

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on \_\_\_\_\_, 2021

Resolution No. 21-\_\_\_ Resolution of the Board of Supervisors of the County of Humboldt ADOPTING FINDINGS OF FACT, DETERMINING THE PROJECT IS SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING A MITIGATED NEGATIVE DECLARATION, DENYING THE APPEAL FOR RECORD NO. PLN-16987, APPROVING THE ROLLING MEADOW RANCH, LLC, CONDITIONAL USE PERMITS RECORD NO. PLN-12529-CUP, AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM.

**WHEREAS**, Humboldt County adopted the Commercial Medical Marijuana Land Use (CMMLUO) Ordinance on September 13, 2016, after adopting a Mitigated Negative Declaration finding that all potential impacts associated with implementation of the ordinance had been reduced to a less than significant level; and

**WHEREAS**, an application for Conditional Use Permits has been submitted to the Humboldt County Planning and Building Department for the proposed Conditional Use Permits for 5.73 acres of new mixed light cannabis cultivation in four distinct areas, and processing structures totaling 33,750 square feet, and the total footprint will be 8.5 acres, on APNs 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001; and

**WHEREAS**, the Planning and Building Department reviewed the submitted application and substantial evidence supporting the application, and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

**WHEREAS**, on January 21, 2021, the Planning Commission took the following actions:

1. Adopted the Mitigated Negative Declaration with the Mitigation Monitoring and Reporting Program in Attachment 1A including Substitute Mitigation Measure Bio-16, Exhibit A for the Rolling Meadow Ranch, LLC project; and
2. Found based on the submitted substantial evidence that the proposed project complies with the General Plan and Zoning Ordinance; and
3. Approved the Conditional Use Permits under record No. PLN-12529-CUP as conditioned.

**WHEREAS**, on February 2, 2021, Fran Greenleaf, John Richards, and Patty Richards (“Appellant”) filed an appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

**WHEREAS**, Humboldt County Code section 312-13.5 protects an applicant’s right by requiring a hearing within 30 working days; and

**WHEREAS**, the Board of Supervisors held a duly-noticed public hearing, *de-novo*, on March 9, 2021, and reviewed, considered, and discussed the application and appeal for the Conditional Use Permits; and reviewed and considered all public testimony and evidence presented at the hearing; and

**WHEREAS**, Rolling Meadow Ranch, LLC, applied to cultivate 5.77 acres of Cannabis on property in excess of 600 acres under the provisions of the Commercial Medical Marijuana Land Use Ordinance; and

**WHEREAS**, the County Planning Division reviewed the application and evidence, has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

**WHEREAS**, a Mitigated Negative Declaration was prepared for the proposed Conditional Use Permits for 5.77 acres (or 251,341 square feet) 60,920 square feet of mixed light cannabis cultivation on APNs 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001, pursuant to Section 15074 of the CEQA Guidelines; and

**WHEREAS**, a public hearing was scheduled on January 7, 2021 and continued to January 21, 2021 where the Humboldt County Planning Commission held a hearing on the matter.

**Now, THEREFORE BE IT RESOLVED**, that the Board of Supervisors makes all the following findings:

**1. FINDING:**

**Project Description:**

- Six Conditional Use Permits for 5.73 acres of mixed light cannabis cultivation located in four distinct cultivation areas, and processing facilities totaling 33,750 square feet, and the total project footprint will be 8.5 acres, on a 7,110-acre ranch composed of APNs 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001.
- Operations would occur year-round. Water for irrigation is provided by three groundwater wells and rainwater catchment. Annual water use is approximately 4,628,200 gallons. There will be 320,000 gallons of hard-sided tank storage that will store rain from rooftop runoff.
- Processing, including drying, curing and trimming, will take place on site within 5 proposed processing structures totaling 33,750 square feet and includes associated parking facilities.
- The applicant must process at an off-site licensed processing facility until the Onsite Wastewater Treatment System is permitted and installed.
- A maximum of 30 employees are required for peak operations.
- Power is provided by P. G. & E.

**EVIDENCE:** a) Project File: PLN-12529-CUP

**FINDINGS FOR CEQA**

**2. FINDING:**

**CEQA.** The requirements of the California Environmental Quality Act have been complied with. A Mitigated Negative Declaration (MND) was prepared for the project and circulated for public review. A MND is appropriate because there is substantial evidence in the record that the project may have a significant effect on the environment, but the County as lead agency has determined that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid

the effects or mitigate the effects to a point where no significant effect on the environment would occur. There is no substantial evidence in light of the whole record that the project, as revised, may have a significant effect on the environment. The conclusion of the MND is that there are not any potentially significant effects that cannot be mitigated.

- EVIDENCE:**
- a) Environmental review for the proposed project included the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND) pursuant to the California Environmental Quality Act (CEQA) Statute (Public Resources Code 21000–21189) and Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387). The state clearinghouse number is SCH 2020070339.
  - b) The IS/MND was circulated from July 17, 2020, to August 17, 2020, at the State Clearinghouse. Due to substantial comments received from the California Department of Fish and Wildlife, the applicant submitted additional information, including Golden Eagle survey data, road and stream crossing evaluations for the Alderpoint Road access and a supplemental botanical report. The applicant revised the project to reconfigure site access to ensure the internal access occurs on roads with ownership and/or easements allowing use for the applicant, modified the location of the parking area and security guard station and relocated the processing building near Greenhouses #1 - #3 out of the flood plain to Cultivation Area #4 and required wetland setbacks, which reduced the amount of wetland filled proposed by the project.
  - c) The revised IS/MND was circulated for public review from November 30 to December 30, 2020. The revised IS/MND was mislabeled as an Initial Study during the recirculation, but given that a previous draft of the IS/MND had undergone public review it is evident that the recirculated document was a revised version of the prior Mitigated Negative Declaration.
  - d) The IS/MND included 16 mitigation measures, including Substitute Mitigation measure BIO-16, which have been incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as part of the project.

**3. FINDING:** **ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT- NO MITIGATION REQUIRED.** The following impacts have been found to be less than significant and mitigation is not required to reduce project related impacts: Air Quality, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, population and housing, public services, recreation. transportation and traffic, tribal cultural resources, utilities, and wildfire.

- EVIDENCE:**
- a) There is no evidence of an impact to any of the above reference potential impact areas based on the project as proposed at this proposed location.
  - b) Initial Study/Mitigated Negative Declaration dated November 25, 2020 and circulated for public review December 1, 2020 to December 30, 2020.

**4. FINDING:** **ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT** – The MND mitigates the effects of the project to a point where

no significant effect on the environment would occur and there is no substantial evidence in light of the whole record that the project, as revised, may have a significant effect on the environment. The Initial Study identified potentially significant impacts to Aesthetics, agricultural and forest resources, biological resources, which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.

- EVIDENCE:**
- a) **Aesthetics:** The project would not substantially degrade the existing visual character or quality of public views of the site and its surroundings. Large retaining walls proposed to support facilities 1 and 2 are not typical agricultural features and therefore have potential adverse aesthetic impacts if glimpses from the river do occur. Mitigation in the form of architectural treatment for the proposed retaining walls will reduce any potential impacts to a less than significant level.
  - b) **Agriculture and Forest:** The implementation of the project will result in the loss of a maximum of 24 trees out of over 186,000 but will not result in the loss of forest land or the conversion of forest land to non-forest use with mitigation incorporated. To mitigate the loss of these 24 trees, the project will replant the trees onsite from local stock with a ratio of three new trees per every one tree removed and incorporate monitoring for replanting success.
  - c) **Biological Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for biological resources:
    - i. Prior to construction a full early season botanical survey will be completed for the location of Facilities #6-#9. If any sensitive species are found that portion of the project will not be constructed.
    - ii. To avoid the potential for significant impacts to Pacific Gilia (*Gilia capitata* ssp. *Pacifica*) populations, improvements to- and maintenance of the road shall occur after August 15th and before October 15th in areas where Pacific gilia is impacted.
    - iii. To avoid the potential for significant impacts to Pacific Gilia (*Gilia capitata* ssp. *Pacifica*) all extraction of rock from the rock quarry (Map ID #4, Figures 27 and 30) shall occur after August 15th and before October 15th and occur no more frequently than every two (2) years (i.e. allowing two years between extraction events).
    - iv. The densest portion of Tracy's tarplant (*Hemizonia congesta* ssp. *Tracyi*) population, will be protected during construction by the placement of construction fencing at the periphery of the population, to keep equipment operators out of the area.
    - v. A total of approximately 0.97 acres (42,446 square feet) of *Danthonia californica* prairie and approximately 0.89 acres (38,925 square feet) of *Elymus glaucus* prairie will be enhanced or restored on site.
    - vi. Direct impacts to 0.255 acres of seasonal wetland and 0.277 acres of seasonal wetland within 100 feet of Facilities will be mitigated by creating a total of 1.4 acres of 3 parameter wetland.
    - vii. Protocol level surveys (Spot Checks) will be conducted for the fourth year (2021) for Northern Spotted Owl. As per protocol if nesting NSOs are found within 0.25 miles of a project area, no construction will take place in the 0.25-mile buffer around the nest until after August 31.
    - viii. Prior to construction during the breeding season for Coopers hawk, Sharp-shinned hawk, American peregrine falcon, and osprey pre-construction surveys

will be conducted within forested habitat in the 1000-foot buffer around each project location. If a nest is found, CDFW will be contacted and the agency will determine the appropriate no work buffer to remain around the nest until it has fledged.

- ix. If construction takes place during the denning season, then preconstruction surveys for Fisher den sites and structures will be completed in the more densely forested areas that occur within 1000 feet of facilities #6-#9 to determine presence or absence of denning potential for this species. Should evidence of denning be found, no work will take place at the facilities #6-#9 location until after the denning season has ended.
- x. If construction takes place during the nesting season for grasshopper sparrow and Bryant's savannah sparrow then 3 consecutive preconstruction surveys for these species will take place the within the grassland portions of all project footprints as well as a 500-foot buffer around the footprint.
- xi. Preconstruction surveys of the barn for Townsend Big Eared Bat shall occur during breeding season to ensure no bats are using this structure for anything other than a temporary night roost.
- xii. If construction of the infrastructure at facilities #1, and #2, takes place during the nesting season, preconstruction surveys western pond turtle nests will be conducted. If nests are found, they will be buffered and undisturbed until turtles have hatched and left the nest.
- xiii. To mitigate for potential impacts to migratory birds and black-tailed jackrabbit three consecutive preconstruction surveys for these species will take place no more the one week prior to the start of construction at EACH location of vegetation removal or ground disturbance.
- xiv. To mitigate for potential impacts to western bumble bee. The project will first determine presence/absence. This can be achieved with three (3) nest seeking queen surveys or three (3) flight season surveys.
- xv. To ensure less than significant impacts to northern red-legged frog, foothill yellow-legged frog, and red- bellied newt work to upgrade 34 stream crossings on the project roads will be done during the summer and fall season when the streams should be dry with no frogs or newts are present. As per standard construction process, IF any streams are found to have water in them at the time of crossing reconstruction, preconstruction surveys for amphibians will be completed no more 2 days prior to construction.
- xvi. Construction shall occur outside of the Golden Eagle breeding season unless pre-construction Golden Eagle surveys have been conducted which demonstrate that no active nests are present within a 1-mile radius of the Project within the Rolling Meadow Ranch boundaries (an approximately 2,900-acre area).

