

Watershed Adaptive Management Process and Data for Cannabis Ordinance 2.0: Resolution 18-43

Submitted to the Humboldt County Board of Supervisors for the public hearing on cannabis permit distributions April 23, 2024

Following legalization of commercial cannabis cultivation, the County developed a commercial cannabis land use ordinance, pursuant to environmental impact reports (DEIR and FEIR), as required by CEQA. The FEIR acknowledges there are many impacts of cannabis cultivation on watersheds and residents that would not be adequately mitigated, which resulted in FEIR passage of the FEIR with "Overriding Concerns". In the six years since FEIR approval, however, routine monitoring of streams and rivers stipulated in the FEIR has never taken place. Joint watershed evaluation studies the County stated it was willing to undertake with state agencies have never taken place. None of the annual public hearings to assess cannabis impacts on watersheds and residents that were mandated by County Resolution 18-43 of 2018 also has never taken place.

Consequently, no rational justification exists for current cultivation levels, and certainly none exists for increasing cultivation further, until studies and data become available that provide reasonable assurance that environmental or social harm will **not** occur.

We therefore recommend the following sensible and practical measures:

1. Freeze new permits to the current number until studies and data show no potential social or environmental harm. If industry is indeed contracting locally, this should not be a burden, but it will guard against any unmitigated green rush associated with federal legalization or state legalization of direct sales.
2. Freeze expansion of current permit cultivation areas pending studies and data showing no potential social or environmental harm from expansion.
3. Consider incentives to promote social and environmental stewardship, including terroir and road repair/maintenance and mitigation of impacts on neighbors.
4. Develop appropriate and credibly interactive public processes that include collaboration with State water and wildlife agencies for data collection needed to assess watershed viability and health, and each watershed's "carrying capacity" to sustain cannabis cultivation.

This cannabis 2.0 Programmatic EIR, and the regulations and protections that flow from it, depend on project-level evaluations, which require, for each watershed and sub-watershed, at a minimum, the following:

- Detailed, updated maps and images of permitted and pending permit sites, -- showing pending, active and lapsed permit locations, original and expanded cultivation areas and types, grading, hoop houses, energy sources/generators, water sources/locations, streams and rivers, and roads.
- Updated data from watershed and sub-watershed studies and analyses, including temporal monitoring data on stream flow and water quality (eg. nutrients, temperature, bacteria, sediment, etc), and on road and traffic data. The FEIR acknowledges that these areas are inadequately mitigated, resulting in passage of the FEIR with "Overriding Concerns".
- A plastics inventory that catalogues types and amounts in order to begin addressing this menace, and to inform and get ahead of future legislative efforts sure to come.

Background:

In addition to mandating annual public hearings to assess cannabis activities and impacts, Resolution 18-43 placed an arbitrary cap of 3500 on total number of commercial cannabis cultivation permits, as well as caps for each of 12 planning watersheds, including critical (impacted and salmonid thermal refugia) subwatersheds.

Resolution 18-43 promised a potential adaptive management tool that was to later acquire data to justify rational permit numbers and distributions. The Resolution called for an “*---analysis of the condition of these planning watersheds, including review of water flow data and applicable studies or information prepared by the following state and local agencies: California Department of Fish & Wildlife, North Coast Regional Water Quality Control Board, State Water Resources Control Board, and the Department of Forestry and Fire Protection..*”, and further stated:

“Following the establishment of a countywide cap on the total number of permits and acreage of cultivation that may be approved, beginning in May of 2019, the Board of Supervisors agrees to conduct an annual review of the limits and prescribed distribution of permitting and acreage allowances found in the above table. Review shall occur at a noticed public hearing held during a meeting of the Board of Supervisors, during which the Board shall receive and consider a report providing an update on local permitting efforts.”

Per Resolution 18-43, annual public hearings were to include reports “*---detailing the number and status of all applications received, permits approved, compliance agreements that have been executed, and code enforcement actions undertaken by the Department. Law enforcement and other relevant officials from local and state agencies shall be contacted and invited to provide and present input and information to be considered by the Board during annual review. After holding a public hearing and considering all information and testimony received, the Board may choose to establish new caps on acreage and permits as well as change their distribution within watersheds.*”

However, there has never been any watershed carrying capacity analysis or any other study that has justified the current 1400 or so permits, let alone the 3500 permit cap proposed in Resolution 18-43, and there has never been any 18-43 public hearing to assess permit numbers and acreage.

