit to operate the two generators (Multiquip Whisperwatt 70 kVA and Isuzu 25 kW) from the North Coast Unified Air Quality Management District (NCUAQMD) and obtain an electric permit from the County's Building Department.
13. The applicant shall implement the Inadvertent Discovery Protocol. In the event of the accidental discovery of historical artifacts or human remains, a qualified professional archaeologist shall be contacted immediately, in order to inspect and clear the site for all further activities.
14. COUNTY ROADS – FENCES & ENCROACHMENTS: All fences and gates shall be relocated out of the County right of way. All gates shall be setback sufficiently from the County road so that vehicles will not block traffic when staging to open/close the gate. In addition, no materials shall be stored or placed in the County right of way. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
15. COUNTY ROADS – DRIVEWAY & PRIVATE ROAD INTERSECTION VISIBILITY: All driveways and private road intersections onto the County road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approve for a business license.
16. COUNTY ROADS – PRIVATE ROAD INTERSECTION: Any existing or proposed non-county maintained access roads, which will serve as access for the proposed project and connect to a county maintained road, shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the Country maintained right of way.
17. The applicant shall contact the Telegraph Ridge Fire Protection District and furnish written documentation from that agency of the available emergency response and fire suppression services and any recommended project mitigation measures. Mitigation measures shall be incorporated into the project, if applicable. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning and Building Department. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.



18. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
19. The applicant shall execute and file with the Planning and Building Department the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.
20. At such time the applicant increases cultivation to maximum aggregate allotment, allowed under the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) 1.0 and Cultivation Area Verification (CAV) allowances, the applicant/operator/owner shall submit a revised site plan showing placement of all cannabis cultivation, broken down by zone and growing version (outdoor and/or mixed light), at least 30 days prior to placement/development of the cultivation area(s). The site plan shall be reviewed and approved by the Director of Planning and Building.
21. Not later than December 31, 2025, the source of power for all cannabis activities shall be either from a utility or alternative form of renewable energy. Starting January 1, 2026 the use of a generator is only permitted as an emergency power source. Prior to December 31, 2025 the applicant must submit information to the Planning and Building department demonstrating there is sufficient power available that generator use will cease.
22. As soon as feasible, the applicant shall replace the water bladders used for storage of irrigation water with rigid tanks and/or an off-stream pond. If water bladders continue to be used, the applicant shall surround the bladders with engineered containment berms capable of containing the stored water in the event of a bladder failure.
23. The applicant shall meet the corrective actions and recommendations outlined in the Water Resources Protection Plan (WRPP).

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

1. The combined noise from background, generator, greenhouse fan, or other operational activities and equipment must not result in the harassment of Northern Spotted Owl species, as required to meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11 (o) requirements. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
2. All artificial light utilized in mixed light greenhouses shall be limited to 6 watts per square foot, with no wattage limit in the ancillary propagation greenhouse. All artificial lighting shall be fully contained within structures such that no light escapes (i.e., through the use of blackout curtains). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program (refer to <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>). Standards include, but are not limited to: Light shall 1) be shielded and downward facing, 2) consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less, and 3) only be placed where needed.
3. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written

verification that the lights' shielding and alignment and noise levels have been repaired, inspected, and corrected as necessary.

4. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, the permittee shall not use any erosion control and/or cultivation materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
5. All refuse shall be contained in wildlife proof storage containers at all times and disposed at an authorized waste management facility.
6. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and shall be allowed to leave the work site unharmed.
7. The use of anticoagulant rodenticide is prohibited.
8. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.
9. All components of the project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Any changes shall require modification of this permit, except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
10. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
11. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.
12. The permittee shall have possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), and regulations promulgated thereunder, as soon as such licenses become available.
13. The permittee shall be in 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.
14. The permittee shall ensure confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial



cannabis activity shall be set back at least 30 feet from any property line and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).

15. The permittee shall maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
16. The permittee shall comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from the California Department of Fish and Wildlife (CDFW).
17. The permittee shall comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal FIRE), if applicable.
18. The permittee shall consent to an annual onsite compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
19. The permittee shall pay all applicable fees for application review to ensure conformance with conditions and annual inspection fees.
20. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.
21. Fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be properly stored, handled, and used in accordance with applicable regulations.
22. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
23. The permittee shall pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

#### Performance Standards for Cultivation and Processing Operations

24. Pursuant to the MAUCRSA, Health and Safety Code Section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
25. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
26. Cultivators engaged in processing shall comply with the following Processing Practices:
  - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
  - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.

- c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
  - d. Employees must wash hands sufficiently when handling cannabis or use gloves.
27. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
- a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
    - (1) Emergency action response planning as necessary;
    - (2) Employee accident reporting and investigation policies;
    - (3) Fire prevention;
    - (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
    - (5) Materials handling policies;
    - (6) Job hazard analyses; and
    - (7) Personal protective equipment policies, including respiratory protection.
  - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
    - (1) Operation manager contacts;
    - (2) Emergency responder contacts; and
    - (3) Poison control contacts.
  - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
  - d. Onsite housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
28. All cultivators shall comply with the approved processing plan as to the following:
- a. Processing practices;
  - b. Location where processing will occur;
  - c. Number of employees, if any;
  - d. Employee Safety Practices;
  - e. Toilet and handwashing facilities;
  - f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage;
  - g. Drinking water for employees;
  - h. Plan to minimize impact from increased road use resulting from processing; and
  - i. Onsite housing, if any.
29. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Activity Permit issued pursuant to the CMMLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
30. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a re-inspection to determine whether or not the

permit holder has cured all issues of noncompliance. Failure to request re-inspection or to cure any items of noncompliance shall terminate the Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to Section 55.4.13.

31. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
32. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.
33. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
  - a. Identifying information for the new owner(s) and management as required in an initial permit application;
  - b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
  - c. The specific date on which the transfer is to occur;
  - d. Acknowledgement of full responsibility for complying with the existing permit; and
  - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
34. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

#### **Informational Notes:**

1. Pursuant to Section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years after the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to Section 314-55.4.13 of the CMMLUO.
2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"), except where the Compliance Agreement per Condition of Approval #B.11 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Conditions of Approval #B.29 and B.30 of the Ongoing Requirements/Development Restrictions, above.
3. If cultural resources are encountered during construction activities, the contractor onsite shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to

evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

4. The applicant shall be aware that the Federal Government considers the cultivation of cannabis to be an illegal activity. This project is accessed by using roads that pass through lands owned by the Federal Government. The Federal Government may not allow the applicant to use these roads to transport cannabis. In such case, Humboldt County will not provide relief to the applicant. Approval of this permit does not authorize transportation of cannabis across Federal lands.

**ATTACHMENT 2**

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

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

**APN 108-024-008; 12999 Kings Peak Road, Garberville, CA 95542  
County of Humboldt**

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

**March 2021**

## **BACKGROUND**

### **Purpose of Addendum**

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

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

### **Project History**

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. The CMMLUO was considered a "project" under CEQA and thus required analysis for potential environmental impacts. Therefore, the CMMLUO regulations were developed and adopted in concert with the environmental analysis and MND that was adopted for the ordinance in 2016.