**FINDING:** **Substitute Mitigation Measure BIO-16 is more effective in mitigating potential impacts to Golden Eagles because it prevents construction during the nesting season if Golden Eagles are detected in two separate surveys, which is more restrictive than a mitigation measure providing a buffer of 660 feet from Golden Eagle nests, and the substitute measure will not itself create a significant environmental impact.**

**EVIDENCE:** a) After the beginning of re-circulation of the IS/MND on December 1, 2020 the Planning Department had a conference with members of the California Department

of Fish and Wildlife (CDFW) and the US Fish and Wildlife Service (USFWS) to discuss concerns about potential impacts to Golden Eagles. In particular, Planning staff was informed that the 660-foot setback from Golden Eagle nests referenced in the draft IS/MND mitigation measure BIO-16 does not reflect current recommendations from the USFWS for protection of potential impacts to Golden eagle nests. Based on the available information and evidence, there does not appear to be nesting eagles present in the vicinity, however the presence of potential nesting habitat does indicate that a nesting pair of eagles could choose to nest in the area during any particular breeding season and construction activity associated with the project does have the potential to disrupt breeding and nesting activities. Accordingly, planning staff is recommending a substitute mitigation measure BIO-16 to reflect current USFWS guidance for protection against impacts to nesting Golden eagles. The substitute mitigation measure is informed by and developed after the discussion with USFWS staff and from consideration of the document published by the USFWS on December 2017 entitled *“Recommended Buffer Zones for Ground-based Human Activities around Nesting Sites of Golden Eagles in California and Nevada”*

**5. FINDING:** **CEQA Public Comments:** There have been a significant number of comments from the public on the project and the Mitigated Negative Declaration. These comments have been considered and none of these comments change the conclusions of the Mitigated Negative Declaration.

- EVIDENCE:**
- a) Comment that the project is unsuitable in this location, and the proposed project is a large-scale industrial size operation in a rural area with resource and access issues. This is an opinion and does not raise impacts which have not been addressed. The project can be authorized under the Commercial Medical Marijuana Land Use Ordinance, which allows for multiple acres of new mixed-light cannabis cultivation on parcels over 320 acres in size. The project complies with the access standards of the CMMLUO and the Initial Study and Mitigated Negative Declaration identifies that resource issues are not significant under CEQA.
  - b) Holder Law Group asserted in a comment letter received on \_\_\_\_\_ (the “Holder letter”, Attachment \_\_\_) that because a July 30, 2018 version of the biological report it obtained through a Public Records Act (PRA) request was referenced in the revised IS/MND and was not attached to the IS/MND, the County has violated Section 21092(b)(1) of the Public Resources Code.  
Both the revised and original biological report were made available as the Holder Law Group indicates. They obtained a copy of both. Public Resources Code section 21092(b)(1) requires that the documents referenced in the MND be available for review and not that technical documents be attached to the IS/MND. The fact that the commenter was able to obtain the document demonstrates this provision was complied with and that the commenter was not prevented from meaningfully engaging the information.
  - c) The Holder letter argues the county incorrectly relies on Mr. Dave Fisch’s letter regarding potential hydrologic connectivity of the wells to surface water. Fisch’s information includes logs showing the well is in rock formations not characteristic of a subsurface flow of water connected to surface water. The use of groundwater not associated with a regulated aquifer or surface water is an allowed use of water.
  - d) The Holder letter states that the depth at which the wells are drawing water indicates that it is connected to surface water features. This conclusory statement is not supported by factual data to support the contention. The depth and location of the

wells relative to surface water features indicate that it is not hydrologically connected to surface water features.

- e) The Holder Law Group misrepresents the qualifications of the parties they contracted to review the hydrologic connectivity as experts in hydrogeology. On page 25 of the comment letter submitted during public review of the IS/MND they state that retained hydrogeologists to review the adequacy of the IS/MND statements regarding the groundwater wells. The two parties the comments cite and rely upon as hydrogeologists are geologists, not hydrogeologists.
- f) The geologists retained by the Holder Law Group to review the IS/MND primarily raise questions regarding the fact that the well production tests were not performed during the dry weather testing season set by the Department of Environmental Health. This is true but it does not preclude the well production information from being utilized for review purposes. The wells tested at a combined total of 63 gallons per minute, which if operated at that level would provide all the water needed for the project in 51 days. If the wells were only operated for 12 hours a day and at half the tested yield, the total water demand could still be provided in 204 days. This does not include the use of rainwater catchment. There is not a doubt that there is sufficient water to accommodate this use.
- g) The primary contention of evidence potential hydrologic connection to surface water made in the Holder letter appears to be the reference to the USGS report on geology and Groundwater Features in the Eureka area (1959). The Holder Law Group states that this study covers the project area, however this is incorrect. Page 3 of this report clearly identifies the project area as including an approximately 425 square mile area between 40 degrees 30 minutes North latitude and 41 degrees 0 minutes north latitude and between 123 degrees, 55 minutes west longitude and 124 degrees 25 minutes west longitude. The project site is at approximately 40 degrees 19 minutes north latitude and 123 degrees 47 minutes west longitude. This study is therefore inapplicable to the project site.
- h) The Holder letter argues the appendix does not include important biological information such as the revised Botanical Report or the Golden Eagle Survey data, or the wetland data that supports the wetland report. This is false. These botanical surveys and golden eagle studies are attached in the appendix with the exception of the revised biological report referenced above in b. Many of the comments made in the Holder letter in large part utilize CDFW comments made on the original IS/MND, rather than the revised and recirculated IS/MND that is the subject of the Board of Supervisor's review.
- i) The Holder letter makes multiple incorrect and inaccurate statements and allegations about the current project and revised IS/MND. In support of these statements reference is made the staff report prepared for the August 20, 2020 Planning Commission and the initial IS/MND that are no longer relevant. Further, the Holder letter contains allegations that are not supported by its own references. For example, on Page 30 the Holder letter alleges that the wetland delineation report depicts the location of wetlands on the project site differently than does the Revised IS/MND. For support the letter states that the Revised IS/MND Figures 40 and 42 do not match the location of wetlands shown in the wetland delineation in Appendix M figures 2 and 4. This appears to be an intentional misinterpretation of these figures, as figures 2 and 4 in Appendix M show the study area where development is proposed and the wetland shown in the revised IS/MND is in fact identified accurately in the wetland delineation in figure 7 and 8 of Appendix M. These sort of misinterpretations and inaccurate references are found throughout the letter from the Holder Law Group.

- j) The Holder letter references previous letters sent to the applicant by the county and comments from the county's peer review consultant that are outdated and do not apply to the project as currently proposed or the current information and technical studies. For example, the letter states that the county asked for information regarding the potential hydrologic connectivity of the wells. These statements made by the county were prior to the wells being installed as there were no well logs or specific locational information to review to determine potential hydrologic connectivity. After the wells were installed this information was made available to the county and utilized as the basis for concluding that the wells are groundwater wells. Similarly, the letter relies on previous county correspondence requesting information regarding the road network to allege that this information does not exist, however the applicant responded to these requests by providing a thorough road evaluation of all proposed and existing roadways.
- k) The Holder letter emphasizes the existing and proposed roads would not be Category 4 or equivalent and includes a letter from a local civil engineer that states that McCann road does not meet the requirements for Category 4 or a functional equivalent. In response, it is important there is no requirement that any of the roads utilized or proposed for this project meet a Category 4 or equivalent. Nonetheless, the opinion provided by the Holder letter acknowledges that the Director of Humboldt County's Public Works Department has the authority to declare the road as meeting the category 4 equivalent. This is a critical acknowledgement because the Director of Public Works has in fact declared that McCann Road is functionally appropriate for the proposed project.
- l) The Holder letter inaccurately suggests that the project is not consistent with applicable regulatory requirements for setbacks from wetlands and watercourses because it does not meet the setbacks requested by the California Department of Fish and Wildlife in their review letter. CDFW requests are not the same thing as the regulatory requirements for setbacks. The project complies with the regulatory requirements of the County Zoning Ordinance and the State Water Board. CDFW in this case is not a responsible agency and thus has no permitting authority.
- m) The Holder letter asserts that the wetland study prepared for the project is inadequate and to demonstrate this includes comments from Pacific Watershed Associates that states that the National Wetlands Inventory (NWI) identifies a wetland that may be located in the project area but is not listed in the wetland study prepared for the project. The NWI is mapping prepared primarily from aerial analysis to identify possible wetlands and should not be considered as evidence to contradict an actual survey of the site. The PWA letter also is used to assert that the wetland analysis is incomplete because it did not include a full delineation of all wetlands on the site. This is also not a flaw in the wetland analysis because there is no requirement to fully delineate wetlands that are outside of the project area of impact. This is a very large land holding; 6,500 acres and a very small portion of the property is included in this development.
- n) The Holder letter states that the analysis of special status species and aquatic resources is incomplete and inaccurate. However, this is untrue. All stream crossings and vegetation impacts are listed in Appendix K. Rare plant surveys have been completed for all portions of the project site and proposed roads and improvements with the sole exception of the existing road to Alderpoint as that is an existing road.
- o) The Holder letter also states that it does not include an analysis of the biological impacts for the improvements necessary to bring the roads up to a Category 4



standard. As mentioned previously, there is no requirement to bring the road up to a Category 4 standard.

- p) CDFW submitted comments on the revised and recirculated IS/MND. Comments received from CDFW on the initially circulated IS/MND are not included in the responses within these findings as they have either been addressed in the revised IS/MND or discussed in the comment letter received from CDFW on December 30, 2020.
- q) Clarification of CEQA Document Type. CDFW asks for clarification of whether the document was an Initial Study Checklist or an IS/MND given the title of the document and the minor error on page 33 of the CEQA document. The document type was stated in the Notice of Availability and Intent to Adopt a Mitigated Negative Declaration that was sent to CDFW and published on the State CEQA Clearinghouse website.
- r) CDFW is concerned about the project area being Golden Eagle habitat due to a nest site identified in 2003. The 2003 nest identified in the California Natural Diversity Database (CNDDDB) was unable to be located by the applicant's consultant and evidence has been submitted that no trees meeting the description of the nest tree were in existence in 2020. Nonetheless, CDFW comments regarding a one-mile radius and potential impacts associated with this potential nest location. CDFW states that the project is within the line of sight of the nest, but how this was determined is unclear given that it does not appear that this nest is in existence. CDFW comments regarding potential unknown nest sites in the area. CDFW's concerns led to a substitute mitigation measure (BIO-16) for Golden Eagle protection, requiring construction to occur outside of the Golden Eagle breeding season unless pre-construction Golden Eagle surveys have been conducted which demonstrate that no active nests are present within a one-mile radius of the Project within the Rolling Meadow Ranch boundaries. CDFW expresses concern that even with this substituted mitigation measure the project could have an impact on foraging habitat for Golden Eagles. While a concern, the appropriate CEQA threshold in this case is whether there is substantial evidence the project would "substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; or substantially reduce the number or restrict the range of an endangered, rare, or threatened species." – CEQA Guidelines Section 15065 (Mandatory Finding of Significance). As noted in the IS/MND, even incorporating the extent of the meadows (33 acres) in which the facilities are located, the project can be conservatively estimated to impact 33 acres of habitat. The vast majority of the ranch, 7,077 acres, will remain in its current undeveloped state. There is no indication that the removal of 33 acres of foraging habitat would cause the Golden Eagle population to drop below self-sustaining levels or substantially reduce the habitat of the Golden Eagle.
- s) CDFW has additionally raised concerns regarding cumulative impact to grassland prairies that may be located within one or two miles of Golden Eagle nests as a result of the commercial cannabis applications that have been submitted to Humboldt County. The County has not been provided with the data to support this contention, but it is expected the vast majority of these applications that CDFW references are existing cultivation applications which would be considered as part of the environmental baseline under CEQA.
- t) CDFW states that the wells may be hydrologically connected to surface water and that by extension it could have an adverse impact on aquatic resources. As noted in the IS/MND these wells are all deep groundwater wells that have screening

intervals that strongly indicate that they are within perched bedrock and are not connected to the underflow of any surface water features which would indicate no direct impacts to aquatic resources. This is based on the actual well log.