The County concedes its lack of technical capacity to conduct this critically necessary evaluation, and that it needs to effectively engage with State agencies for watershed studies and monitoring. In that regard, the County had agreed to participate in watershed analysis: “*...a watershed analysis to establish cannabis cultivation caps for each watershed would be difficult for the County to conduct as it would require details on existing water users in each watershed and the extent that riparian water rights may be exercised. The County lacks the technical experience to collect this extent of data and determine what is the appropriate aquatic carrying capacity. Regional and state agencies that would have the appropriate technical information and experience to conduct a watershed analysis include State Water Board, North Coast Regional Water Quality Control Board, and CDFW. **The County would be willing to participate in joint watershed evaluation studies** with the North Coast Regional Water Quality Control Board and other interested agencies.” (FEIR 2-96)*

No such watershed analysis has taken place and, likewise, even though stipulated in the FEIR, no routine monitoring of streams has taken place. (FEIR 2-23)

Similarly, there have not been any cumulative impact analyses to evaluate social and environmental impacts associated with these permits. Section 15130(a) of the State CEQA Guidelines requires a discussion of the cumulative impacts of a project when the project’s incremental effect is cumulatively considerable (FEIR 2-51) and the County acknowledges unevaluated cumulative impacts on water and infrastructure: “*The project’s contribution to cumulative impacts associated with the provision*

of sufficient water supplies and infrastructure needs would be cumulatively considerable and significant and unavoidable." (FEIR 1-4)

Implementation of the 18-43 adaptive management goals constitutes a practical application of the "Precautionary Principle," to minimize unanticipated and preventable environmental or social harm resulting from current practices under 2.0., and to help those practices evolve sustainably.

In summary, until adequate evaluations of watershed carrying capacities, cumulative impacts, and FEIR-stipulated routine water monitoring are conducted, there is no rational justification to continue issuing either new cultivation permits, or expanding allowable cultivation on existing ones.

Respectfully,

Ad Hoc Watershed Adaptive Management Group, April 18, 2024

Patrick Mulligan Eureka	Friends of Elk River	Jerry Martien Elk River
Ken Miller McKinleyville	Kristi Wrigley Elk River	Ann Constantino Garberville
Harriet Hill McKinleyville	Mark Thurmond Kneeland	Jerry Latsko Garberville
Audrey Thurmond Kneeland	Salmon Forever	Diane Higgins McKinleyville
Deborah Bruce-Hostler Hoopa	Roger Levy Mad River	Greg Jaso McKinleyville
Clarence Hostler Sr. Hoopa	David Greene Eureka	Martin Rau Loleta
Ann Alter Kneeland	Sunshine Ceraceda Holmes Flat	Anthony Desch Kneeland
Terry Desch Kneeland	Greg King Arcata	Cheryl Furman Kneeland
Janet Rao Loleta		

Turner, Nicole

From: Kate McClain <katemcclain1@gmail.com>
Sent: Thursday, April 18, 2024 1:46 PM
To: COB
Subject: Public hearing on cannabis permit distributions Board of Supervisors meeting scheduled for April 23, 2024, at 9:00

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Dear Board of Supervisors,

In 2018 Humboldt County created an ordinance to oversee commercial cannabis land use. Six years later weaknesses in the ordinance have become apparent. Given the lack of analysis of social and environmental impacts associated with permits, I request that you seriously consider and take steps to implement sensible and practical measures as articulated in **Adaptive Management Data for Cannabis Ordinance 2.0**.

1. Freeze new permits to the current number until and unless studies and data show no potential social or environmental harm. If industry is indeed contracting locally, this should not be a burden, but it will guard against any unmitigated green rush associated with federal legalization or state legalization of direct sales.
2. Freeze expansion of current permit cultivation areas pending studies and data showing no potential social or environmental harm from expansion.
3. Consider incentives to promote social and environmental stewardship, including terroir.
4. Develop appropriate and credibly interactive public processes for data collection needed to assess watershed viability and health, and capacity to sustain cannabis cultivation.