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 and 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. 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." As applications are filed for new or differing cultivation activities, the "modification" to the CMMLUO is evaluated for consistency and compliance with the CMMLUO MND.

### **Modified Project Description**

Kings Peak Farms seeks a Conditional Use Permit (CUP-16-188) to allow 10,770 square foot (SF) of existing medical cannabis cultivation, consisting of 6,045 SF outdoor cultivation area and 4,725 SF mixed light

cultivation, as well as a 480 SF ancillary propagation area. Drying would occur onsite, and further processing would occur at a licensed third party facility. Electricity is provided by PG&E and two generators: a Multiquip Whisperwatt 70 kVA generator used to power the nursery and an Isuzu 25 kW diesel generator used for domestic purposes and as a backup power source.

Water for irrigation is currently sourced from a surface water diversion (SIUR Certificate# H100544) from a Class II spring/seep. The surface water diversion is registered with the State Water Resources Control Board, and is derived from an unnamed tributary to the North Fork Bear Creek.

Proposed water storage is 164,600 gallons, including 139,600 gallons of existing storage distributed as follows: six (6) 20,000-gallon water bladders (120,000 gallons), three (3) 3,000-gallon plastic tanks (9,000 gallons), two (2) 5,000-gallon plastic tanks (10,000 gallons), and two (2) 300-gallon plastic tanks (600 gallons). There are an additional five (5) 5,000-gallon tanks (25,000 gallons) proposed as part of this project. This would allow a sufficient volume of storage to meet full forbearance requirements. Estimated annual water usage is 162,000 gallons to be used throughout the cultivation season, from April to October. The applicant is conditioned to replace or reinforce the bladders with engineered containment berms capable of containing the stored water in the event of a bladder failure (**Condition 22**).

A Water Resources Protection Plan (WRPP) was created to protect the water resources of the project area through annual site inspection, monitoring, and reporting of Tier 2 discharges to the North Coast Regional Water Quality Control Board (NCRWQC), by March 31st of each year. There are no stream crossings located within the property. The applicant is conditioned to meet the corrective actions and recommendations outlined in the WRPP (**Condition 23**).

A Lake and Streambed Alteration Agreement (LSAA) has been filed with the California Department of Fish and Wildlife (CDFW) to address all work to be done within the waterways (Certification #1600-2017-0418-R1). The LSAA is for two diversions for domestic use and irrigation, as well as the removal of water diversion infrastructure deemed unnecessary (POD-2).

A list of potential special status plant and wildlife species or habitat was generated in February 2021 using the following information systems: CDFW California Natural Diversity Database, Biogeographic Information and Observation System (BIOS), and Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) (USFWS 2021). Several special status wildlife species are documented within the vicinity of the project area (Appendix A, Biological Resources Report) (**Attachment 3**), including northern spotted owl and foothill yellow-legged frog habitats, both of which occur within 3,330 feet of the project area. Project activities are not expected to produce any adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities.

A cultural resources database search was requested of the Northwest Information Center (NWIC). The results indicated there is an existing archaeological site P-12-000278 onsite (CA-HUM-262) and recommended a qualified professional assess the status of the resource and provide project specific recommendations. However, the Bear River Band of the Rohnerville Rancheria responded by advising that the standard Inadvertent Discovery Protocol would be sufficient in the event of unanticipated discoveries of resources and/or human remains (**Condition 13**).

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. This includes performing mitigation measures on 5.25 acres in four areas of the site where unauthorized conversion of land took place (**Condition 17**).

### **Summary of Significant Project Effects and Mitigation Recommended**

No changes are proposed for the original MND recommended mitigations. The proposal to authorize

the continued operation of an existing 10,770-SF medical cannabis cultivation site, consisting of 6,045 SF outdoor cannabis cultivation and 4,725 SF mixed light cultivation, 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 significant 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.

- Site Plan prepared by NorthPoint Consulting Group, Inc., received 6/2/2020
- Cultivation and Operations Manual prepared by NorthPoint Consulting Group, Inc., revised 2/2020
- Water Resources Protection Plan (WRPP) prepared by Pacific Watershed Associates, (WDID: 1B161308CHUM) for the North Coast Regional Water Quality Control Board Order No. 2015-0023. Report May 2017)
- Right to Divert and Use Water (SIUR #H100544), granted by the State Water Resources Control Board 6/28/2019
- Lake and Streambed Alteration Agreement for CDFW, dated 11/9/2017
- Northwest Information Center (NWIC) records search conducted by Bryan Much (File # 17-0671) on 11/16/2017
- Public Works Road Evaluation Report, dated 2/21/2018 and received 8/30/2017
- CAL FIRE application communication with forester Lucas Titus, dated 9/11/2017
- Less Than Three Acre Timberland Conversion Mitigation Plan prepared by Hohman & Associates/Mad River Properties, Inc., received 2/14/2018

#### **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.

For every environmental topic analyzed in this review, the potential environmental impacts of the current proposed project would be the same, similar, or less than those of the initial project for which the MND was adopted. There would be no new significant impacts or a substantial increase in the severity of an impact. 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, Kings Peak Farm, LLC. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND remain in full force and effect on the original project.



## ATTACHMENT 3

### Applicant's Evidence in Support of the Required Findings

Attachment 3 includes a listing of all written evidence which has been submitted by the applicant in support of making the required findings. The following materials are on file with the Planning Division.

1. The name, contact address, and phone number(s) of the applicant. **(On file)**
2. If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement. **(On file)**
3. Site plan showing the entire parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within one-quarter mile (1,320 feet) of a school, school bus stop, church or other place of religious worship, public park, or tribal cultural resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet. (Site Plan prepared by NorthPoint Consulting Group, Inc., received 06/02/2020 - **Attached**)
4. A cultivation and operations plan that meets or exceeds minimum legal standards for water source, storage, irrigation plan, conservation, and projected use; drainage, runoff and erosion control; watershed and habitat protection; and storage of fertilizers, pesticides, and other regulated products to be used on the parcel. A description of cultivation activities (outdoor, indoor, mixed light); the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable; and schedule of activities during each month of the growing and harvesting season. (NorthPoint Consulting Group, Inc., report dated February 2020 – **Attached**)
5. Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable. (Right to Divert and Use Water filed with the State Water Resources Control Board 6/28/2019 - **Attached**)
6. Description of water source, storage, irrigation plan, and projected water usage. (Included in Cultivation Operations Plan - see item 4 above)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board (NCRWQCB) demonstrating enrollment in Tier 1, 2 or 3, NCRWQCB Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency (Water Resources Protection Plan [WRPP] prepared by Pacific Watershed Associates, dated May 2017 – **Attached separately as 3A**)
8. If any onsite or offsite component of the cultivation facility (including access roads, water supply, grading or terracing) impacts the bed or bank of any stream or other watercourse, a copy of the Lake and Streambed Alteration Permit obtained from the California Department of Fish and Wildlife. **(On file)** (Lake and Streambed Alteration Agreement for APN 108-024-008 dated 11/9/17 – **Attached**)
9. If the source of water is a well, a copy of the County well permit, if available. **(Not applicable)**
10. If the parcel is zoned FR, U or TPZ, or involves the conversion of timberland as defined under Section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or

timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that the landowner has completed a civil or criminal process and/or entered into a negotiated settlement with CAL FIRE. (Less Than Three Acre Timberland Conversion Mitigation Plan prepared by Hohman & Associates/Mad River Properties, Inc., received 2/14/2018 – **Attached separately as 3B**)