- u) CDFW has requested a requirement for the project to be reclaimed and the sites restored if the project permanently ceases. This has been added as a recommended condition of approval
- v) CDFW states that botanical surveys did not occur for the entire project area, specifically Facilities #6 through #9. However, botanical surveys have been completed for the entire project area with the exception of a survey for rare plants within the road to Alderpoint, as this is an existing road. Botanical surveys were completed for facilities #6 through #9 however the early season survey was not completed for these facilities only, and therefore a mitigation measure is included that the survey work be completed and if anything sensitive or rare is found that these facilities will not be constructed.
- w) CDFW indicates that the project does not comply with the Humboldt County General Plan wetland setbacks however this is false. All wetland setbacks of the General Plan will be met. Some wetlands on the site are proposed to be filled, at which point there will be no setbacks to apply. CDFW also opposes the filling of these wetlands, however as noted in the IS/MND the filling of these wetlands will be mitigated to a less than significant level through the creation of new wetlands at a nearly 3:1 ratio.
- x) CDFW raises concern regarding the two proposed greenhouses within the 100-year flood zone. The proposed development will comply with the county's Flood Prevention Ordinance which is designed to regulate flood hazards from development in the flood zone.
- y) CDFW raises concern regarding potential growth inducing impacts from the extension of PG&E power to the site. The site is zoned Agricultural Exclusive and TPZ, meaning that development potential is limited to those allowed consistent with the County's Open Space Action Program, of which agriculture such as cannabis is a compatible use. Substantial commercial, industrial or residential development expansion would not be permitted within these zone districts.
- z) CDFW expresses concern regarding the mixed-light cultivation and requests compliance with dark-sky standards. This is a condition of the ordinance.
- aa) CDFW requests a mitigation measure of condition of approval to implement an invasive species management plan. This has been added as a recommended condition of approval.
- bb) CDFW recommends a condition of approval to prohibit rodenticides and similar harmful substances on the parcels. This has been added as a recommended condition of approval.
- cc) Air Quality – Commenters have expressed concern regarding potential impacts on air quality related to dust generation including the potential for air quality impacts from driving across the river bar portion of McCann Road. The dust generated by construction, and vehicle traffic would primarily be PM10 emissions and the North Coast Air Basin is in non-attainment for PM10. However, the IS/MND has measures in place to address air quality and the dust that could be generated would be below the amount identified by the North Coast Unified Air Quality Management District (District) as triggering the need for additional mitigation measures. Typically, projects are compared to their local air district's thresholds of significance in the review process; however, the District has not formally adopted thresholds of significance. Instead, the District utilizes the Best Available Control Technology (BACT) emission rates for stationary sources as defined and listed in

the Air District's Rule 110 - New Source Review and Prevention of Significant Deterioration. This rule uses a significance threshold of 15 tons per year of PM10 emissions per emissions unit for determining if BACT is required. The amount of PM10 generated from the proposed project is expected to be significantly below 15 tons/year. In addition the applicant has agreed to treat the roads with dust suppressants adjacent to the exiting residents to minimize any dust generation.

## **FINDINGS FOR CONDITIONAL USE PERMITS**

### **6. FINDING**

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

#### **EVIDENCE**

- a) The location of the proposed cannabis activities is designated Agriculture General in the Humboldt County General Plan. General and intensive agriculture are allowable use types for these designations. The project is, therefore, consistent with the AG designation.
- b) The General Plan's Circulation Element requires that, "[d]ecisions to change or expand the land use of a particular area shall include an analysis of the impacts to existing and proposed transportation facilities and services so as to minimize or avoid significant operational, environmental, economic, and health-related consequences." This project does not change the land use or uses anticipated in the Agricultural General Land Use Designation. The project is served by a County Maintained Road to the property and has secondary access. There will not be a decrease in the level of service of any roadway as a result of this project.
- c) The proposed project is consistent with the General Plan's Conservation and Open Space Element, Biological Resources Section, as evidenced by compliance with the following polices and standards:
  1. Streamside Management Areas (BR-P5, P6): There are several mapped Streamside Management Areas (SMAs), including Cameron Creek and Beatty Creek, that are tributaries to the Eel River. All development associated with the project is located outside of SMAs.
  2. Wetland Identification (BR-P7): A wetland delineation has been prepared and all impacts to wetlands are being mitigated.
  3. Biological Resource Maps (BR-P11): Based on a review of the Humboldt County WebGIS, the nearest mapped Marbled Murrelet habitat is located more than 3 miles to the west of the subject parcel. The nearest Northern Spotted Owl (NSO) positive observation is located 1 mile to the northeast of Cultivation Area 1 on APN 217-181-028. A Golden Eagle nest is shown on the California Natural Diversity Database (CNDDB) approximately 1,000 feet of the Eel River on property not owned by the applicant. A review of the CNDDB did not find any rare or species status species mapped for the subject parcels. A nine-quad search was conducted for the IS/MND and found the potential for habitat for 22 species of wildlife. A second nine-quad search using the 'Quick View' tool was conducted in August 2020 that found 47 species with potential habitat on the subject parcels. Table 8 of the IS/MND lists the species with a possibility of occurring in and around the project area. Mapping has been used to identify the potential for sensitive species consistent with this policy.

4. Agency Review (BR-P12): Consistent with this policy, the county has consulted with the California Department of Fish and Wildlife. The initial consultation was in July 2017 and CDFW provided initial comments in January of 2018. CDFW was consulted in the preparation of the Initial Study/Mitigated Negative Declaration and again in preparing the recirculated IS/MND.
- d) The goals and policies of the General Plan's Conservation and Open Space Element, Cultural Resources Section, have been complied with based on the referral of the project to the Northwest Information Center (NWIC), the Bear River Band of Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council. Although the Intertribal Sinkyone Wilderness Council did not respond, NWIC and the Bear River Band of Rohnerville Rancheria requested an archeological survey of the subject parcels. The survey concludes that no significant historic resources were located during this survey, and nine (9) pre-existing resources have been recorded on the property as a result of sixteen (16) previous surveys. None of the pre-existing resources will be impacted by this project, one historic burial is located adjacent an area proposed for development and should be monitored by a professional archaeologist during project implementation.
  - e) The project is consistent with the General Plan's Conservation and Open Space Element, Scenic Resources Section, as the only applicable policy is related to restricting light and glare. The project will comply with the CMMLUO which requires all night lighting be completely shielded in compliance with International Dark Sky Standards.
  - f) The project is consistent with the General Plan's Water Resources Element through compliance with the following goals and policies:
    - i. Sustainable Management (WR-P1).  
Protection for Surface and Groundwater Uses (WR-P2).  
The project does not utilize diversion from a surface water source, as water will come from wells that are not hydrologically connected to surface water and will use captured rainfall from the roofs of the greenhouses.
    - i. Project Design (WR-P12). The project is not located in any SMA and thus will not detract from the function of rivers, streams, ponds, wetlands or their setback areas. The project will result in fill being placed in the floodplain to elevate greenhouses above the 100 year water surface elevation, but this will not affect the flow of the river and will fill and replace a wetland.
    - i. Rain Catchment Systems (WR-P20). Rainwater catchment is a component of the project, providing approximately 300,000 gallons of the annual water use.
  - g) 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.
  - h) The project is in compliance with the General Plan's Noise Element as there are no sensitive receptors which would be adversely affected by the project.
  - i) The project complies with the General Plan's Safety Element as follows:
    - I. Geologic Safety. The project site is not located in a mapped Alquist-Priolo fault zone nor is subject to liquefaction. The site is located in an area

designated as Moderate Slope Instability (2) and High Slope Instability (3) in the County's GIS mapping. There are historic landslides located on the subject parcels, however, existing and proposed development will not be located in the historic landslide areas. Conditions of approval require the applicant to obtain grading permits from the Humboldt County Building Inspection Division for all grading required for the proposed project, which will require the grading plans to meet State and local regulations. As conditioned, the project is consistent with the geologic resource policies of the Safety Element.

- II. Flooding: The subject site is outside any mapped flood hazard areas. The project site is not within levee inundation area, however, the parcels adjacent to the Eel River are mapped within a dam failure inundation area should the Scott or Cape Horn Dams, which are located in Mendocino County, fail in the future. According the Humboldt County Web GIS, the dam failure inundation areas are the similar to the 100-year-flood zone and all development for the proposed project is located outside of the 100-year flood zone, therefore, unlikely to be impacted by dam failures. At more than 200 feet above mean sea level and over 30 miles from the ocean, is project area is outside the areas subject to tsunami run-up. The project is consistent with the flood policies of the General Plan.
  - III. Fire Hazard. The subject property is located within an area with very high hazard severity. The parcel is located within the State Fire Responsibility Area where the State of California has the primary financial responsibility for the prevention and suppression of wildland fires. CAL FIRE comments recommended compliance with the requirements of the County's Fire Safe Regulations. The Humboldt County Fire Safe Ordinance (Section 3111-1 et seq.) establishes development standards for minimizing wildfire danger in state responsibility designated areas. According to the operations plan, a maximum of 30 employees will be on-site during peak operations. In addition to the three groundwater wells, there will be 320,000 gallons of hard-sided tank storage that will store rain from rooftop runoff that can be used for fire protection if needed. CAL FIRE was sent referrals for the project. The project is consistent with the fire protection policies of the Safety Element.
- j) The project complies with the General Plan's Community Infrastructure and Services Element, where standard 5 requires new industrial, commercial and residential development located outside of fire district boundaries to obtain written acknowledgment of available emergency response and fire suppression services from the local fire agency, including any recommended mitigation. For discretionary permits findings shall be made that no service is available, and the project shall be conditioned to record acknowledgment of no available emergency response and fire suppression services. The subject parcel is located outside the response area for the Fruitland Ridge Protection District and it is assumed that no service would be available from the district, and that no acknowledgment would be received. For this reason, the project is conditioned that the applicant records an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" from the Garberville Fire Protection District.

## 7. FINDING

The proposed development is consistent with the purposes of the Agriculture Exclusive (AE) zone in which the site is located.

## EVIDENCE

- a) The open grassland and meadows on the subject property have been zoned AE.
- b) The AE Zone is intended to be applied in fertile areas in which agriculture is and should be the desirable predominant use and in which the protection of this use from encroachment from incompatible uses is essential to the general welfare.
- c) Section 55.4.8.2 of the Commercial Medical Marijuana Land Use Ordinance (and as modified to remove the limitation to medical cannabis) states that “Outdoor and Mixed-Light Commercial cultivation of cannabis for medical use shall be allowed in specifically enumerated zones in which general agriculture is a principally permitted use, or conditional use...”. Commercial cannabis cultivation is specifically allowed in the AE Zoning designation subject to approval of the appropriate permit as required by the CMMLUO.

