



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

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

Hearing Date: February 17, 2022

To: Humboldt County Planning Commission

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

Subject: **Full Moon Farms Inc. Conditional Use Permit & Special Permits**
Record Number: PLN-11241-CUP
Assessor's Parcel Numbers (APNs): 208-201-026
Dinsmore Area

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Please contact Megan Acevedo, Planner, at 707-441-2634 or by email at macevedo@co.humboldt.ca.us, if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date February 17, 2022	Subject Conditional Use Permit & Special Permits	Contact Megan Acevedo
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Project Description: Full Moon Farms Inc. seeks a Conditional Use Permit for 19,661 square feet (sq. ft.) of pre-existing outdoor cannabis cultivation. Water for irrigation is sourced from two (2) spring diversions on-site under Water Right Certificate H100541. A Special Permit is being requested to allow the continued use of the spring diversions, and to relocate water tanks outside of the streamside management areas on-site. An additional Special Permit is required for the removal of an on-stream pond and restoration of a stream on-site. A total of 194,500 gallons of water storage for irrigation exists on-site, and one 2,500 gallon tank is designated for fire suppression. Annual water usage is 124,000 gallons (6.3 gal/sq. ft./year). Drying and curing will occur on-site and trimming will occur off-site at a licensed processing facility. Two (2) employees will be utilized. Electricity is sourced from two (2) portable generators.

Project Location: The project is located in Humboldt County, in the Dinsmore area, on the east and west sides of Bear Creek Road, approximately 2.85 miles North from the intersection of Dinsmore Road and Bear Creek Road, on the property known to be in Section 29 of Township 02 North, Range 05 East, Humboldt Base & Meridian.

Present Plan Land Use Designations: Residential Agriculture (RA40), 2017 General Plan, Density: 40 acres per unit, Slope Stability: High Instability (3)

Present Zoning: Forestry Recreation (FR), Special Building Site [B-5(40)]

Record Number: PLN-11241-CUP

Assessor's Parcel Number: 208-201-026

Applicant

Full Moon Farms Inc.
1065 Riverside Dr.
Rio Dell, CA 95562

Owner

E&E Land Management, LLC
1065 Riverside Dr.
Rio Dell, CA 95562

Agents

Timberland Resource Consultants
Dave Spinosa
165 S Fortuna Blvd
Fortuna, CA 95540

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

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

Major Issues: None

Recommended Commission Action

1. Describe the application as part of a public hearing.
2. Request staff to present the application and staff report;
3. Open the public hearing and receive testimony;
4. Close the public hearing and adopt the Resolutions to take the following actions:

1) Find that the Commission has considered the Addendum to the adopted Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Conditional Use Permit and Special Permits and 3) approve the Full Moon Farms Inc. Conditional Use Permit and Special Permits as recommended by staff subject to the recommended conditions.

Executive Summary: Full Moon Farms Inc. seeks a Conditional Use Permit for 19,661 sq. ft. of pre-existing outdoor cannabis cultivation. Water for irrigation is sourced from two (2) spring diversions on-site under Water Right Certificate H100541. A Special Permit is being requested to allow the continued use of the spring diversions, and to relocate water tanks outside of the streamside management area (SMA) for a spring and a class III stream on-site. An additional Special Permit is required for the removal of an on-stream pond and restoration of the stream. A total of 194,500 gallons of water storage for irrigation exists, and two (2) 2,500 gallon tanks are designated for fire suppression. Annual water usage is 124,000 gallons (6.3 gal/sq. ft./year). Drying and curing will occur on-site and trimming will occur off-site at a licensed processing facility. Two (2) employees will be utilized. Electricity is sourced from two (2) portable generators.

The project will consist of 14,400 sq. ft. of outdoor light-deprivation cultivation in eighteen (18) hoop houses, and one 5,261 sq. ft. full-sun outdoor cultivation area. The applicant will purchase clones from an off-site licensed nursery. Two (2) harvests are anticipated for light-deprivation cultivation, and one harvest for full-sun outdoor. Other buildings with a nexus to cannabis include one (1) 15' x 30' Dry Barn, and one (1) 5' x 10' Generator Shed. As well, some historic grading has occurred in association with the cannabis cultivation site. The project is conditioned to obtain the appropriate building permits for all structures related to cannabis (**Condition A.7**), and for any historic grading that was done in excess of 50 cubic yards (**Condition A.8**).

The project was referred to the Department of Environmental Health (DEH) on July 18, 2018. Comments were received from DEH on December 13, 2017, which included the recommendation of conditional approval for the project that the applicant shall provide an invoice, or other equivalent documentation to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of an annual permit (**Ongoing Condition B.1**).