11. Consent for onsite inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter. (**On file**)
12. For indoor cultivation facilities, identification of the source of electrical power, how it will meet the energy requirements in Section 55.4.8.2.3, and the plan for compliance with applicable building codes. (**Not applicable**)
13. Acknowledgment that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section, in the event that environmental conditions, such as a sustained drought or low flows in the watershed, will not support diversions for irrigation. (**On file**)
14. Acknowledgment that the County reserves the right to engage with local tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe “government to government” consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize, or mitigate impacts to tribal cultural resources, as defined herein. Examples include, but are not limited to, conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The County shall request that a records search be performed through the California Historical Resources Information System (CHRIS). (**On file**)
15. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits (DEH Form). (**On file**)

**RE: [External]RE: checking in**

Michelle Aldrete &lt;Michelle@northpointeureka.com&gt;

Tue 3/9/2021 11:47 AM

**To:** Alec Barton <Alec.Barton@weareharris.com>**Cc:** David Mack <david.mack@weareharris.com>

Hi Alec,

I just got off the phone with Anthony and there are only two generators associated with this site. One is a Multiquip Whisperwatt 70 kVA generator, only used to power the nursery. The other is an Isuzu 25 kW diesel generator, used for domestic purposes at the cabin on the adjacent parcel. It is only brought to the site as back-up power, if needed.

The site currently has PG&E but requires an upgrade for the entire operation. The applicant is actively working with PG&E to upgrade the service, build out of the upgraded service is pending the cannabis application approval.

Please do not hesitate to reach out if you have any further questions or comments.

Best,

Michelle Aldrete

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**From:** Alec Barton <Alec.Barton@weareharris.com>**Sent:** Friday, March 5, 2021 12:59 PM**To:** Michelle Aldrete <Michelle@northpointeureka.com>**Cc:** David Mack <david.mack@weareharris.com>**Subject:** Re: [External]RE: checking in

Michelle,

Thank you for providing this table. I do have another question for you:

1. What is the make, model, and operating capacity for the four generators identified in the cultivation and operations plan (one 700-kilowatt generator and three generators of unspecified generating capacity)?

Thank you,

Alec

---

**From:** Michelle Aldrete <Michelle@northpointeureka.com>**Sent:** Friday, March 5, 2021 11:33 AM**To:** Alec Barton <Alec.Barton@weareharris.com>**Subject:** [External]RE: checking in

Hi Alec,

My apologies for the delay. Below is the updated table and the updated Operations Plan reflecting the correct table.

Table 3.2: List of Existing and Proposed Water Storage Vessels on Site				
Existing/Proposed	Type	Quantity (Gallons)	Number	Total Storage (Gallons)
Existing	Water Bladder	20,000	6	120,000
Existing	Plastic Tank	3,000	3	9,000
Existing	Plastic Tank	5,000	2	10,000

Existing	Plastic Tank	300	2	600
<b>Total Existing Storage</b>	---	---	<b>5</b>	<b>139,600</b>
Proposed storage tank	Plastic Tank	5,000	5	25,000
<b>Total Existing and Proposed Storage</b>	---	---	---	<b>164,600</b>

Please do not hesitate to reach out if anything else is needed.

Best,  
Michelle Aldrete

---

**From:** Alec Barton <[Alec.Barton@weareharris.com](mailto:Alec.Barton@weareharris.com)>  
**Sent:** Friday, February 26, 2021 12:20 PM  
**To:** Michelle Aldrete <[Michelle@northpointeureka.com](mailto:Michelle@northpointeureka.com)>  
**Subject:** checking in

Good afternoon Michelle,

We spoke the other day about Kings Peak Farms. I meant to send you an email so you have my contact information and I forgot to do so. Let me know when you've had a chance to review the water storage table in the Cultivation and Operations Manual and I can make the appropriate adjustments in the staff report.

Thank you,

Alec Barton  
Planner



**Harris & Associates**

450 Lincoln Ave., Ste. 103  
 Salinas, CA 93901  
 p: 435.851.4003  
[www.WeAreHarris.com](http://www.WeAreHarris.com)



**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

**RIGHT TO DIVERT AND USE WATER**

REGISTRATION *H507458*

CERTIFICATE *H100544*

Right Holder: *Anthony Harris  
12999 Kings Peak Road  
Garberville, CA 95542*

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from *08/08/2019*. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated October 19, 2017.

The Deputy Director for Water Rights finds that this registration meets the requirements for registration of small irrigation use appropriation. (Wat. Code, § 1228 et seq.)

Right holder is hereby granted a right to divert and use water as follows:

1. Location of point(s) of diversion (**Coordinates in WGS 84**)

Name of Diversion	Source	Tributary To:	Thence	Latitude	Longitude	County	Assessor's Parcel Numbers (APN)
Primary POD	Unnamed Spring	Unnamed Stream	North Fork Bear Creek	40.156668	-124.079752	Humboldt	108-024-008

2. Purpose of Use and 3. Place of Use

2. Purpose of Use	3. Place of Use		
	County	Assessor's Parcel Numbers (APN)	Acres
Irrigation, Fire Protection	Humboldt	108-024-008	0.25

Note: Assessor's Parcel Numbers provided are based on the user's entries in this portal on *06/28/2019*.

The place of use is shown on the map filed on *06/28/2019* with the State Water Board.

4. Quantity and Season:

The water appropriated by storage shall be limited to the quantity which can be beneficially used and shall not exceed **1.14 acre-feet per year** to be collected from 01/01 to 12/31 and as permitted in the diversion season specified in the current version of the State Water Board's Cannabis Policy, whichever is more restrictive. The total storage capacity shall not exceed 1.15 acre-feet. The rate of diversion to storage shall not exceed **42,000 gallons per day (gpd) or the diversion rate specified in the current version of the State Water Board's Cannabis Policy, whichever is more restrictive.** For onstream storage reservoirs, the diversion rate and diversion season bypass conditions may be modified by the Deputy Director for Water Rights (or designee) or the California Department of Fish and Wildlife as part of the onstream storage reservoir determinations under the Cannabis Policy.