## 8. FINDING

The proposed 5.73 acres of cultivation and onsite processing is consistent with the requirements of the CCLUO and CMMLUO Provisions of the Zoning Ordinance.

## EVIDENCE

- a) Section 55.4.3.1 of the Commercial Cannabis Land Use Ordinance states: “*Applications for Commercial Cannabis Activity land use permits filed on or before December 31, 2016 shall be governed by the regulations in effect at the time of their submittal...*” The subject application was filed on December 27, 2016, and thus is subject to the provisions of the CMMLUO.
- b) Parcel Size and Cultivation Area (314-55.4.8.2.1.1): On parcels 320 acres or larger in size, in the eligible zoning districts described in 55.4.8.2.1, one additional cultivation area permit of up to one acre each for each one hundred acre increment (e.g. 3 for a 320 acre parcel, 6 for a 600 acre parcel, etc.), up to a maximum of 12 permits, may be issued with a Use Permit. The proposed action is for six Conditional Use Permits for 5.73 acres (or 249,598 square feet) of new mixed-light cultivation on APNs 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001, which will be merged into one, legal parcel, consisting of over 800 acres that are split-zoned AE and TPZ. All proposed cultivation areas and associated development would be constructed on the AE-zone portions of the subject parcels.
- c) Prime Agricultural Soils (314-55.4.8.2.1): The CMMLUO states that the cultivation area must be on prime agricultural soils with a slope of less than 15% and no more than 20% of the area of Prime Agricultural soils on the parcel may be utilized for commercial medical marijuana cultivation activities. Dirty Business Soil Consulting and Analysis prepared an analysis of the entire 7,000 acre ranch and found that there is 1,832,399 (42.1 acres) of prime agricultural soils on 42 different sites. This would allow up to 8.4 acres of cannabis cultivation. The 5.72 acre proposal complies with this requirement. The location of the facilities will be on prime agricultural soils in locations with slopes of less than 15%.
- d) Limitation on Number of Permits (314-55.4.8.10): No more than four commercial cannabis activity permits may be issued to a single person, as defined in the referenced section. According to records maintained by the Department, the applicant has not applied for any other cannabis activity permits and is entitled to four.
- e) Larger Parcels. Pursuant to CMMLUO Section 314-55.4.8.2.1.1, on parcels 320 acres or larger in size, one additional cultivation area permit of up to one acre each

for each one hundred acre increment (e.g. 3 for a 320 acre parcel, 6 for a 600 acre parcel, etc.), up to a maximum of 12 permits, may be issued with a Use Permit. The subject parcel contains over 1,200 acres; therefore, the applicant is eligible for up to 12 acres of cultivation. This application is for 5.73 acres (or 249,598 square feet) of mixed light cannabis cultivation. If approved, the applicant will hold 6 Conditional Use Permits pursuant to CMMLUO Section 314-55.4.8.2.1.1.

- f) Accessory Processing (314-55.4.9.1): Processing onsite associated with a permit for cultivation is allowed as part of the approved permit. Processing is included within the project description and is allowed as part of the permit.
- g) Performance Standards – Water (314-55.4.11c, g, l, m): Estimated annual water usage is 4,628,200 gallons of water for both irrigation and domestic use. Water for irrigation is estimated to be 4,555,200, which equates 780 gallons per day per greenhouse (4.5 gallons/sf/cycle). The applicant will utilize drip irrigation to conserve water and ensure there is minimal to no run-off. The proposed project includes rain catchment systems to capture runoff and will be stored near each greenhouse site in hard-sided water storage tanks. Each greenhouse will have 20,000 gallons of water stored in four (4) 5,000 gallons storage tanks. There will be 320,000 gallons of hard sided storage tanks for rainwater catchment on site. Average annual rainfall is approximately 55 inches. Each processing facility will be larger than 4,000 square feet, therefore, more than 137,060 gallons of water could be captured by each of the five facilities. Based on average annual rainfall and size of the processing facilities, the 320,000 gallons of rain catchment is achievable. The applicant provided well permits and well completion logs. The well completion logs indicate the wells are all drilled over 200 feet deep. The well was drilled through layers of sandstone and shale. The applicant provided a Letter regarding well connectivity from Fisch Drilling dated February 15, 2018. The letter states that the wells are likely drilled into perched bedrock given the soil type and depth of the wells. Therefore, the wells are hydrologically disconnected from surface water and do not require water rights for diversion and use from the State Water Resources Control Board. Conditions of approval require the applicant to meter water use to demonstrate that the well meets the water demand and provide evidence of metering at the time of annual inspection. Should the wells not provide sufficient water for the operation, the applicant is required to modify this permit and propose a different non-divisionary source of water, such as rain catchment and/or reduce the size of the cultivation area to be consistent with water availability. As conditioned, the project therefore conforms to the performance standards for water.
- h) Performance Standards-Setbacks (§314-55.4.11.d): The CMMLUO requires the area of cannabis cultivation and on-site processing to be setback at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, public park, or tribal cultural resources (TCRs). Based on a review of aerial imagery and referral agency comments, the cultivation area conforms to the 600-foot setback for schools, school bus stops, parks, or places of religious worship. The cultural study prepared for the project indicated that there were not any nearby TCRs. The cultivation activities are more than 30 feet from any property line.
- i) Performance Standards-Generator Noise (314-55.4.11.o): The noise produced by a generator used for cannabis cultivation shall not be audible by humans from

neighboring residences. The combined decibel level for all noise sources, including generators, at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species, when generator use is to occur in the vicinity of potential habitat. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service. The project power will be provided by PG&E. Generator noise is not applicable to this application.

**9. FINDING**

The project as proposed complies with the requirements of the Streamside Management Ordinance requirements.

**EVIDENCE**

- a) Based on a review of the Humboldt County WebGIS and the site plans, there are several Streamside Management Areas (SMAs) on the subject parcels, including Cameron Creek and Beatty Creek, that are tributaries to the Eel River.
- b) The project developments are plotted outside of the buffered areas for watercourses as defined by the Streamside Management Areas and Wetlands Ordinance of the County of Humboldt (SMAWO) and the State Cannabis Cultivation Policy.
- c) This project will consist of 5 miles of rocked access roads with multiple stream crossings. Overall, there is one bridge and 20 culverts on the access road. These culverts maybe a mix of stream crossing and ditch relief culverts. The project will also improve crossings on the internal ranch roads. A total of 45 crossings (including two existing bridges) were identified. It was determined that 34 of the 45 crossings were in need of culvert installation, replacement or repair. Conditions of approval require the applicant to submit a Lake or Streambed Alteration Notification to the California Department of Fish and Wildlife (CDFW) for all improvements with their jurisdiction related to the development of the cannabis cultivation project, including, but not limited to, the installation, repair and maintenance of the stream crossings, including bridges, along the access roads and internal ranch roads that connect the cultivation areas. The applicant is required to adhere to and implement the projects and recommendations contained in the Final SAA and provide evidence to the Planning Department that the projects includes in the Final SAA are completed to the satisfaction of CDFW.

**10. FINDING**

The project provides sufficient parking to support the number of employees working on site.

**EVIDENCE**

- a) Off Street Parking for Agricultural use standard is one parking space per employee at peak shift. A minimum of three parking spaces are required
- b) The project will provide 30 parking spaces for the 30 employees.

**11. FINDING**

Legal Lot Requirement (312-1.1.2): The Zoning Ordinance requires that Development permits be issued only for a lot that was created in compliance with all applicable state and local subdivision regulations. The lots in question were legally created.

**EVIDENCE**

- a) The parcels of land known as APNs 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001



consist of multiple patent and other legal parcels which will be merged as a condition of permit approval. There is no evidence indicating there have been any subsequent acts to merge or divide these parcels. Therefore, the subject parcels were lawfully created in its current configuration and can be developed as proposed.

**12. FINDING**

The project as approved with mitigation measures and conditions of approval will not be operated or maintained in a manner that will be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

**EVIDENCE**

- a) The access for the project is located off McCann Road. This County road currently crosses the Eel River using McCann Bridge, a low-water bridge. When the Eel River flow volume increases to 3,500 cubic feet per second (cfs), typically late November through late April, Humboldt County closes the McCann Bridge and vehicle traffic across the bridge is not possible. The County will be replacing the low-water bridge with a year-round bridge sometime in the next decade ([www.mccannbridge.com](http://www.mccannbridge.com)). Alderpoint Road will provide cannabis project access when the low water bridge over the Eel River (McCann access) is not available (typically late November through late April). Alderpoint Road is a major rural collector for Humboldt county with speeds up to 45 mph. This road is paved and has a centerline and meets Category 4 road standards and is therefore appropriate for commercial cannabis traffic. From the intersection of Alderpoint Road, project traffic accesses the project areas through a combination of travel on-property roads and deeded easements. From Alderpoint Road, the length traveled on interior project roads and easements to the nearest Facility (Facility #16) is 8 miles; the length of the interior roads traveled to the furthest Facility (Facility #1) is approximately 12.3 miles.
- b) The applicant has refined the project to include spraying the road in front of residences between the McCann Bridge and the subject site with a dust suppressant to minimize nuisances from dust.
- c) According to the Rolling Meadow Ranch, LLC Access Assessment for Compliance with Humboldt County Code Section 3112-12 - Fire Safe Regulations prepared by Northpoint Consulting Group, Inc., revised October 2020, the Alderpoint Access Road is functionally appropriate for the proposed project (see Appendix C of the draft Initial Study and Mitigated Negative Declaration). Additionally, the private road intersection will be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).

**13. 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 was not included in the housing inventory of Humboldt County's 2019 Housing Element but does have the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be constructed on this parcel.

## FINDINGS FOR APPEAL

### 14. FINDING

The grounds for appeal are not adequate to warrant granting the appeal.

#### EVIDENCE

- a) The appellant states that there is a low threshold for preparation of an EIR, that appellants and others previously presented evidence supporting their comments which satisfy the “fair argument test,” and that an EIR must be prepared where there is a reasonable probability that the project will result in a significant impact.
  - i. An EIR is required if the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment. (CEQA Guidelines § 15064(f)(1)). If a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even if it is presented with other substantial evidence that the project will not have a significant effect. (*Id.*) A fair argument must be based on substantial evidence, such as factual data or expert opinion. The appellant has not provided fact-based evidence or expert opinion that the project may result in a significant adverse impact that would rise to the level of a fair argument.
- b) The appellant states that others presented a fair argument of significant environmental impacts in the areas of Access and Safety, and that project access roads do not satisfy minimum Fire Safe and Emergency Access standards.

Humboldt County Department of Public Works states that the access road is developed to an adequate functional classification, and the access will be required to meet CalFire standards. The road has been studied for functional equivalent to a category 4 road which is the standard allowed when a road does not completely meet CalFire standards.
- c) The appellant states that groundwater withdrawal from the project’s wells has the potential to cause significant impacts to aquatic resources and water quality.
  - i. The IS/MND identifies that these wells are all deep groundwater wells that have screening intervals that strongly indicate that they are not connected to the underflow of any surface water features and this would indicate no direct impacts to aquatic resources. This analysis was performed by staff and is also supported by the opinion of the well driller, Dave Fisch, who has extensive expertise of installing and working with wells in Humboldt County.
- d) The appellant states that biological surveys along the winter-access road should be required and cites CDFW comments on the possible need for a Lake & Streambed Alteration Agreement (LSAA), and improvements to the winter-access road.
  - i. The winter-access road to Alderpoint Road is an existing road. Plant surveys have been completed for all portions of the project site and proposed roads and improvements with the exception of the existing road to Alderpoint Road. A field evaluation conducted by Manhard Consulting in January 2018 concluded that the existing Alderpoint Road is very low use and the a Road Assessment prepared by Northpoint Consulting Group, Inc. dated October 2020 identified only three portions of the road to Alderpoint that would require any improvements in order to meet an adequate functional classification and that the only improvement that would not be

able to occur completely within the existing road prism is the replacement of a bridge in the same footprint. There is no need for additional biological surveys related to the winter-access road.