In the interest of protecting the environment, communities, and neighbors, AND considering the cannabis economics of quality vs quantity; and because a Programmatic EIR depends on project-level evaluations, ---for each watershed and sub-watershed we offer the following suggested data necessary to begin the process:

- Detailed maps of permitted and pending permit sites showing locations, original and expansion cultivation areas and types, energy sources/generators, water sources, roads,
- Data from watershed and sub-watershed studies and analyses, including temporal monitoring data on stream flow and water quality (eg. nutrients, bacteria, sediment, etc), and on road and traffic data. The FEIR acknowledges that these areas are inadequately mitigated, resulting in passage of the FEIR with "Overriding Concerns."

Thank you for taking responsibility to assure that Humboldt County's natural and social environments are well protected, honored and respected.

Sincerely,

Kate McClain
McKinleyville
707 496-0865

To: Humboldt County Board of Supervisors
From: Bonnie Blackberry
Date: April 18, 2024
For: April 23, 2024 meeting

RE: Cannabis permitting report

Dear Chairman and members of the Board,

Please consider the following recommendations.

The impacts of cannabis cultivation to the electrical grid and capacity affecting communities in Southern Humboldt needs to be included in analysis of cumulative impacts.

The Garberville PG&E substation was expanded a few years ago and yet we are in a situation where no new hookups can happen because of limits in the transmission lines to provide more power.

Since the expansion of the substation the only substantial new development has been the permitting of high energy consumption cannabis operations including; indoor, mixed light, nurseries, drying, processing and storage. The overall impact has impeded the possibility for new development such as housing.

The collection of data of the permitted cannabis operations energy consumption needs to happen, along with the broader community impacts which should be included in the analysis of cumulative impacts.

Respectfully,
Bonnie Blackberry

April 17, 2024

Humboldt County Board of Supervisors
825 5th Street Eureka, CA 95501
COB@co.humboldt.ca.us

Humboldt County Planning Commission
825 5th Street, Room 111 Eureka, CA 95501

Planningclerk@co.humboldt.ca.us

Humboldt County Planning Department\ 3015 H Street Eureka, CA 95501
jford@co.humboldt.ca.us

RE: Watershed Analysis / Data Collection & Reporting / Humboldt County Cannabis Ordinance 2.0

TO: Humboldt County Board of Supervisors, Humboldt County Planning Commission, and Director Ford
FROM: Betsy Watson, PhD
7653 Kneeland Road, 95549

If Resolution 18-43 is taken seriously we will have the first steps toward an adaptive management plan. To do this we need solid data and with this in mind I offer the following:

1. Pause permitting, including expansions, until data from studies show a less than significant impact on water use, and no significant impacts on social and/or environmental health.
2. Act as lead agency, inviting CAFW and regional water board to develop a watershed-monitoring plan for surface waters at the watershed and sub-watershed levels. Monitoring should include stream flows and water quality (including turbidity, temperature, nutrients, bacteria levels)
3. Develop a groundwater-monitoring plan AND develop a groundwater policy to go forward.
4. Offer a stewardship program with rewards built in for all agricultural businesses. Offer tax reduction for such things as reducing or eliminating plastic waste, storing water during wet season, installing solar, etc.
5. Increase real public participation, particularly at the neighborhood level. When reviewing the public comments from the FEIR process for 2.0 ordinance, a lot of consensus was found on issues such, as size, water use,

and concern for forest fragmentation. What was also noticeable was that the opinions of the public were totally ignored. This is a chance to partner with local residents to improve the way we do things so that we have a healthy environment for all of us.



April 17, 2024

Humboldt County
Board of Supervisors
825 5th Street
Eureka, CA 95501
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3015 H Street
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jford@co.humboldt.ca.us

Re: Watershed Analysis / Data Collection & Reporting / Humboldt County Cannabis Ordinance 2.0

To the Humboldt County Board of Supervisors, Humboldt County Planning Commission, and Director Ford:

The County is not following its own Resolution 18-43 and FEIR.

We seek immediate action: the lead agency—the Humboldt County Planning Department—must formally request that watershed monitoring, data collection, and analyses be performed by the appropriate California State and Federal agencies. These include the State Water Board, NCRWQCB, CDFW, CDF, BLM and USFS.