5. No water shall be diverted or used under this right unless the right holder is in compliance with all applicable conditions and requirements, including the numeric and narrative instream flow requirements, of the current version of the State Water Board's Cannabis Policy, except as follows:

Right holders enrolled under Regional Water Quality Control Board Order R1-2015-0023 or Order R5-2015-0113 shall comply at all times with requirements related to flow, diversion, storage, and similar requirements of Attachment A of the Cannabis Policy identified by the Division of Water Rights below in this condition. This condition remains in effect until July 1, 2019, or when the right holder enrolls under the statewide Cannabis General Order, whichever comes first, at which time right holders shall comply with all applicable conditions and requirements of Attachment A of the Cannabis Policy.

- Section 1 – Term Numbers 4, 15, 17, 24, 26, and 36.
- Section 2 – Term Numbers 23, 63, 64, 66, 69 – 93, 95, and 97 – 102.
- Section 3 – All Instream Flow Requirements for Surface Water Diversions (Requirements 1 – 7) and the Gage Installation, Maintenance, and Operation Requirements.
- Section 4 – All requirements and conditions.

The current version of the State Water Board's *Cannabis Policy* is available online at:  
<https://www.waterboards.ca.gov/cannabis>.

6. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies.
7. Diversion works shall be constructed and water applied to beneficial use with due diligence.
8. No water shall be diverted under this right unless right holder complies with all lawful conditions required by the California Department of Fish and Wildlife. (Wat. Code, § 1228.6, subd. (a)(2).)
9. No water shall be diverted under this right unless it is diverted in accordance with the information set forth in the completed registration form as to source, location of point of diversion, purpose of use, place of use, quantity, and season of diversion. This information is reproduced as conditions 1 through 4 of this certificate.
10. No water shall be diverted under this right unless right holder complies with all applicable state, city, county, and local laws, regulations, ordinances, permits, and license requirements including, but not limited to those for cannabis cultivation, grading, construction, and building.
11. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
12. The State Water Board reserves jurisdiction over this registration to change the season of diversion and rate of diversion based on later findings of the State Water Board concerning availability of water and the protection of beneficial uses. Any action to change the authorized season of diversion and rate of diversion will be taken only after notice to interested parties and opportunity for hearing. For changes required by amendments to the Cannabis Policy, the State Water Board may provide notice and the opportunity for a hearing by following the procedures specified in section 13147 of the Water Code.
13. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
- a. Entry upon property where water is being diverted, stored, or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;
  - b. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by the State Water Board;
  - c. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
  - d. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by the State Water Board, or as otherwise authorized by the Water Code.
14. Diversion of water under this right is subject to prior rights. Right holder may be required to curtail diversion or release water stored during the most recent collection season should diversion under this right result in injury to holders of legal downstream senior rights. If a reservoir is involved, right holder may be required to bypass or release water through, over, or around the dam if release of stored water would not effectively satisfy downstream prior storage rights, right holder may be

required to otherwise compensate the holders of such rights for injury caused.

15. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.
16. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.
17. If storage or diversion of water under this right is by means of a dam, right holder shall allow sufficient water at all times to pass through a fishway or, in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that, during a period of low flow in the stream, upon approval of the California Department of Fish and Wildlife, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway. In the case of a reservoir, this provision shall not require the passage or release of water at a greater rate than the unimpaired natural inflow into the reservoir. (Fish & G. Code, § 5937.)
18. The facilities for diversion under this right shall include satisfactory means of measuring and bypassing sufficient water to satisfy downstream prior rights and any requirements of the California Department of Fish and Wildlife and the State Water Board's Cannabis Policy.
19. This right does not authorize any act which results in the taking of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C.A. section 1531 et seq.). If a "take" will result from any act authorized under this water right, the right holder shall obtain authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the state and Federal Endangered Species Acts for the project authorized under this right.
20. This right is subject to: 1) the submittal of an annual report of water use; and 2) satisfactory renewal, on forms prescribed by the State Water Board. This right is also subject to payment of annual fees. (Wat. Code, § 1228.5.)
21. This right shall be totally or partially forfeited for nonuse if the diversion is abandoned or if all or any part of the diversion is not beneficially used for a continuous period of five years.
22. This right is subject to enforcement, including but not limited to revocation, by the State Water Board if 1) the State Water Board finds that the right holder knowingly made any false statement, or knowingly concealed any material fact, in the right; 2) the right is not renewed as required by the conditions of this certificate; or 3) the State Water Board finds that the right holder is in violation of the conditions of this right. (Wat. Code, § 1228.4 et seq.)
23. The State Water Board intends to develop and implement a basin-wide program for real-time electronic monitoring and reporting of diversions, withdrawals, releases, and streamflow in a standardized format if and when resources become available. Such real-time reporting will be required upon a showing by the State Water Board that the program and the infrastructure are in place to accept real-time electronic reports. Implementation of the reporting requirements shall not necessitate amendment to this right.

STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

This certificate was issued automatically as a result of the registrant self-certifying submittal of a water right registration filing in substantial compliance with Water Code §1228.3.

Dated: 06/28/2019 11:35:09

© 2019 - State Water Resources Control Board

RECEIVED

OCT 06 2017

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

CDFW - EUREKA



**STREAMBED ALTERATION AGREEMENT**

NOTIFICATION NO. 1600-2017-0418-R1

Unnamed Tributaries to the North Fork Bear Creek, Tributary to Bear Creek, Tributary to the Mattole River and the Pacific Ocean

Mr. Anthony Harris  
Harriss Water Diversion Project  
3 Encroachments

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Mr. Anthony Harris (Permittee).

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on June 30, 2017, that the Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, the Permittee has reviewed the Agreement and accept its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, the Permittee agrees to complete the project in accordance with the Agreement.

**PROJECT LOCATION**

The project to be completed is located within the North Bear Creek and Mattole River watersheds, approximately 4.6 miles west northwest of the town of Etna, Humboldt County, State of California. The project is located in Section 33, T5S, R1E, Humboldt Base and Meridian; in the Honeydew U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel Numbers 108-024-08 and 108-033-20; latitude 40.1589 N and longitude 124.0802 W.

**PROJECT DESCRIPTION**

The project is limited to three encroachments (Table 1). Two encroachments will permit water diversion from unnamed tributaries to the North Fork Bear Creek. Water is diverted for domestic use and irrigation. Work for the water diversion will include use



and maintenance of the water diversion infrastructure. The third encroachment will remove water diversion infrastructure deemed unnecessary (POD-2). Work for this project will include removal of the structure by hand.

Table 1. Project encroachments with description

ID	Latitude/Longitude	Description
POD-1	40.1579, -124.0807	Water diversion from a spring adjacent to a Class III stream
POD-2	40.1566, -124.0798	Remove diversion infrastructure from Class II spring/seep
POD-3	40.1567, -124.0798	Water diversion from a Class II spring/seep

## PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: Southern Torrent Salamander (*Rhyacotriton variegatus*), Coastal Tailed Frog (*Ascaphus Truei*), Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

The adverse effects the project could have on the fish or wildlife resources identified above include:

### Impacts to water quality:

increased water temperature;  
reduced instream flow;

### Impacts to bed, channel, or bank and direct effects on fish, wildlife, and their habitat:

loss or decline of riparian habitat;  
direct impacts on benthic organisms;

### Impacts to natural flow and effects on habitat structure and process:

cumulative effect when other diversions on the same stream are considered;  
diversion of flow from activity site;  
direct and/or incidental take;  
indirect impacts;  
impediment of up- or down-stream migration;  
water quality degradation; and  
damage to aquatic habitat and function.

## MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

### 1. Administrative Measures

The Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Adherence to Existing Authorizations. All water diversion facilities that the Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights.
- 1.4 Change of Conditions and Need to Cease Operations. If conditions arise, or change, in such a manner as to be considered deleterious by CDFW to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information becoming available that indicates that the bypass flows and diversion rates provided in this agreement are not providing adequate protection to keep aquatic life downstream in good condition or to avoid "take" or "incidental take" of federal or State listed species.
- 1.5 Notification of Conflicting Provisions. The Permittee shall notify CDFW if the Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact the Permittee to resolve any conflict.
- 1.6 Project Site Entry. The Permittee agrees to allow CDFW employees access to any property it owns and/or manages for the purpose of inspecting and/or monitoring the activities covered by this Agreement, provided CDFW: a) provides 24 hours advance notice; and b) allows the Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW enforcement personnel.

## **2. Avoidance and Minimization Measures**

To avoid or minimize adverse impacts to fish and wildlife resources identified above, the Permittee shall implement each measure listed below.

- 2.1 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with the Permittee Notification received on June 30, 2017, together with all maps, BMP's, photographs, drawings, and other supporting documents submitted with the Notification.



- 2.2 Work Period. All work, not including water diversion, shall be confined to the period August 15 through October 1 of each year. Work within the active channel of a stream shall be restricted to periods of **dry weather**.
- 2.3 Maximum Diversion Rate. The maximum instantaneous diversion rate from the water intake shall not exceed 3 gallons per minute (gpm), or 20% of the total flow at any time.
- 2.4 Bypass Flow. The Permittee shall bypass a minimum of 80% of the surface flow at all times to keep all aquatic species including fish and other aquatic life in good condition below the point of diversion.
- 2.5 Seasonal Diversion Minimization. No more than 150 gallons per day shall be diverted during the low flow season from April 1 to October 31 of any year. Water shall be diverted only if the Permittee can adhere to conditions 2.3 and 2.4 of this Agreement.
- 2.6 Measurement of Diverted Flow. The Permittee shall install a device acceptable to CDFW for measuring the quantity of water diverted to and from the spring and well. This measurement shall begin as soon as this Agreement is signed by the Permittee. The Permittee shall record the quantity of water diverted each week in a log book that is stored on the parcel. Water Diversion Records shall be submitted to CDFW each year per condition 3.1 of this Agreement.
- 2.7 Water Management Plan. The Permittee shall submit a Water Management Plan no later than May 15, 2018, that describes how compliance will be achieved under this Agreement. The Water Management Plan shall include details on water storage, water conservation, or other relevant material to maintain water needs in coordination with forbearance and bypass flow requirements. The Water Management Plan shall include a brief narrative describing water use on the property, photographs to support the narrative, and water use calculations to ensure compliance with this Agreement. The Water Management Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.
- 2.8 Intake Structure. No polluting materials (e.g., particle board, plastic sheeting, bentonite) shall be used to construct or screen, or cover the diversion intake structure.
- 2.9 Intake Screening. Screens shall be installed on intakes wherever water is diverted, and shall be in place whenever water is diverted. Openings in intakes shall not exceed 1/8 inch diameter (horizontal for slotted or square openings) or 3/32 inch for round openings. The Permittee shall regularly inspect, clean, and maintain screens in good condition.

- 2.10 Intake Shall Not Impede Aquatic Species Passage. The water diversion structures shall be designed, constructed, and maintained such that they do not constitute a barrier to upstream or downstream movement of aquatic life.
- 2.11 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.12 Water Storage Maintenance. Storage tanks shall have a float valve to shut off the diversion when tanks are full to prevent overflow from being diverted when not needed. The Permittee shall install any other measures necessary to prevent overflow of tanks resulting in more water being diverted than is used.
- 2.13 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 et seq. as appropriate for the water diversion and water storage. The application for this registration is found at:  
[http://www.waterboards.ca.gov/waterrights/publications\\_forms/forms/](http://www.waterboards.ca.gov/waterrights/publications_forms/forms/)

### 3. Reporting Measures

- 3.1 Measurement of Diverted Flow. Copies of the **Water Diversion Records** (Condition 2.6) shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501 no later than **December 31 of each year beginning in 2017**.
- 3.2 Water Management Plan. The Permittee shall submit a **Water Management Plan** (Condition 2.7) no later than **May 15, 2018**, that describes how compliance will be achieved under this Agreement. The Water Management Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.

### CONTACT INFORMATION

Written communication that the Permittee or CDFW submits to the other shall be delivered to the address below unless the Permittee or CDFW specifies otherwise.

To Permittee:

Mr. Anthony Harris  
12999 Kings Peak Road  
Garberville, California 95542  
707-800-2203  
[dieselman@ME.com](mailto:dieselman@ME.com)



To CDFW:

Department of Fish and Wildlife  
Northern Region  
619 Second Street  
Eureka, California 95501  
Attn: Lake and Streambed Alteration Program  
Notification #1600-2017-0418-R1

## **LIABILITY**

The Permittee shall be solely liable for any violation of the Agreement, whether committed by the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require the Permittee to proceed with the project. The decision to proceed with the project is the Permittee's alone.

## **SUSPENSION AND REVOCATION**

CDFW may suspend or revoke in its entirety this Agreement if it determines that the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide the Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide the Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to the Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

## **ENFORCEMENT**

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against the Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

## **OTHER LEGAL OBLIGATIONS**

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

## **AMENDMENT**

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

The Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and the Permittee. To request an amendment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## **TRANSFER AND ASSIGNMENT**

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by the Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).



## EXTENSIONS

In accordance with FGC section 1605(b), the Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, the Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If the Permittee fails to submit a request to extend the Agreement prior to its expiration, the Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605(f)).

## EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after the Permittee signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at [http://www.wildlife.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html).

## TERM

This Agreement shall **expire five years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. The Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

## AUTHORITY

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

## AUTHORIZATION

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

**CONCURRENCE**

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

**FOR Mr. Anthony Harris**

*A. Harris*

Anthony Harris

10-6-17

Date

**FOR DEPARTMENT OF FISH AND WILDLIFE**

*Scott Bauer*

Scott Bauer

Senior Environmental Scientist Supervisor

11/9/17

Date

Prepared by: David Manthorne, Senior Environmental Scientist Specialist, September 20, 2017



## ATTACHMENT 4

### REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

The project was referred to the following agencies for review and comment. The agencies that provided written comments are indicated with a check under Response.