**15. FINDING**

The project description describes the whole of the project in conformance with the California Environmental Quality Act.

**EVIDENCE**

- a) The appellant states that the project description is unstable, inconsistent, and uncertain, and that it does not describe the whole of the project.
  - i. The project description is complete as contained in the recirculated IS/MND and in the proposed mitigation measures and conditions of approval. The project description has been revised with clarifying information and with conditions of approval in response to input from commenters.
- b) The appellant requests additional conditions of approval to reduce impacts.
  - i. The appellant's assertions present no new issues or information that warrant changes or additions to the list of conditions of approval.

**16. FINDING**

The proposed project will be required to comply with all County regulations and policies, including those related to cannabis and fire risk.

**EVIDENCE**

The appellant states the project is inconsistent with Humboldt County regulations related to cannabis and fire risk

i. Section 55.4.8.2.1.1 of the CMMLUO states, "...On parcels 320 acres or larger in size, in the eligible zoning districts described in 55.4.8.2.1, one additional cultivation area permit of up to one acre each for each one hundred acre increment (e.g. 3 for a 320 acre parcel, 6 for a 600 acre parcel, etc.), up to a maximum of 12 permits, may be issued with a Use Permit, subject to the limitations contained in section 55.4.8.10. No more than 20% of the area of Prime Agricultural soils on the parcel may be utilized for commercial medical marijuana cultivation activities." The subject parcels are located within a 7,110-acre ranch historically used for timber production. The parcels are split-zone Agriculture Exclusive and Timberland Production (AE/TPZ). All proposed cultivation will be occurring on the AE-zoned portion of the parcels as required by the CMMLUO. There is 1,289,668 square feet of prime agricultural soil of which 257,998 square feet is 20%. The cultivation area proposed is 5.73 acres (or 249,598 square feet), which equals 19.3% of the prime agricultural soil area. All cultivation areas will be located on slopes of less than 15%. The project meets the CMMLUO requirements for new cultivation, as well as having been submitted for processing in December 2016 before implementation of CCLUO, and was appropriately processed based applicable County Code criteria.

ii. The project is required to adhere to all CalFire regulations and standards regarding fire safety. County Public Works states that McCann Road is developed to an adequate functional classification for the project.

**17. FINDING**

The project confirms to the General Plan policies related to access roads in areas of fire risk, including the Safety Element and Water Resources Element policies.

**EVIDENCE**

The appellant states that the project does not conform to the General Plan policies related to access roads in areas of fire risk; specifically, Safety Element policies; as well as Water Resource Element policies and diversion of surface water from groundwater wells.

i. A Road Evaluation/Access Assessment prepared by Northpoint Consulting Group, Inc. in October 2020 concluded that the project conforms to County Code Fire Safe Regulations with recommended improvements, which are incorporated into the project. The appellant’s assertion of diversion of surface water from groundwater wells is specious and includes no relevant data to support the contention. Staff’s analysis of the depth and location of the wells relative to surface water features indicates that it is not hydrologically connected to surface water features.

**18. FINDING**

The proposed project has been assessed in compliance with CEQA and will not have significant adverse impacts with imposition of the mitigation measures identified in the Mitigated Negative Declaration. With the mitigation measures and conditions of approval proposed, no further redesign or modification of the project is required.

**EVIDENCE**

The appellant states that an Environmental Impact Report should be prepared and the project redesigned.

i. No new information has been presented that alters staff’s recommendation to adopt the Mitigated Negative Declaration and approve the project.

**NOW, THEREFORE,** be it resolved that the Board of Supervisors hereby:

- 1 Adopts the Findings set forth in this Resolution;
- 2 Adopts the Initial Study and Mitigated Negative Declaration, State Clearinghouse No. 2020070339;
- 3 Denies the Appeal submitted by Fran Greenleaf, John Richards, and Patty Richards;
- 4 Approves the Six Conditional Use Permits for 5.73 acres of mixed light cannabis cultivation and associated infrastructure and support facilities, subject to the conditions of approval contained in Attachment 1 of this Resolution; and
- 5 Adopts the Revised Mitigation, Monitoring, and Reporting Program with substituted Mitigation Measure BIO-16 as discussed in the findings above.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on March 9, 2021, by the following vote:

Adopted on motion by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_  
**and the following vote:**

**AYES: Supervisors:**

NOES: Supervisors:

ABSENT: Supervisors:

Humboldt County Board of Supervisors \_\_\_\_\_, Chair

STATE OF CALIFORNIA)) SS. County of Humboldt

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

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

KATHY HAYES Clerk of the Board of Supervisors of the County of Humboldt, State of California  
By: KATHY HAYES

Date: \_\_\_\_\_, 2021

By \_\_\_\_\_ Deputy

## ATTACHMENT 1

### RECOMMENDED CONDITIONS OF APPROVAL

#### Approval of the Conditional Use Permit is conditioned on the following terms and requirements

1. The applicant shall submit a check to the Planning Division payable to the Humboldt County Clerk/Recorder in the amount of \$2,530.25 Pursuant to Section 711.4 of the Fish and Game Code, the amount includes the CDFW fee plus the \$50 document handling fee to the Clerk. This fee is effective as of January 1, 2021. Alternatively, the applicant may contact CDFW by phone at (916) 651-0603 or through the CDFW website at [www.wildlife.ca.gov](http://www.wildlife.ca.gov) for a determination stating the project will have no effect on fish and wildlife. If CDFW concurs, a form will be provided exempting the project from the \$2,480.25 fee payment requirement. In this instance, only a copy of the CDFW form and the \$50.00 handling fee is required. The applicant shall secure permits for all structures (including, but not limited to: greenhouses, proposed processing facility, office and accessory structures) and grading (including road improvements, graded flats and ponds) related to the historic and proposed cannabis cultivation and other commercial cannabis activity. The plans submitted for building permit approval shall be consistent with the project description and approved project site plan. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition. Existing structures used in the cannabis operation shall not be used/occupied until all required permits have been obtained.
2. For the life of the project, the applicant shall adhere to the Mitigation and Monitoring Program adopted for the project. Annual monitoring reports shall be made available to the Planning Department at the time of the annual inspection.
3. The applicant shall secure permits for all proposed structures (including greenhouses and processing facilities) and grading related to the cannabis cultivation and other commercial cannabis activity. The plans submitted for building permit approval shall be consistent with the project description and approved project site plan. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
4. Rainwater collection systems shall be installed at each greenhouse to capture and store rainwater. A minimum of 50% of the stored water shall be reserved for fire suppression purposes. The applicants shall install meters at all storage tanks and make the logs available to county staff upon inspection.
5. The applicant shall obtain an encroachment permit from the Department of Public Works to pave a minimum width of 20 feet and a length of 50 feet where the County-maintained portions of McCann Road and Alderpoint Roads meet the privately-maintained portion the project access roads and complete the required improvements. A letter or similar communication from the Department of Public Works stating this work is completed to DPW's satisfaction will complete this condition.
6. Within 1 year from the effective date, the Applicant shall take steps to form a Road Maintenance Association for the maintenance of the privately maintained portions of the access roads (from the intersections of McCann Road and Alderpoint Road) to the Rolling Meadow Ranch. The necessary steps include sending notices to all road users of the requirement to form a Road Maintenance Association and conducting a meeting with the users of the road, especially those engaged in commercial cannabis activities to discuss formation of the Road Maintenance Association. The applicant shall provide evidence, including notice, meeting minutes, and the decision as to whether a Road Maintenance Association is being formed to show this effort. In the event the applicant is unable to coordinate

formation a Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road.

7. Prior to commencing operations, the applicant shall install an automatic security gate at the Alderpoint Road (outside of the County Right-of-Way). The applicant shall provide proof (e.g. photographs) that the gate is installed. A sign-off from the Planning Department will satisfy this condition.
8. The applicant shall complete all recommended improvements to the Main Access Road and the Winter Access Road as specified in the Access Assessment by Northpoint Consulting Group dated "Revised" October 2020.
9. The applicant shall secure permits and install an on-site sewage disposal systems and restroom facilities prior to processing on-site. Portable toilet and handwashing facilities may not be utilized during the construction of these improvements. The applicant shall furnish receipts or other documentation to the DEH for the continual use of portable toilets for employees until a permanent septic system is installed to their satisfaction. A letter or similar communication from DEH verifying that all their requirements have been met will satisfy this condition.
10. Applicant shall secure permits from the North Coast Unified Air Quality Management District, as applicable. A letter or similar communication from the North Coast Air Quality Management District verifying that all their requirements have been met and/or no additional permitting is required will satisfy this condition.
11. The applicant to submit copies of all documents filed with the State Water Resources Control Board, including, but not limited to, a Notice of Availability. The applicant is required to adhere to and implement the requirements contained in the SWRCB's Cannabis Cultivation Policy, the General Order, the Site Management Plan and the Notice of Applicability. A copy of the reporting form portion of the Mitigation and Reporting Program (MRP) shall be submitted annually to the Planning and Building Department concurrent with the submittal to the SWRCB.
12. The applicant shall comply with the provisions of Section 321-14 of the Humboldt County Code concerning reapportionment or payment of special assessments.
13. The applicant shall submit a completed Notice of Merger and Certificate of Subdivision Compliance document along with legal review fees, notary fees and recording fees, as applicable.
14. The applicant shall provide documentation from the County of Humboldt Tax Collector that all property taxes for the parcels involved in the Merger have been paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the Notice of Merger to satisfy this condition.

Note: The purpose of this condition is to avoid possible title consequences in the event of a tax default and sale affecting the owner's real property interest. If property has delinquent taxes, the property cannot be combined for tax purposes. This means that the owner will receive two or more tax bills, and penalties and interest will continue to accrue against the land which has delinquent taxes. If five or more years have elapsed since the taxes on the subject property were declared in default, such property will be sold by the County Tax Collector for non-payment of delinquent taxes unless the amount required to redeem the property is paid before sale. Property combined by merger but "divided" by tax sale will require separate demonstration of subdivision compliance of all resultant parcels prior to the County's issuance of a building permit or other grant of authority to develop the subject properties.