Fulfillment of this request, with necessary reporting in combination with disclosure of data already collected by the County, shall allow for a robust understanding of the cumulative impacts of industrial cannabis cultivation in each watershed and subwatershed. It will make clear the true, on-the-ground environmental and community carrying capacities and parameters... and begin to realize the legal obligations and responsibilities committed to by the County, which have been abandoned.

This formal analysis will inform realistic environmental guidelines, regulations, and other policy, including that for permit allocation and enforcement. It should include:

- **Data on roads and traffic**, for accurate assessment of impacts to rural infrastructure, public safety, increased burden on first responders, and enhanced risk of wildfire.
- **Data from watershed and subwatershed studies and analyses**, including temporal monitoring data on stream flow and water quality (e.g. nutrients, temperature, bacteria, sediment, etc.).
- **Data regarding impacts of groundwater extraction** on surface waters, springs, and seeps.
- **Data measuring the scope of industrial level noise and high wattage lights**, to assess impacts on wildlife and communities.
- **Detailed maps of permitted and pending permit sites**—showing pending, active, and lapsed permit location—original and expanded cultivation areas and types, energy sources/generators, water sources/locations, streams and rivers, and roads.

This formal data collection and analysis must be accompanied by reporting at **annual public hearings** to assess and implement potential caps on cultivation acreage based on real information, as stated in the 2018 Resolution 18-43*...**which have never occurred.**

In addition to a formal request by the lead agency for this watershed monitoring and data collection, we urge you to develop a specific action plan for implementing its public availability and discussion.

Sincerely,

Larry Glass, President of the Board of Directors
Northcoast Environmental Center (NEC)
(707) 822-6918
nec@yournec.org

Mary Gaterud, President of the Board of Directors
Citizens for a Sustainable Humboldt (CSH)
(707) 845-2199
marygaterud@gmail.com

Tom Wheeler, Executive Director
Environmental Protection Information Center (EPIC)
(707) 822-7711
epic@wildcalifornia.com

***As per Resolution 18-43:** *"—analysis of the condition of these planning watersheds, including review of water flow data and applicable studies or information prepared by the following state and local agencies: California Department of Fish & Wildlife, North Coast Regional Water Quality Control Board, State Water Resources Control Board, and the Department of Forestry and Fire Protection..."*

"Following the establishment of a countywide cap on the total number of permits and acreage of cultivation that may be approved, beginning in May of 2019, the Board of Supervisors agrees to conduct an annual review of the limits and prescribed distribution of permitting and acreage allowances found in the above table. Review shall occur at noticed public hearings held during a meeting of the Board Supervisors, during which the Board shall receive and consider a report providing an update on local permitting efforts."

"—detailing the number and status of all applications received, permits approved, compliance agreements that have been executed, and code enforcement actions undertaken by the Department. Law enforcement or other relevant officials from local and state agencies shall be contacted and invited to provide and present input and information to be considered by the Board during annual review. After holding a public hearing and considering all information and testimony received, the Board may choose to establish new caps on acreage and permits as well as change their distribution within watersheds."

From: Joyce King <samonely@gmail.com>
Sent: Tuesday, April 16, 2024 10:56 PM
To: COB
Subject: Permitting and acreage of commercial cannabis cultivation

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Dear Board of Supervisors,

For many years, cannabis farms in county forest lands and watersheds have significantly contributed to damaging cumulative effects on native ecosystems, wildlife and fish.

Canopy and soil disturbance, water withdrawals, and pollution, have exacerbated generations of impacts to county watersheds, starting with mining and timber harvesting, and accumulating with unceasing human activities which have changed year-round, cool-running, complex-structured, biologically rich and abundant streams to sediment-laden, temperature-impaired, seasonal sluices which can no longer support a once-famed salmon industry.

Clean fresh water and salmon rank in the highest level of health-sustaining nutrients. Shouldn't watersheds that produce them have the highest level of value and protection? Shouldn't concern for them override nearly all other economic concerns?

Our Planning Department is not alone in allowing money and immediate commercial advantage to dictate priorities. We all tend to prefer what we can get today over things that have greater importance in the long run. Thus, we need your well-informed, forward-thinking leadership to help.