Referral Agency	Response	Location
Building Inspection Division	✓	Attached
Department of Health & Human Services	✓	Attached
Public Works, Land Use Division	✓	Attached
CalFIRE	✓	Attached
Bear River Band Rohnerville Rancheria,	✓	On File
Northwest Information Center (NWIC)	✓	On File
Telegraph Fire Protection District	✓	Attached
County Counsel		
California Department of Fish & Wildlife		
Regional Water Quality Control Board		
California Division of Water Resources		
Sinkyone		
Southern Humboldt JUSD		
Humboldt County District Attorney		
Humboldt County Agriculture Commissioner		



HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT  
CURRENT PLANNING DIVISION  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7541



8/28/2017

**PROJECT REFERRAL TO: Building Inspection Division**

**Project Referred To The Following Agencies:**

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, California Division of Water Resources, Sinkyone, Southern Humboldt JUSD School District, Telegraph Ridge FPD Fire Protection District

**Applicant Name** Kings Peak Farms LLC **Key Parcel Number** 108-024-008-000

**Application (APPS#)** 12188 **Assigned Planner** () - **Case Number(s)** CUP16-561

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

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

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

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

**Return Response No Later Than 9/12/2017**

Planning Commission Clerk  
County of Humboldt Planning and Building Department  
3015 H Street  
Eureka, CA 95501

**E-mail:** PlanningClerk@co.humboldt.ca.us **Fax:** (707) 268-3792

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

☐ Recommend Approval. The Department has no comment at this time.

☐ Recommend Conditional Approval. Suggested Conditions Attached.

☒ Applicant needs to submit additional information. List of items attached.

☐ Recommend Denial. Attach reasons for recommended denial.

☐ Other Comments: \_\_\_\_\_

DATE: 2/23/18

PRINT NAME: Rudy Marenghi

108-024-008



COUNTY OF HUMBOLDT  
PLANNING AND BUILDING DEPARTMENT  
BUILDING DIVISION

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

## Building Division's Referral Comments for Cannabis Operations:

Application No.: 45632/12188  
Parcel No.: 108-024-008  
Case No.: CUP16-561

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

- ☐ Site/plot plan appears to be accurate.
- ☒ Submit revised site/plot plan showing all of the following items: all grading including ponds and roads, location of any water course including springs, all structure including size and use and all setbacks from the above stated to each other and property lines.
- ☐ Existing operation appears to have expanded, see comments: \_\_\_\_\_
- ☐ Existing structures used in the cannabis operation shall not to be used/occupied until all required permits have been obtained.
- ☐ Proposed new operation has already started.
- ☒ Recommend approval based on the condition that all required grading, building, plumbing electrical and mechanical permits and or Agricultural Exemption are obtained.
- ☒ Other Comments: Revise plot plan to show 500 gallon ~~water~~ fertilizer tank, 1500 gallon fertilizer tank, 3000 gallon storage tank (all three in SE section of parcel), the 8x20 Connex storage north of large nursery, and the (2) generators next to GH 1 as not there.

Name: Rudy Marenghi

Date: 2/23/18

Note: Remember to take photographs and then save them to the Planning's case number. File location J, Current Planning, Projects, (CUP, SP, ZCC) Case number.



HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT  
CURRENT PLANNING DIVISION  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7541

DEH received

8-29-17

**PROJECT REFERRAL TO:** Health and Human Services Environmental  
Health Division

**Project Referred To The Following Agencies:**

17/18-0498

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, California Division of Water Resources, Sinkyone, Southern Humboldt JUSD School District, Telegraph Ridge FPD Fire Protection District

**Applicant Name** Kings Peak Farms LLC **Key Parcel Number** 108-024-008-000

**Application (APPS#)** 12188 **Assigned Planner** Cannabis Planner (CPOD) (707) 445-7541 **Case Number(s)** CUP16-561

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

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

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

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

**Return Response No Later Than** Planning Commission Clerk  
County of Humboldt Planning and Building Department  
3015 H Street  
Eureka, CA 95501  
**E-mail:** PlanningClerk@co.humboldt.ca.us **Fax:** (707) 268-3792

**We have reviewed the above application and recommend the following:**

Conditional Approval

**Comments:**

**Provide an acceptable findings report from a qualified professional** to summarize the proposed flows in comparison with the existing OWTS. If the current system is undersized a site suitability report must establish potential to support proposed expansion and 100% reserve area. See Policy for the Use of Existing Onsite Wastewater Treatment Systems (OWTS) for detail.

**An invoice, or equivalent documentation, is provided to DEH** to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of annual permit.

**Note:** The discharge of waste from industrial processes such as manufacturing (or indoor cultivation) of cannabis derivatives may require review and approval from the North Coast Regional Water Quality Control Board.

\*This review and recommendation is for the Land Use aspects of the planning project and does not include or imply compliance with all DEH programs. Although DEH recommends the approval of the Planning project, Solid Waste and HazMat Program

2746

requirements need to be addressed directly with staff from those programs.

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**Response Date:** 5/4/2018 **Recommendation By:** Adam Molofsky



HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT  
CURRENT PLANNING DIVISION  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7541

RECEIVED

AUG 30 2017

8/28/2017

**PROJECT REFERRAL TO: Public Works Land Use Division**

HUMBOLDT CO. PUBLIC WORKS  
LAND USE DIVISION

**Project Referred To The Following Agencies:**

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, California Division of Water Resources, Sinkyone, Southern Humboldt JUSD School District, Telegraph Ridge FPD Fire Protection District

**Applicant Name** Kings Peak Farms LLC **Key Parcel Number** 108-024-008-000

**Application (APPS#)** 12188 **Assigned Planner** () - **Case Number(s)** CUP16-561

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

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

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

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

**Return Response No Later Than 9/12/2017**

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

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

- ☐ Recommend Approval. The Department has no comment at this time.
- ☐ Recommend Conditional Approval. Suggested Conditions Attached.
- ☐ Applicant needs to submit additional information. List of items attached.
- ☐ Recommend Denial. Attach reasons for recommended denial.
- ☐ Other Comments: \_\_\_\_\_

DATE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_





DEPARTMENT OF PUBLIC WORKS  
**COUNTY OF HUMBOLDT**

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579  
AREA CODE 707

ARCATA-EUREKA AIRPORT TERMINAL  
MCKINLEYVILLE  
FAX 839-3596

AVIATION

839-5401

PUBLIC WORKS BUILDING  
SECOND & L ST., EUREKA  
FAX 445-7409

ADMINISTRATION  
BUSINESS  
ENGINEERING  
FACILITY MAINTENANCE

445-7491  
445-7652  
445-7377  
445-7493

NATURAL RESOURCES  
NATURAL RESOURCES PLANNING  
PARKS  
ROADS & EQUIPMENT MAINTENANCE

445-7741  
267-9540  
445-7651  
445-7421

CLARK COMPLEX  
HARRIS & H ST., EUREKA  
FAX 445-7368

LAND USE

445-7205

**LAND USE DIVISION INTEROFFICE MEMORANDUM**

TO: Michelle Nielsen, Senior Planner, Planning & Building Department

FROM: Kenneth M. Freed, Assistant Engineer *KMF*

DATE: 2-21-2018

RE:

Applicant Name	KINGS PEAK FARMS LLC
APN	108-024-008
APPS#	12188

The Department has reviewed the above project and has the following comments:

- ☒ The Department's recommended conditions of approval are attached as **Exhibit "A"**.
- ☐ Additional information identified on **Exhibit "B"** is required before the Department can review the project. Please re-refer the project to the Department when all of the requested information has been provided.
- ☐ Additional review is required by Planning & Building staff for the items on **Exhibit "C"**. No re-refer is required.
- ☐ *Road Evaluation Reports(s)* are required; See **Exhibit "D"**. No re-refer is required.