15. The applicant shall obtain a 401 General Construction Permit (or other similar permit as applicable) from the North Coast Regional Water Quality Control Board for development activities as related to the cannabis cultivation sites and stream crossing and bridge improvements required for the project. The applicant shall adhere to and implement the recommendations and monitoring required by the permit. The applicant shall submit a copy of the permit and monitoring reports to the Planning Department to satisfy this condition.
16. The applicant shall submit a Lake or Streambed Alteration Notification to the California Department of Fish and Wildlife (CDFW) for all development within the CDFW jurisdiction as related to the cannabis cultivation project. This includes, but is not limited to installation, maintenance and repair of stream crossings, including bridges, along the access roads and internal ranch roads connecting the cultivation areas. The applicant shall submit a copy of the Final Streambed Alteration Agreement issued by CDFW. Reporting requirements shall be submitted to the Planning Department and the California Department of Fish and Wildlife at 619 Second Street, Eureka, CA 95501, no later than December 31 of each year.
17. The applicant shall adhere to the Final Streambed Alteration Agreement issued by the California Department of Fish and Wildlife (CDFW) and comply with all applicable terms.
18. The applicant shall submit a Post-Project Reclamation Plan that describes how the subject parcel will be restored to pre-project conditions when operations cease. In addition to describing the restoration efforts required, the plan shall include a timeline for restoration and include a monitoring and reporting program. The plan will be submitted to the Planning Department for review in consultation with CDFW. A sign-off from Planning once the plan is approved will satisfy this condition.
19. The applicant shall record a development plan or similar document approved by the Planning Department that the electric service developed for the project is only to be used for the cannabis cultivation areas and associated structures that support the cultivation operation. The development of the electric service is not intended to be growth inducing and/or new facilitate residential development.
20. The applicant shall submit an Invasive Species Plan that describes how the project will limit the introduction or spread of invasive plant and animal species and prohibit planting, seeding or otherwise introducing terrestrial or aquatic invasive species on Project parcels, including all access roads. The plan shall include details of how invasive plant or animal species will be controlled if found on the subject parcel. The plan shall include a monitoring and reporting plan that provides updates each year during the annual inspection. The plan will be submitted to the Planning Department for review in consultation with CDFW. A sign-off from Planning once the plan is approved will satisfy this condition.
21. The applicant shall contact CAL FIRE prior to commencing any tree removal activities on the subject parcel to determine if additional permits are required. If additional permits are required, the applicant shall adhere to and implement any requirements. To satisfy this condition, the applicant shall submit copies of any permits obtained from CAL FIRE for tree removal or provide a letter or similar communication from CAL FIRE that additional permits are not required.
22. 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 Division.
23. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding any 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.

24. The Applicant shall install and utilize a water meter to demonstrate that there is sufficient water supply to meet the demands of the project. The water use for cultivation is limited to the use of the well and amount of water available in storage tanks and shall be provided annually prior to or during the annual inspection.
25. The applicant shall execute and file with the Planning Division 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.
26. The applicant shall construct noise containment structures for all generators used on the parcel. The applicant shall obtain all required building permits for such structures. The applicant shall maintain generator, fan, and dehumidifier noise at or below 50 decibels at the edge of the clearing or 100 feet, whichever distance is closer. This will satisfy the auditory disturbance guidance prepared by the U.S. Fish and Wildlife (USFS), California Fish and Wildlife (CDFW) and Department Policy Statement No. 16-005 to minimize impacts to the Northern Spotted Owl and Marbled murrelet. All generators must be located on stable surfaces with a minimum 200-foot buffer from Class I and Class II streams, per the requirements of CDFW. No generator use is authorized by this permit until the applicant can demonstrate to compliance with this standard.
27. The applicant shall not use any erosion control measures that contain synthetic (e.g. plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting, on a regular and on-going basis. 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 weaves.
28. All refuse shall be contained in wildlife proof containers, at all times, and relocated to an authorized waste management facility, in compliance with State and local laws, on a regular and on-going basis.
29. All mixed light cultivation shall comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare (BUG). International Dark Sky Association standards exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries. Within 30 days of the effective date of this permit, the applicant shall schedule a site inspection with the Humboldt County Planning Department to demonstrate the structures and greenhouses can be comply with this standard.
30. 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 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.
31. Prior to issuance of any permits, the applicant shall submit a revised site plan consistent with the project approval for 5.73 acres of cannabis cultivation. The cultivation area is calculated around the outside perimeter of the greenhouses.

32. The permit holder is responsible to place sufficient water storage at each structure to provide firefighting water. The amount of storage needed shall be approved by the Planning Director in consultation with either Cal Fire or the Alderpoint Fire district.
33. Upon cessation of the cannabis cultivation activities, all infrastructure installed to support these activities shall be removed and the areas where infrastructure was installed shall be recontoured to reflect natural grade and the site shall be revegetated with native grasses. Prior to conducting any work to restore the site, the applicant shall submit a restoration plan for review and approval by the Planning and Building Department. The restoration plan shall be implemented as approved.
34. The use of rodenticides and other harmful substances intended to control rodents is prohibited as part of the cultivation activities.
35. All use of heavy-equipment shall be limited to the hours of 8am to 7pm, Monday through Friday.
36. Prior to operation of the site, the applicant shall submit a transportation management plan detailing how employees will park at the park and ride lot on Hwy 101 and be picked up by a project bus.
37. The applicant will monitor the condition of the dirt portion of McCann Road in front of residences and shall treat the road surface with Lignin Oil or similar product to control dust. Significant and constant dust generation by the project will be considered a violation of this condition.
38. Prior to operation of the site, the project will purchase a Tanker Truck to have on hand in case of fire.

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

1. All components of 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. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan.
2. 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.
3. 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 & Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort towards compliance can be shown within the two years following the issuance of the provisional clearance or permit, The Planning Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow for additional time to meet the outstanding requirements.
4. Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.
5. Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of

surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.

6. 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).
7. Maintain enrollment in Tier 1, 2 or 3, certification with the 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.
8. Comply with the terms of any applicable Streambed Alteration (1600) Permit obtained from the Department of Fish & Wildlife.
9. 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.
10. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
11. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide. Rodenticides shall not be utilized.
12. Pay all applicable application and annual inspection fees.
13. The noise produced by a generator used on an emergency-only basis for cannabis drying, curing, and processing shall not be audible by humans from neighboring residences. The decibel level for generators measured at the property line shall be no more than 60 decibels.
14. Storage of Fuel - Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's CUPA program, and in such a way that no spillage occurs.
15. The Master Log Books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
16. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).
17. The operation shall participate in the Medical Cannabis Track and Trace Program administered by the Humboldt County Agricultural Commissioner, when available.

#### Performance Standards for Cultivation and Processing Operations

18. Pursuant to the MCRSA, 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.”

19. 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, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
20. Cultivators engaged in processing shall comply with the following Processing Practices:
  - i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
  - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
  - iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
  - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
21. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
  - I. 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:
    - (i) Emergency action response planning as necessary;
    - (ii) Employee accident reporting and investigation policies;
    - (iii) Fire prevention;
    - (iv) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
    - (v) Materials handling policies;
    - (vi) Job hazard analyses; and
    - (vii) Personal protective equipment policies, including respiratory protection.
  - II. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
    - (i) Operation manager contacts;
    - (ii) Emergency responder contacts;
    - (iii) Poison control contacts.
  - III. 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.
  - IV. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
22. 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.
- i. On-site housing, if any.

23. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation SP 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.
24. 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 SP or permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, 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 reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of non-compliance 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.
25. Permit Renewals to comply with Updated Laws and Regulations. Permit renewal per Ongoing Condition of Approval #23 above 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.
26. 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.
27. Permittee further acknowledges and declares that:
- i. All commercial cannabis activity that I, my agents, or employees conduct pursuant to a permit from the County of Humboldt shall be solely for medical purposes and all commercial cannabis products produced by me, my agents, or employees are intended to be consumed solely by qualified patients entitled to the protections of the Compassionate Use Act of 1996 (codified at Health and Safety Code section 11362.5); and
  - ii. All cannabis or cannabis products under my control, or the control of my agents or employees, and cultivated or manufactured pursuant to local Ordinance and the California Medical Marijuana Regulation and Safety Act will be distributed within the State of California; and
  - iii. All commercial cannabis activity conducted by me, or my agents or employees pursuant to a permit from the County of Humboldt will be conducted in compliance with the California Medical Marijuana Regulation and Safety Act.
28. 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; and
  - d. Acknowledgement of full responsibility for complying with the existing Permit; and
  - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
29. 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.
30. Eel River Ferry. The permit holder acknowledges that year-round vehicular access from McCann road across the Eel River is not possible due to the low-level bridge.
31. Eel River Ferry. The ferry at McCann Road across the Eel River will not transport cargo associated with the CUP. The permit holder shall make other arrangements for transportation when the ferry is in operation.

**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 of 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 of 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 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 #1 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 #23 of the On-Going Requirements /Development Restrictions, above.
3. 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 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.
4. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions 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 Department will send a bill to the Applicant for all staff costs incurred for review of the project for conformance with the conditions of

approval. All Planning fees for this service shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

5. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines.
6. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions prior to release of building permit or initiation of use and at time of annual inspection. In order to demonstrate that all conditions have been satisfied, applicant is required to pay the 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) 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.
7. 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.

**ATTACHMENT 1A**

**HUMBOLDT COUNTY PLANNING & BUILDING DEPARTMENT  
MITIGATION MONITORING & REPORT PROGRAM**

**For the Rolling Meadow Ranch, LLC, Conditional Use Permits**

APNs 217-022-004, 217-181-028, 217-201-001, 211-281-006, 217-181-017; Record Number: PLN-12520-CUP; Apps No. 12529.

**Record Number:** PLN-12529-CUP

**Assessor Parcel Numbers:** 217-022-004, 217-181-028, 217-201-001, 211-281-006, 217-181-017

Mitigation measures were incorporated into conditions of project approval for the above referenced project. The following is a list of these measures and a verification form that the conditions have been met. For conditions that require on-going monitoring, attach the Monitoring Form for Continuing Requirements for subsequent verifications.

**Mitigation Measures and Applicant Proposed Operating Restrictions:**

**Aesthetics**

**Mitigation Measure – Aesthetics I:** Retaining walls proposed for Facilities 1 and 2 shall include an architectural treatment, such as in-wall plantings or an equivalent treatment, to soften the visual impact of the walls.

<b>Implementation Time Frame</b>	<b>Monitoring Frequency</b>	<b>Date Verified</b>	<b>To Be Verified By</b>	<b>Compliance Yes   No</b>	<b>Comments / Action Taken</b>
During construction activity and project operations.	Continuous		HCP&BD**		

**Agriculture and Forestry Resources**

**Mitigation Measure – Agriculture and Forest Resources I:** Revegetation and Monitoring adapted from the 2019 State Water Board Order WQ 2019-0001-DWQ; Attachment A, Section 2, number 33-35. This is a Proposed Native Trees – Replanting and Monitoring Plan; the final Replanting Plan will be approved by Humboldt County Planning and Building Department (HCP&BD) prior to implementation.

**NATIVE TREES - Replanting and Monitoring Plan:**

1. The cultivator will plant three native trees for every one native tree damaged or removed.
  - a. The project will plant up to 72 trees.
    - i. The trees removed from meadows and other non-riparian locations will be replanted on the ranch in a similar environment to that from which they were removed:

(6) California Bay trees (*Umbellularia californica*)

(6) Big Leaf Maple Trees (*Acer macrophyllum*)

(3) Madrone (*Arbutus menziesii*)



- (9) White Oak (*Quercus alba*)
- (18) Doug fir (*Pseudotsuga menziesii*),

ii. The trees that are removed as a result of stream crossing improvements will be replanted along the same riparian corridor from which they were removed, but not within or immediately adjacent to the roadbed:

- (9) Doug fir (*Pseudotsuga menziesii*)
- (3) White Oak (*Quercus alba*)
- (3) Red Alder (*Alnus rubra*)
- (3) Madrone (*Arbutus menziesii*)
- (3) Big Leafed Maple (*Acer macrophyllum*)
- (9) Bay Laurel (*Laurus nobilis*).

