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Subject: PLN-12050-CUP, APN: 223-034-003
Date: Tuesday, January 7, 2025 1:06:27 PM
Attachments: [1600-2019-0183-R1 HUM MJ Ballard Diversions Pond and Crossings LSAA Final.pdf](#)

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Good Afternoon,

Please see the comments below regarding the above-referenced project

Project Number: PLN-12050-CUP

Project Name: Fenario LLC

APN(s): 223-034-003

CEQA No: CEQA-2019-0613-0000-R1

Project Description:

Fenario LLC - Existing 43,560 sf OD

An application for 43,560 square feet of existing outdoor cannabis cultivation. Water for irrigation is sourced from an onsite pond and two permitted diversions. Water storage onsite consists of one pond with an estimated capacity of 243,000-gallons and 31,000-gallons of hard tanks for a total capacity of 274,000-gallons onsite. Processing activities including trimming and packaging will occur offsite. Power provided solar panel and battery system with a generator for emergencies.

CDFW COMMENTS:

Thank you for referring this application to the California Department of Fish and Wildlife (CDFW) for review and comment. On March 19, 2024, CDFW staff conducted a site inspection at the subject property on Assessor' Parcel Number (APN) 223-034-003. During the site visit, staff walked the property to observe current and historic cultivation activities. The following comments are intended to assist the Lead Agency in making informed decisions in the planning process. The following comments shall supersede prior comments submitted by CDFW regarding PLN-12050-CUP. CDFW requests that all comments are incorporated in the final Humboldt County Staff Report.

1. A large onstream pond that intersects to two Class II streams was constructed sometime prior to 2004. In 2015, the landowner expanded the pond size by grading, installed a pond liner, and substantially altered two streams by redirecting the channels into culverts below the ground surface. The two culverts redirect the two stream channels under and around the pond. The two culverts, connect beneath the pond at an unknown location, merge the two streams, and outflow into a single channel below the

pond site. Both the pond and the culverts were installed without permits. The unauthorized subsurface stream routing and pond construction would not have been permitted by CDFW and are a big concern due the significant length of culverted streams and the potential of underground failure, which would cause significant impacts. Additionally, the pond and culverted streams do not comply with the Waterboards General Order and must be modified. Modification of the pond and stream channels will be necessary to cure the unauthorized alterations.

2. On February 13, 2020, a final Lake and Streambed Alteration Agreement (LSAA, 1600-2019-0183-R1C, see attached) was issued to the applicant to divert surface water from three Points of Diversion (PODs), to upgrade five stream crossings, permit one existing stream crossing, and to evaluate a lined-onstream pond. During staff site visits in 2023 and in 2024, CDFW staff identified several instances of non-compliance with the LSAA, including the absence of flow meters and intake screens for all PODs, failure to complete the required work on SC-1 and SC-6 by the specified deadline, and the unauthorized substantial alteration of the two Class II streams to divert the natural flow under the pond (see attached LSAA). The unauthorized alterations of streams violate Fish and Game Code (FGC) 1602. As a result, CDFW will issue a Noncompliance Notice of Violation (NOV) to encourage the permittee/applicant to cure all violations on site. CDFW requests, as a condition of approval, that the applicant/permittee completes the corrective actions outline below by the specified dates, or within two weeks of project approval, cure all violations on site and achieve and maintain compliance with the LSAA.
 - a. Install water meters on all PODs by February 15, 2025.
 - b. Install appropriate screens on all water diversion intakes in accordance with condition 2.4 of the LSAA by February 15, 2025.
 - c. Submit a Restoration Plan that addresses the stream channels that were diverted from their natural water course by June 15, 2025.
 - d. Submit a minor amendment to update the work completion date on the LSAA by March 31, 2025.
3. While onsite CDFW observed multiple water pumps without secondary containment (at coordinates 40.028240, -123.726154 and at 40.030893, -123.730965). CDFW requests, as a condition of approval, that the Permittee implement secondary containment for water pumps, fuel, and any hazardous material storage to prevent spills.
4. To minimize the risk of wildlife entrapment, CDFW requests, as a condition of approval, either the prohibition of synthetic netting (e.g., plastic or nylon), including photo or biodegradable plastic netting, for use in cultivation operations and/or erosion control, or, if the applicant uses synthetic netting, that the applicant is required to follow Best Management Practices (BMPs) that provides requirements on responsible storage, disposal, and use.

Thank you for the opportunity to comment on this project.

Corrina Kamoroff

Environmental Scientist

Habitat Conservation and Planning

Humboldt/Del Norte LSA Program

California Department of Fish and Wildlife

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