\*Note: Exhibits are attached as necessary.

Additional comments/notes:

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// END //

## Exhibit "A"

### Public Works Recommended Conditions of Approval

(All checked boxes apply)

APPS # 12188

☒ **COUNTY ROADS- FENCES & ENCROACHMENTS:**

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

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☐ **COUNTY ROADS- DRIVEWAY (PART 1):**

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

☐ **COUNTY ROADS- DRIVEWAY (PART 2):**

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

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

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

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☐ **COUNTY ROADS- DRIVEWAY (PART 3):**

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

☐ **COUNTY ROADS-PARKING LOT- STORM WATER RUNOFF:**

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

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☒ **COUNTY ROADS- DRIVEWAY & PRIVATE ROAD INTERSECTION VISIBILITY:**

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

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☒ **COUNTY ROADS- PRIVATE ROAD INTERSECTION:**

Any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.

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

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☐ **COUNTY ROADS- ROAD EVALUATION REPORT(S):**

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

// END //



**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

Humboldt – Del Norte Unit  
118 Fortuna Blvd.  
Fortuna, CA 95540  
Website: [www.fire.ca.gov](http://www.fire.ca.gov)  
(707) 726-1272



Ref: 7100 Planning  
Date: August 31, 2017

John Ford, Director  
Humboldt County Planning and Building Department – Planning Division  
3015 H Street  
Eureka, CA 95501

**Attention:** Cannabis Planner (CPOD)  
**Applicant:** Kings Peak Farms LLC  
**APN:** 108-024-008-000  
**Area:** Shelter Cove  
**Case Numbers:** CUP 16-561

**Humboldt County Application #:** 12188  
**Type of Application:** Conditional Use Permit  
**Date Received:** 8/30/2017  
**Due Date:** 9/12/2017

**Project Description:** A conditional use permit for existing 17,544 square feet of mixed light medical commercial cannabis cultivation. Irrigation water is sourced from three onsite springs, and is stored within tanks and bladders totaling 180,000 gallons. Processing on-site is currently conducted in an on-site shop/barn and shed, and consists of drying. A 4,2000 square foot processing/nursery facility is proposed. Power is provided by generators.

Mr. Ford,

The California Department of Forestry and Fire Protection (CALFIRE) provides these standard project review comments on the above noted project for the following subject matter:

- Fire Safe
- Resource Management
- Cannabis

The following pages address these concerns directly.

If CALFIRE staff develops additional comment on this project, it will be forwarded in an additional response letter.

By: Planning Battalion  
CALFIRE Humboldt – Del Norte Unit

For **Hugh Scanlon**, Unit Chief

## **FIRE SAFE**

### **General:**

CALFIRE has responsibility for enforcement of Fire Safe Standards as required by Public Resources Code (PRC) 4290 and 4291. However CALFIRE is not the lead agency in planning development and project permitting. CALFIRE provides input as a contributing agency, generally limited to plan review, and is not the approving agency for these projects.

### **Local Responsibility Areas:**

Should this project include Local Responsibility Area (LRA) lands, CALFIRE has no direct fire safe input on those parcels. However, in those areas with LRA parcels adjacent to State Responsibility Area (SRA) land, CALFIRE recommends that local standards be applied that are consistent with those CALFIRE makes for SRA lands.

### **State Responsibility Areas:**

Should this project include State Responsibility Area (SRA) lands, the following are CALFIRE's Fire Safe minimum input and recommendation for any and all development.

1. In Humboldt County, developments must meet minimum fire safe standards by constructing the project in conformance with County Fire Safe Ordinance 1952, which the California Board of Forestry and Fire Protection has accepted as functionally equivalent to PRC 4290. The County Fire Safe Ordinance provides specific standards for roads providing ingress and egress, signing of streets and buildings, minimum water supply requirements, and setback distances for maintaining defensible space.
2. New buildings located in any Fire Hazard Severity Zone within State Responsibility Areas shall comply with the 2007 California Building Code (CBC) Section 701A.3.2. This requires roofing assemblies, attic and eave ventilation, exterior siding, decking and deck enclosure, windows and exterior doors, and exposed under floor areas that are approved "ignition resistive" in design.
3. All development, especially commercial or industrial development, should be designed to comply with the most current versions of the following standards:
  - a) California Fire Code (CFC) — for overall design standards
  - b) Public Utilities Commission (PUC) General Order 103 — for design of water systems
  - c) National Fire Protection Association Standards (NFPA) for fire flow minimums and other design questions not specifically covered by CFC and PUC
  - d) Housing and Community Development Codes and Standards —for mobile home parks and recreational camps
4. For Department of Real Estate reporting purposes, fire protection coverage in SRA is generally described as follows:

During the declared fire season (usually June through October) CALFIRE responds to all types of fires and emergencies in SRA.

During the remainder of the year (winter period), CALFIRE responds to emergency requests with the closest available fire engine, if a response can reasonably be expected to arrive in time to be effective. A fire engine is usually available somewhere in the Unit, but may have an extended response time.

There are many hazards confronting fire protection agencies in most subdivisions on SRA lands. Steep terrain and heavy wildland fuels contribute to fire intensity and spread. The distances from fire stations and road grades encountered usually create an excessive response time for effective structure fire suppression purposes.

Subdivisions increase fire risks from additional people and increase probable dollar losses in the event of fire due to added structures and improvements.
5. If the project expects to produce densities consistent with a major subdivision, the impacts on all infrastructures should be mitigated. Local government more appropriately provides the responsibility for high-density area protection and services. Annexation or inclusion into Local Responsibility Area should be studied as well.

6. CALFIRE does not support development in areas where there is no local agency fire service for structure fires and emergency medical response. Fire services should be extended into service gap areas as a condition of development. New development can adversely impact existing fire services. Careful consideration must be given where development may overload the local fire service's ability to respond.

## RESOURCE MANAGEMENT

CALFIRE has enforcement responsibility for requirements of the Z'berg—Nejedly Forest Practice Act of 1973. CALFIRE is also the lead agency for those parts of projects involving the scope of the Forest Practice Act. The following basic input will cover the majority of projects. Each project will be reviewed with additional input sent at a later date, if needed.