Please support:

- Working closely with state water and wildlife agencies to follow-through with the county's original plans for comprehensive, scientifically-supported watershed analyses to calculate the carrying-capacity of each major county watershed, and base permissible activities and acreages on recovery of watershed health and wild salmon habitat
- Well-advertised annual public hearings engaging the full spectrum of stake-holders to monitor compliance and consider necessities for adaptive management
- Pausing new permits and expansions until the above data and procedures are available.

As a 25-yr resident of McKinleyville who has sadly witnessed the latest rounds of impacts to our watersheds, I thank you for your attention, and for the work you have done to protect the rich and beautiful natural environment we have here in Humboldt County.

Joyce King
McKinleyville
707-267-5409

April 18th, 2024

Humboldt County Board of Supervisors
825 5th Street
Eureka, California 95501

RE: April 23, 2024 agenda item – Review of Distributing of permitting and acreage of commercial cannabis cultivation.

Dear Supervisors,

The notice for this meeting was not very informative and unfortunately since the agenda and any staff reports are not published till Friday afternoon I am unsure exactly what the discussion will cover nor the goals of your board for that discussion.

I will share now that besides the concerns about impacts on water, wildlife and neighborhoods, I have observed that with the current system the negative impacts on roads, the electrical grid and the use and reliance on first responders is being paid for by all of us living in Humboldt County regardless of our involvement in cannabis.

I have been primarily concerned with the possible adverse repercussions for the health of our recovering watersheds, the potential for increasing fire danger, damaging effects on our roads (both county & private), harmful impacts on our neighborhoods, negative ramifications on our efforts to work towards less reliance on fossil fuels, and time, energy and financial consuming negative impacts on our community volunteer first responders.

No on the ground analysis was done to determine how many square feet of cannabis with varying types of growing methods should be allowed in each watershed. It has always been an arbitrary number. No on the ground analysis was done to determine the impact of permitting of wells in the upper watersheds. No Analysis was done to determine the impact on our volunteer first responders who are the ones who respond to medical and fire dangers far from concentrated services. Response by a first responder always requires them to risk their personal safety. No analysis was done to determine the fire danger from generators running to supply energy for operations under plastic with five and six harvests per year using lights, heaters, dehumidifiers etc. And no acknowledgement & assessment of the high energy use impacts on the inadequate electrical grid for Southern Humboldt.

The public was continually told everything is better now because we have eliminated so many grows and we only have these few permits so far without taking into account the enlargement and the industrialization of those permitted grows. The ordinances were developed on the model of the green rush.

In May 2018 as part of the EIR process for ordinance 2.0 it was established that an annual public review (18-43) would occur to assess possible necessary amendments. No annual review has happened.

Recently at the February 15, 2024 Planning Commission meeting Director Ford when answering questions about the (arbitrary) watershed caps explained that the Humboldt County Planning Department had been assuming that the state agencies would be doing the monitoring that would eventually be relied on for analysis as to whether the caps should be adjusted. Director Ford explained that he has recently learned that in fact the state agencies have not been monitoring either. So for the last seven years we have had no watershed monitoring taking place either by the county or the state agencies to measure the impacts of the industrialized legally permitted cannabis farms.

For many of the Humboldt County farms the permitting process and the collapse of the market has been economically devastating. Unfortunately with arbitrary caps, oversight and enforcement not keeping up with permits issued and without serious analysis and monitoring there is still the potential for further detrimental industrial expansion.

I am writing to you today to request that your board address the above-mentioned concerns by: holding public annual reviews, conduct an analysis of: well impacts on watersheds, noise impacts on wildlife & neighborhoods, impacts on roads, increased fire danger, and impacts and reliance on first responders and amend the ordinances where necessary and also develop monitoring & oversight capabilities.

Thank you,
Robie Tenorio

Turner, Nicole

From: Sunshine Cereceda <420yoga@gmail.com>
Sent: Thursday, April 18, 2024 2:15 PM
To: COB
Subject: Cannabis permit distribution 2/23/24

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Comments from Sunshine Cereceda

1. Actual number of single 10,000 SF permits per parcel and not stacked.
2. Number of permit holders that reside on the parcel or in the neighborhood.
3. Status of unmet road conditions and number of stream crossings that still need to be completed.
4. What is the annual quantity of imported soil for each watershed.
5. What are the top three complaints received by the planning department.