ATTACHMENT 4 VIOLATION MEMO

Ecoyard, Inc. 217-381-008 12452 Memo Re. Failure to Comply with County Code Prepared by Keenan Hilton, Planner II 11/12/20

Narrative:

- -The department has received a total of three complaints of water being trucked to the site.
- -The applicant has been advised repeatedly that an onsite water source is necessary in order to operate under an Interim Permit.
- -The applicant has been notified two times by planning staff and once by CEU that an additional instance of water being delivered for irrigation would result in revocation of the IP and recommendation of denial from planning staff.
- -On 9-25-20, following all admonishments and warnings, CEU made contact with water truck driver delivering irrigation water to the site.

Although the question of water source is not addressed directly in the compliance agreement for the Interim Permit, Item 6 establishes that "The County reserves the right to request that the Applicant and Owner submit additional information as needed to find the Application in conformance with the Humboldt County Zoning Regulations..."

Pursuant to this part of the agreement, the County repeatedly requested evidence of an onsite water source to find the project in conformance with section 314.55.4.11(m) of the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) which reads: "Water is to be sourced locally (on-site) and trucked water shall not be allowed, except for emergencies. For the purposes of this provision, 'emergency' is defined as: 'a sudden, unexpected occurrence demanding immediate action."

In fact, one year and twelve days passed between the initial admonishment that water must be sourced on-site and the date when CEU observed irrigation water being delivered by truck. This far exceeds any reasonable interpretation of emergency. The department repeatedly provided the applicant with the opportunity to correct this violation. The applicant failed to do so. Therefore, the assigned planner Keenan Hilton and CEU proposes staff recommendation of denial for the project.

You will find a timeline on the following pages:

Timeline:

3/8/2019

 CEU receives confidential complaint noting 3-4 truck deliveries of water per day, agressive behavior

8/23/201

 County staff conducts site inspection based on water trucking complaint, sattelite observation of timber conversion and expansion of the cultivaiton area.
 Observes empty pond, well, empty tanks.

9/5/201

Agent fails to produce a well log

9/13/2019

 Letter sent identifying outstanding project needs. Included admonishment: Irrigation water must be sourced on site. Letter recommends installation of water meters to document onsite irrigation

3/11/2020

 Agent sends progress report on requested items, includes evidence that legal record of well was being sought

5/8/2020

 Agent sends progress update, but is silent on water source

5/14/2020

 Staff notified of second complaint of water hauling

5/20/202

 Email sent requiring evidence of water meter installation no later than 5/28/20

5/26/2020

 Agent email promises more information "next week"

6/3/2

 Agent sends evidence of uninstalled water meters inhand, cites covid complications for delay

6/4/2020

- Staff communicates that the applicant must
- install meter within 10 days
- provide meter records every 30 days
- provide estimate on provision of more information on well

6/9/2020

 Agent submits photos of two installed water meters

6/24/202

- During phone call staff clearly communicates that onsite water is not a condition of approval, but is required to operate under an Interim Permit
- Agent communicates that applicant continues to pursue well log, considering installing new well

7/3/2020

 Agent sends project update, including news of imminent site visit by well driller

7/13/2020

• Staff receives third complaint of water hauling

7/17/2020

 Staff email stating: water deliveries must cease immediately; applicant must submit evidence of a permittable and adequately productive water source by 7/24/20

7/20/2020

 Agent provides evidence that they've applied for new well on site, requests phone call between staff and Dave Fisch (well driller)

/28/2020

• Staff phone call with Dave Fisch who explains his work backlog, installation of new well pump on existing well, farily low production

7/30/202

 Agent email stating there is 46,500 gallons of stored water on the site in hard tanks

9/1/2020

• Staff performs site inspection, finds very little water stored, no water in pond, well meter reading 26,330 (a fraction of water required for approximately 35,263 sf of cultivation)

9/15/2020

 Email from agent confirming trucked water would be used for fire response only, confirmed that any deliveries for irrigaiton would result in a staff recommendation of denial

9/16/2020

- Agent email confirming issued well permit
- Staff confirms that any credible report of water being trucked for irrigation would result in the revocation of the interim permit and a recommendation of denial for the annual permit.

9/25/20

 CEU Officer makes contact with water truck driver who confirms that they have delivered 3-4 truckloads of water to the site daily for irrigation for the previous 4.5 days.

10/16/20

• CEU revokes Interim Permit