- b. Trees will be planted in groves in order to maximize wildlife benefits and will be derived from local stock.
  - c. Trees will be planted 10-foot on center.
2. Growth and success of planted saplings will be monitored by a qualified professional for two (2) years.
- d. After two (2) years, an 85% survival rate is required.
  - e. If success rate is less than 85%, the planting and monitoring steps will be repeated.
3. The project proponent shall maintain a copy of the **Native Trees Replanting and Monitoring Plan** and monitoring results onsite; HCP&BD will confirm implementation and monitoring results will be submitted annually (by December 31) to HCP&BD and made available, upon request, to additional Responsible Agencies under CEQA.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance Yes   No	Comments / Action Taken
During construction activity and project operations.	Continuous		HCP&BD**		

**Biological Resources**

**Mitigation Measure- Biology -1:** A full early season botanical survey has not been completed on Facilities #6-#9. Prior to construction an early season survey will be completed. If any sensitive species are found that portion of the project will not be constructed. A survey was done on April 9<sup>th</sup>, 2019 but it was too early for some special status species. Results of the survey will be Submitted to Humboldt County prior to construction of Facilities #6-#9.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance Yes   No	Comments / Action Taken
Prior to construction	Once		HCP&BD* *		

**MM-Bio-2:** To avoid the potential for significant impacts to *Pacific Gilia (Gilia capitata ssp. Pacifica)* populations, improvements to- and maintenance of the road shall occur after August 15<sup>th</sup> and before October 15<sup>th</sup>, in areas where Pacific gilia is impacted (Table 6b&c, Figure 29 & 31). Seed for erosion control mix will not be used in these areas and instead weed-free straw will be laid. Straw will be removed by May of the following year. In addition, these areas will also be assessed by a qualified botanist for a period of five (5) years, following project implementation. These findings will be incorporated into a larger monitoring report of all proposed activities (facilities developments, etc.), which will be submitted to CDFW annually. Monitoring results will be used in an adaptive management process aimed at maintaining the Pacific gilia population.

<b>Implementation Time Frame</b>	<b>Monitoring Frequency</b>	<b>Date Verified</b>	<b>To Be Verified By</b>	<b>Compliance Yes   No</b>	<b>Comments / Action Taken</b>
Prior to construction and annually	Continuous		HCP&BD**		

**MM-Bio-3:** To avoid the potential for significant impacts to *Pacific Gilia (Gilia capitata ssp. Pacifica)* all extraction of rock from the rock quarry (Map ID #4, Figures 27 and 30) shall occur after August 15<sup>th</sup> and before October 15<sup>th</sup> and occur no more frequently than every two (2) years (i.e. allowing two years between extraction events). Additionally, monitoring will occur every two (2) years following any rock extraction, within a period of ten (10) years following project implementation. Monitoring shall entail annual inventory and mapping of the extent of the Pacific gilia population on roads accessing project areas and within the rock quarry area. A monitoring report shall be submitted to CDFW annually within the above described monitoring period. Monitoring results shall be used in an adaptive management process aimed at maintaining the Pacific gilia population. For instance, if it appears that rock extraction is negatively impacting the population, a different plan shall be developed and implemented.

<b>Implementation Time Frame</b>	<b>Monitoring Frequency</b>	<b>Date Verified</b>	<b>To Be Verified By</b>	<b>Compliance Yes   No</b>	<b>Comments / Action Taken</b>
Prior to issuance of the building permit, during construction activity, and during project operations.	Annually		HCP&BD* * and CDFW*		

**MM-Bio-4:** The densest portion of *Tracy's tarplant (Hemizonia congesta ssp. Tracyi)* population, the patch largely outside the project footprint (Map Point 8, Figure 30, Table 6b), will be protected during construction by the placement of construction fencing at the periphery of the population, to keep equipment operators out of the area. A qualified Botanist will oversee the construction of the fencing. The Botanist will prepare A report that will be submitted to the Humboldt County Planning Department which will include photos of the fence.

<b>Implementation Time Frame</b>	<b>Monitoring Frequency</b>	<b>Date Verified</b>	<b>To Be Verified By</b>	<b>Compliance Yes   No</b>	<b>Comments / Action Taken</b>
Prior to construction activity, fence will be installed.	Once		HCP&BD**		

**MM-Bio-5:** The mitigation measure will guide the successful enhancement and restoration of a total of approximately 0.97 acres (42,446 square feet) of *Danthonia californica* prairie and approximately 0.89 acres (38,925 square feet) of *Elymus glaucus* prairie.

Many parts of the project parcel (ranch) have grasslands that have been severely degraded by historic grazing and are currently dominated by nonnative grasses and forbs. However, in some areas, large stands of native grassland (including *Danthonia californica* prairie and *Elymus glaucus* prairie) persist. These stands vary in the degree to which they are currently invaded by nonnative species. Several of these stands will be mapped and evaluated as part of the mitigation site selection process. Stands will be categorized as:

- High quality: ~0-30% non-native,
- Moderately invaded: ~31-60% non-native, and
- Heavily invaded: ~61-90% non-native.

These categories will be assigned using stand data collected according to the California Native Plant Society revegetation protocol (CNPS 2000). Mitigation sites will be created within stands that are moderately to heavily invaded and have the potential to be restored to a category of “high quality” by a combination of weeding and planting.

Fifty percent (50%) of the mitigation area will be within “moderately invaded” stands, and fifty percent (50%) will be within “heavily invaded” stands. Implementing mitigation via the restoration of existing stands is a better guarantee for success than planting into areas currently unoccupied by the target species, as these sites are more likely to have suitable environmental conditions for high quality prairie development. Once the mitigation areas have been identified, they will be mapped and visually demarcated in the field. The baseline stand conditions over the mitigation areas will be documented and mapped.

Mitigation areas will then be planted with ‘plug’ size *Danthonia californica* and *Elymus glaucus* plants, grown from seed collected on site (on the ranch). Plugs will be planted on 2-ft centers or as needed. After planting, the sites may also be seeded with additional *Danthonia California* and *Elymus glaucus* seed collected on site or purchased.

Across the mitigation sites, invasive plants (and non-native plant species that threaten to prevent the project from meeting the Success Criteria) shall be intensively managed. Management emphasis will be placed on any invasive species with a Cal-IPC rank of High or Moderate, and on any non-native plants threatening the successful establishment of any native plantings or natural recruits, herein referred to as weedy species (Cal-IPC 2018). Non-native species without a Cal-IPC rating and that do not threaten the establishment of native plantings or recruits will not be a management priority. Species meeting the criteria for removal are herein

referred to as target species. At this site, target species are expected to include yellow star thistle and weedy perennial grasses.

Each year for the five years following planting in the month of April, an individual qualified to identify target species (as described above) will visit the site, and all occurrences of target species within the prairie mitigation site shall be recorded and mapped. All mapped species will be targeted for mechanical removal during a maintenance visit, which will occur within one month. If feasible, the mapping and maintenance can happen in the same visit. Any mechanically removed invasive plant parts shall be properly disposed of to reduce the chance of spread. This may include hauling off-site. If invasive plants are shipped off site for disposal they shall be transported in closed or covered containers and delivered to a suitable destination such as a waste disposal facility.

### **Success Criteria**

The Project will be considered successful if by Monitoring Year 5:

4. A total of approximately 0.97 acres (42,446 square feet) *Danthonia californica* prairie and approximately 0.89 acres (38,925 square feet) of *Elymus glaucus* prairie have been established, which meet the ‘high quality’ category defined below and the membership rules of these vegetation alliance types as described by the Manual of California Vegetation (MCV) (MCV 2020).
  - a. ‘High quality’ stands will be defined as being between 0% and 30% invaded by non-native plants with a Cal-IPC rank.
  - b. For the *Danthonia californica* Herbaceous Alliance (California oat grass prairie) the membership rules include:
    - *Danthonia californica* > 50% relative cover in the herbaceous canopy.
    - *Danthonia californica* generally > 25% absolute cover in the herbaceous layer.
  - c. For the *Bromus carinatus* - *Elymus glaucus* Herbaceous Alliance (California brome - blue wildrye prairie), membership rules include:
    - *Elymus glaucus* > 30% relative cover in the herbaceous layer.
    - *Bromus carinatus*, *Elymus glaucus*, or *Pteridium aquilinum* > 30% relative cover in the herbaceous layer.
5. Total absolute cover (Section 6.1) by invasive species with a Cal-IPC rank of “High” shall be less than 10% at the site.

### **Monitoring**

Annual Monitoring and Maintenance site visits shall occur every year beginning in the first growing season after construction for at least five (5) years or until Success Criteria are met (see Adaptive Management Section 10). Monitoring visits shall be conducted within the same three-week period in end of April-beginning of May each monitoring year to maintain seasonal consistency between surveys, and to allow time for needed maintenance or replacement plantings to be arranged for. Qualified botanists or restoration specialists shall perform annual monitoring.

### **Reporting**

The results of the annual monitoring will be used to create an Annual Monitoring report which tracks progress toward meeting Success Criteria and recommends adaptive management and contingency plans for any problems, issues, additional maintenance needs etc. An Annual Monitoring Report will be submitted to Humboldt County and CDFW by December 31 of each monitoring year.

Appendix L of the ISMND Contains additional detail for the restoration plan and is incorporated here by refence.

<b>Implementation Time Frame</b>	<b>Monitoring Frequency</b>	<b>Date Verified</b>	<b>To Be Verified By</b>	<b>Compliance Yes   No</b>	<b>Comments / Action Taken</b>
Prior to construction and annually until success criteria is met	Continuous		HCP&BD** & CDFW		

**MM-Bio-6:** Mitigate for direct impacts to 0.255 acres of *seasonal wetland* and 0.277 acres of *seasonal wetland within 100 feet of Facilities*. A total of 0.48 acres of wetland will be mitigated for

**Goals and Objectives**

The MMP shall be created to address requirements for wetland impact mitigation required by the USACE and California State Water Resources Control Board permits needed to complete the Project as designed. The goal is to create new, 3-parameter wetland at a ratio of 3:1. Equally, mitigation may entail quality and function enhancement of existing wetlands at similar ratios. The mitigation goals of this project are as follows:

1. Create 1.4 acres of 3-parameter seasonal wetland;
2. Mitigate project impacts to potential jurisdictional Waters of the US, resulting in no net loss of wetland habitat or hydrologic function within the watershed;

**Success Criteria**

The following performance criteria will be used to evaluate project success.

The Project will be considered successful if by Monitoring Year 5:

6. 1.4 acres of 3-parameter wetland have been established in the Mitigation Area, as defined by USACE methodology.
7. 85% of container plantings or an equivalent number of appropriate native recruits have survived, or planted areas have achieved greater than or equal to 85% total absolute vegetative cover.
8. Total absolute cover by invasive species with a Cal-IPC rank of “High” shall be less than 10% at the site.
9. Site hydrology is favorable for the development of wetland soils.

**Monitoring**

*Overview*

Annual Monitoring and Maintenance site visits shall occur every year beginning in the first growing season after construction for at least five (5) years or until Success Criteria are met. Maintenance Visits shall occur in April and Monitoring visits shall be conducted within the same three-week period in August each monitoring year to maintain seasonal consistency between surveys, and to allow time for needed maintenance or replacement plantings to be arranged for. The 3-parameter wetland delineations required in years 3-5 should occur in early April, and the Hydrology Check site visits should occur sometime between December and March. Qualified botanists or restoration specialists shall perform annual monitoring.