The following comments reflect the basic Resource Management policies of the Board of Forestry and Fire Protection and CALFIRE on CEQA review requests. These policies apply to both Local and State Responsibility Areas.

1. If this project reduces the amount of timberland, by policy, the Board of Forestry and CALFIRE cannot support any project that will reduce the timberland base of California. "Timberland" means land which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees regardless of current zoning (PRC 4526). However, if the zoning and intended use are consistent with the county's general plan; and if no land other than timberland can be identified to site the project; then CALFIRE may choose not to oppose the project.
2. If any commercial timber operations are involved with a project, the timber operations cannot be conducted without a CAL FIRE permit. Commercial timber operations include the cutting or removal of trees offered for sale, barter, exchange, or trade or the conversion of timberlands to land uses other than the growing of timber (PRC 4527). Contact your nearest CAL FIRE Resource Management office for guidance on obtaining the necessary permits.
3. If any timberlands are being converted to a non-timber growing use by this project, the conversion operations cannot be conducted without a CAL FIRE permit (PRC 4621). Conversion of timberland takes place when trees are removed and the land use changes, even without the sale, barter, exchange, or trade of the trees. Contact your nearest CAL FIRE Resource Management office for guidance on obtaining the necessary permits.
4. If timberland is in the viewshed of a project, the current and future owners should be overtly notified that changes will occur to their views due to timber management activities. Further, no project should be allowed to negatively affect access to timberland for timber management purposes; neither on the project parcel(s) nor any other timberland parcels.
5. If timber harvesting has occurred and post-harvest restocking and prescribed erosion control maintenance obligations have not been met on a parcel, future owners should be overtly notified (14 CCR 1042). The current owner of a parcel is responsible for restocking requirements and maintenance of roads whether or not they were involved in the actual harvest plan.
6. If the project involves the development of parcels zoned as Timber Production Zone (TPZ), CALFIRE cannot support the project. Dividing TPZ land into parcels of less than 160 acres requires a Joint Timber Management plan prepared by a Registered Professional Forester (RPF), recorded as a deed restriction for a minimum of 10-years on all affected parcels, and approved by a four – fifths vote of the full board (Govt. Code 51119.5). TPZ may be rezoned using a "Ten Year Phase Out," which precludes the need for a Timberland Conversion Permit. CALFIRE opposes immediate rezoning of TPZ land.

## Cannabis

### **General:**

CALFIRE has responsibility for enforcement of Fire Safe Standards as required by Public Resources Code (PRC) 4290 and 4291. CALFIRE is not the lead agency in planning development and project permitting. However, CALFIRE provides comment as an emergency response expert agency, generally limited to plan review, and is not the approving agency for these projects.

### **Local Responsibility Areas:**

Should this project include Local Responsibility Area (LRA) lands, CALFIRE has no direct fire safe input on those parcels. However, in those areas with LRA parcels adjacent to State Responsibility Area (SRA) land, CALFIRE recommends that local standards be applied that are consistent with those CALFIRE makes for SRA lands. Also CAL FIRE is the primary command and control dispatch, for most local agency fire districts and departments.

### **State Responsibility Areas:**

Should this project include State Responsibility Area (SRA) lands, the following are CALFIRE's minimum input.

1. Agricultural cannabis growing operations medicinal or commercial shall have an easily accessible material safety data sheet (MSDS) or safety data sheet (SDS) for all chemicals and hazardous materials on site. Posted (NFPA 704) Placard clearly visible to emergency responders
2. California code of regulations Health and Safety (CCR 11362.769.) Indoor and outdoor medical marijuana cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical marijuana cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.
3. International Fire Code (N101.1 Scope) Marijuana growing and extraction shall be in accordance with this chapter, of the International Building Code, and the International Mechanical Code. Cryogenic fluids shall comply with Chapter 55. Compressed gases shall comply with Chapter 53. Flammable and combustible liquids shall comply with Chapter 57. Hazardous materials shall comply with Chapter 50. LP-gas shall comply with Chapter 61 and the International Fuel Gas Code. All applicable California State Fire Marshal standards and regulations for the designated occupancy must be met.
4. Growing marijuana and the extracting of oils  
Extraction of marijuana oils; All materials hazardous and non-hazardous associated with the extraction process shall be utilized in conformance of the law and fire safe codes.



## Laney, Megan

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**From:** HUU CEQA@CALFIRE <HUUCEQA@fire.ca.gov>  
**Sent:** Tuesday, September 12, 2017 12:01 PM  
**To:** Planning Clerk  
**Subject:** FW: APN#108-024-008 Kings Peak Farms, LLC

Chris Ramey  
Battalion Chief, Fire Planning

### **CAL FIRE**

Humboldt-Del Norte Unit  
C: 707-599-6442  
Duty Days: Tues-Fri

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**From:** Titus, Lucas@CALFIRE  
**Sent:** Monday, September 11, 2017 4:25 PM  
**To:** HUU CEQA@CALFIRE <HUUCEQA@fire.ca.gov>  
**Cc:** Phil B. Standish <pstandish@manhard.com>  
**Subject:** APN#108-024-008 Kings Peak Farms, LLC

CAL FIRE RM has no past permits on this property. Based off imagery it appears a conversion of timberland was done in the past few years. Please provide proof of a valid permit or seek consultation from a Registered Professional Forester. CAL FIRE RM cannot support this project until more information is provided. File passed to B1211 on 09/11/2017.

Lucas Titus

Forester I, Bridgeville Resource Management

Department of Forestry and Fire Protection

### **CAL FIRE**

Humboldt-Del Norte Unit

Office (707)777-1720

Cellular (707)599-6893

Every Californian should conserve water. Find out how at:



HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT  
CURRENT PLANNING DIVISION  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7541

9/18/17



8/28/2017

**PROJECT REFERRAL TO: Telegraph Ridge FPD Fire Protection District**

**Project Referred To The Following Agencies:**

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, California Division of Water Resources, Sinkyone, Southern Humboldt JUSD School District, Telegraph Ridge FPD Fire Protection District

**Applicant Name** Kings Peak Farms LLC **Key Parcel Number** 108-024-008-000

**Application (APPS#)** 12188 **Assigned Planner** J - **Case Number(s)** CUP16-561

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

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

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

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

**Return Response No Later Than 9/12/2017**

Planning Commission Clerk

County of Humboldt Planning and Building Department

3015 H Street

Eureka, CA 95501

**E-mail:** PlanningClerk@co.humboldt.ca.us **Fax:** (707) 268-3792

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

☐ Recommend Approval. The Department has no comment at this time.

☒ Recommend Conditional Approval. Suggested Conditions Attached.

☐ Applicant needs to submit additional information. List of items attached.

☐ Recommend Denial. Attach reasons for recommended denial.

☒ Other Comments: Employee Fire Safety Training, Example:  
when burn season is, proper care of cigarette butts ext.  
Fire stand pipe.

**DATE:** 9/18/17

**PRINT NAME:** Karman Willner