*Methods*

All Monitoring Years

*1. Monitor survival of all container plantings:*

All planted stock will be inspected during the monitoring visit, and the following data recorded:

- Plant Species;
- Plant Survival: Dead or Alive;
- Any native recruits established in the Area will be counted.

2. *Monitor absolute vegetative cover in the Mitigation Area;*

- Randomly selected 1-square meter plots will be established within the Wetland Basin portion of the Mitigation Area. Within each plot, total absolute vegetative cover and absolute cover for each species present (including plantings and natural /seeded recruits) will be ocularly estimated;
- The Mitigation Area will be visually assessed for areas of low survivorship, in case these areas are missed in plot monitoring. Any such areas will be mapped and described.

3. *Monitor and report Cal-IPC rank High species and other weedy species.*

- All occurrences of Cal-IPC rank High invasive species shall be recorded and mapped within the Mitigation Area. The results will be used to develop a concise maintenance plan, if needed. Any other non-native, weedy species that are impacting plantings or the character of the site shall also be addressed.

4. *Report pertinent site conditions:*

- Any pertinent ecological conditions (outside of those outlined specifically in the Success Criteria) shall be recorded for reporting in the Annual Monitoring report. Adaptive management shall be utilized to determine a corrective course of action for any conditions that may impact project success, create water quality issues or otherwise negatively impact the site. Examples of such conditions include animal impacts, illegal dumping or camping, flood events, or wildfire. These observations will enhance the representation of site conditions in the Monitoring Reports.

5. *Establishment of photo points around the project area:*

- Initial photos shall be taken before restoration implementation, then once annually following restoration for each monitoring year. Photo point locations shall be permanently established and described, mapped, and images included in Annual Monitoring Reports. Photo point protocols shall conform to methods of the USDA Photo Point Monitoring Handbook (Hall, 2002).

Monitoring Years 3-5 Only:

3. *Establish three (3) Wetland Survey Plots;*

- Three plots will be subjectively selected within the Wetland Basin portion of the Mitigation Area. At each plot, a USACE methodology 3-Parameter survey will be conducted.
- A winter Hydrology Check should be conducted to survey and document hydrology of the site

Monitoring Year 5 Only:

- A full USACE 3-paramter method wetland delineation will be performed within the Mitigation Area.

**Reporting**

Appropriate statistical methods will be utilized to determine survivorship of plantings and the contribution of natural recruits/seeded species to survival each monitoring year. Change in total cover of native trees, shrubs and herbaceous species over time will be analyzed. This data will be useful in characterizing vegetation development over the site.

Each monitoring year an Annual Report (and at the end of year 5 a final report) detailing information collected during the monitoring will be submitted to CDFW and Humboldt County Planning Department.

<b>Implementation Time Frame</b>	<b>Monitoring Frequency</b>	<b>Date Verified</b>	<b>To Be Verified By</b>	<b>Compliance Yes   No</b>	<b>Comments / Action Taken</b>
Prior to issuance of the building permit, during construction activity, and during project operations.	Annually		HCP&BD** and CDFW*		

**MM – Bio-7:** Protocol level surveys (Spot Checks) need to be conducted for the fourth year (2021) for *Northern Spotted Owl*. As per protocol if nesting NSOs are found within 0.25 miles of a project area, no construction will take place in the 0.25-mile buffer around the nest until after August 31. Survey results will be submitted to Humboldt County Planning Department.

<b>Implementation Time Frame</b>	<b>Monitoring Frequency</b>	<b>Date Verified</b>	<b>To Be Verified By</b>	<b>Compliance Yes   No</b>	<b>Comments / Action Taken</b>
Prior to construction	Once		HCP&BD**		

**MM – Bio-8:** If construction takes place during the breeding season for *Coopers hawk, Sharp-shinned hawk, American peregrine falcon, and osprey* pre-construction surveys for these species will take in the forested habitat in the 1000-foot buffer around each project location. If a nest is found, CDFW will be contacted and the agency will determine the appropriate no work buffer to remain around the nest until it has fledged. This is standard practice and often CDFW considers specific local factors when making buffer size decisions. In the past when working with CDFW on road construction projects a buffer of 500 feet has been placed on active raptor nests. Survey results shall be submitted to Humboldt County Planning Department. If work takes place outside of the breeding season, no surveys are necessary.

<b>Implementation Time Frame</b>	<b>Monitoring Frequency</b>	<b>Date Verified</b>	<b>To Be Verified By</b>	<b>Compliance Yes   No</b>	<b>Comments / Action Taken</b>
Prior to construction	Once		HCP&BD**		

**MM – Bio-9:** If construction takes place during the denning season, then preconstruction surveys for *Fisher* den sites and structures will be completed in the more densely forested areas that occur within 1000 feet of facilities #6-#9 to determine presence or absence of denning potential for this species. Should evidence of denning be found, no work will take place at the facilities #6-#9 location until after the denning season has ended. Survey results shall be submitted to Humboldt County Planning Department. If work takes place at Facilities #6-#9 outside of the denning season, no surveys are necessary.

<b>Implementation Time Frame</b>	<b>Monitoring Frequency</b>	<b>Date Verified</b>	<b>To Be Verified By</b>	<b>Compliance Yes   No</b>	<b>Comments / Action Taken</b>

Prior to construction	Once		HCP&BD**		
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**MM – Bio-10:** If construction takes place during the nesting season for *grasshopper sparrow* and *Bryant’s savannah sparrow* than 3 consecutive preconstruction surveys for these species will take place the within the grassland portions of all project footprints as well as a 500-foot buffer around the footprint. Survey will be completed no more than seven days before the start of construction in that area. If a nest is found, a ‘no work’ buffer will be flagged around the nest. The buffer will be maintained until the nest has fledged. This is standard practice and often CDFW considers specific local factors when making buffer size decisions. In the past when working with CDFW on road construction projects buffers ranging from 100 to 200 feet has been placed on active ground nesters nests. Survey results shall be submitted to Humboldt County Planning Department. If work takes place outside of the breeding season no surveys are necessary.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance Yes   No	Comments / Action Taken
Prior to construction	Once		HCP&BD* *		

**MM – Bio-11:** Although pre-project surveys showed the barn is not being used as anything other than a temporary night roost, Removal of the barn could have an effect on *Townsend’s big-eared bats* if they start using it for anything other than a temporary night roost. Preconstruction surveys of the barn should occur during breeding season to ensure no bats are using this structure for anything other than a temporary night roost. Survey results shall be submitted to Humboldt County Planning Department.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance Yes   No	Comments / Action Taken
Prior to construction	Once		HCP&BD* *		

**MM – Bio-12:** If construction of the infrastructure at facilities #1, and #2, takes place during the nesting season, preconstruction surveys *western pond turtle* nests will be conducted. If nests are found, they will be buffered and undisturbed until turtles have hatched and left the nest. As is standard practice CDFW will be consulted to help with buffer sizing. Often CDFW considers specific local factors when making buffer size decisions. Survey results shall be submitted to Humboldt County Planning Department. If work takes place outside of the breeding season no surveys are necessary.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance Yes   No	Comments / Action Taken
Prior to construction	Once		HCP&BD**		



**MM – Bio-13:** To mitigate for potential impacts to *migratory birds and black-tailed jackrabbit* three consecutive preconstruction surveys for these species should take place no more the one week prior to the start of construction at EACH location of vegetation removal or ground disturbance. The footprint of the disturbance area and a 300-foot buffer will be surveyed. Should any nests be found CDFW will be consulted for appropriate actions going forward, such as buffers or the delaying of work until nestlings have fledged. Survey results shall be submitted to Humboldt County Planning Department. Alternatively, no ground disturbing events should occur until August, when these species will have completed breeding for the season.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance		Comments / Action Taken
				Yes	No	
Prior to construction	Once		HCP&BD**			

**MM-Bio-14:** To mitigate for potential impacts to *western bumble bee*. The project will first determine presence/absence. This can be achieved with three (3) nest seeking queen surveys or three (3) flight season surveys

- Nest-seeking queen surveys will target suspected preferred nesting areas (linear features with emphasis on forest transition zones). These surveys will be evenly spaced (approx. every two weeks) over the span of two months (Feb/March or March/April) depending on the expected emergence of the bee at the project area (weather dependent – queens are active after top layer of soil is consistently warm). The surveys will take place during warm sunny days over 70°F (21°C) without fog/rain or wind over 15mph. Surveyors will spend approximately one person hour per every three (3) acres surveyed. Searches will be conducted by a qualified biologist and use photography as means of positive identification of Bombus species unless a permit for handling bees is secured.
- Flight season surveys will target the optimal habitat in the project area and consist of a minimum of one (1) person hour per 3 acres of optimal habitat. Habitat that does not offer floral resources will not be surveyed. These three (3) surveys will be ‘free searches.’ They will be evenly spaced (one week apart) in the month of July (June/Aug depending on site conditions/season). The surveys will take place during warm sunny days over 70°F (21°C) without fog/rain or wind over 15mph. Searches will be conducted by a qualified biologist and use photography as means of positive identification of Bombus species unless a permit for handling bees is secured.

If present presence is determined during the nest seeking queen surveys or three flight season surveys, the project will conduct nest searches in the impacted (earth disturbance) area.

- These will be conducted during the flight season using a modified version of the transect methodology presented by Osborne, J. et al. (2008). Qualified surveyors will utilize compass and pacing to walk a grid of the impact area (the impact area is the project footprint plus a 100 ft buffer). In general, surveyors will spend 5 minutes nest searching (watching for bees entering or exiting nest) for every 6m x 6m area. The surveys will take place during warm sunny days over 70°F (21°C) without fog/rain or wind over 15mph. Any nests that are found will be flagged

and mapped and surveyor will consult with CDFW to determine appropriate action/nest buffer areas.

If nests are found the area will be buffered and construction will not proceed until the nest has been abandoned. A report of survey results will be submitted to CDFW and Humboldt County.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance Yes   No	Comments / Action Taken
Prior to construction	Once		HCP&BD** & CDFW		

**MM-Bio-15:** To ensure less than significant impacts to northern *red-legged frog, foothill yellow-legged frog, and red-bellied newt* work to upgrade 34 stream crossings on the project roads will be done during the summer and fall season when the streams should be dry with no frogs or newts are present. As per standard construction process, IF any streams are found to have water in them at the time of crossing reconstruction, preconstruction surveys for amphibians will be completed no more 2 days prior to construction. If frogs are found they will be relocated, CDFW will be notified, and a biological construction monitor will be on site for the duration of the construction of that crossing. A copy of the preconstruction survey report and construction monitoring (if needed) report will be submitted to CDFW and Humboldt County Planning within 7 days of the completion of work on the wet crossing.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance Yes   No	Comments / Action Taken
Prior to construction	Once		HCP&BD** & CDFW		

**MM- Bio -16:** Construction shall occur outside of the Golden Eagle breeding season unless pre-construction Golden Eagle surveys have been conducted which demonstrate that no active nests are present within a 1-mile radius of the Project within the Rolling Meadow Ranch boundaries (an approximately 2,900-acre area). The surveys shall be completed during at least two separate non-consecutive days, with at least one survey occurring between January 15 and February 15. Survey results shall be submitted to the Humboldt County Planning Department.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance Yes   No	Comments / Action Taken
Prior to construction	Once		HCP&BD** & CDFW		