Energy

The project currently utilizes two (2) portable generators, one 6.5kW Honda generator and one 1kW Honda EU generator. The applicant is conditioned to transition to 100% renewable energy source for the project by the 2026 cultivation season, and after transition shall be allowed to keep one generator on-site for emergency backup purposes only (**Condition A.9**). The applicant shall provide an Energy Plan to the Planning Division to show how all power required by the project will be sourced 100% by renewable energy sources (**Condition A.9**).

Setbacks

The project site contains five (5) 2,500-gallon water tanks which are located within the SMA of a spring and one class III stream on-site. Per the Humboldt County's Streamside Management Area and Wetlands Ordinance, and the required SMA setbacks per the State Water Board's Order R1-2015-0023, the applicant shall relocate the existing tanks outside of the SMA's on-site. The applicant shall also submit a

Stream Restoration Plan addressing the relocation of water tanks outside of SMA's on-site to the California Department of Fish & Wildlife (CDFW) and to the Planning Division, and shall adhere to the recommendations within the report (**Condition A.10**). The applicant shall also provide an updated Site Plan to the Planning Division to show the relocation site for the water tanks.

Timber Conversion & Fire Safety

No timber conversion has occurred on the site, and none is proposed as part of the project. The project was referred to CalFire on July 18, 2017, and the agency commented on July 20, 2017, with a general letter outlining State Responsibility Area (SRA) requirements on-site. The project is located in an area designated to have a Very High Fire Hazard Severity. The applicant has identified two (2) 2,500-gallon water tanks designated for fire suppression, and the site has ample room for a firetruck turnaround. The project is within the Ruth Lake Community Services District (RLCSD) for fire response. The project was referred to the RLCSD on July 18, 2017, and no response was received from the agency.

Water Resources

Water for irrigation is provided by two (2) on-site spring diversions under Water Right Certificate H100541. The applicant shall abide by all conditions and limitations set forth within the Right to Divert & Use Water Certificate H100541 (**Ongoing Condition B.2**). The applicant has also obtained a Streambed Alteration Agreement (SAA 1600-2019-0590-R1) with the CDFW for the use and maintenance of these spring diversions, and the applicant is applying for a Special Permit to approve the continued use of the spring diversions for cannabis irrigation. The applicant is required to abide the forbearance period required by the State Water Board and CDFW, and shall not divert water during any designated forbearance period (**Ongoing Condition B.2, & B.19**). The SAA states that the applicant will be using the two (2) spring diversions for domestic and irrigation purposes, and the applicant shall monitor the diversion and use of domestic and irrigation water separately, and shall keep records of separate uses on-site to be furnished during an annual inspections (**Condition A.11**). Total annual water demand for the project is 124,000 gallons per year (6.3 gal/sq. ft./year). There is a total of 192,500 gallons of existing water storage in hard tanks for irrigation needs, and there are two (2) 2,500-gallon tanks designated for fire suppression.

The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B70540CHUM. A Water Resource Protection Plan (WRPP) was prepared for the project by Timberland Resource Consultants (TRC) dated September 20, 2018. The WRPP states that all cultivation areas are located outside of any SMA on-site, and mentions that the site was not meeting all standard conditions required by the Water Board Order No. R-1-2015-0023. The WRPP lists General Recommendations for the site to meet the standard conditions, which include upgrades to roads on-site, the replacement of culverts, and the need for additional water storage to meet the forbearance period. The applicant has completed General Recommendations #4 & #5 addressing water storage to meet forbearance requirements, and the applicant shall continue to comply with the ongoing General Recommendations #1 - #3, and #6, along with adhering to the ongoing monitoring recommendations listed within the Mitigation Report of the WRPP (**Ongoing Condition B.3**).

The site has also been enrolled in the State Water Board's General Order 2019-0001-DWQ under WDID 1_12CC418732, as a Tier 1 Low Risk site. A Notice of Applicability letter dated September 24, 2019 is attached for proof of enrollment in the General Order. The applicant is required to have a Site Management Plan (SMP) prepared for the project to show measures required to meet compliance with the General Order, and a condition of approval for the project is to provide a copy of the final SMP report to the Planning Division when available, and to adhere to the measures outlined within the final SMP Report (**Condition A.12**).

The applicant has obtained a Streambed Alteration Agreement (SAA 1600-2019-0590-R1) with the CDFW for the instream work required to replace and upgrade four (4) culverts on-site, the use and maintenance of two (2) spring diversions for irrigation and domestic purposes, and for the removal of an on-stream pond and restoration of the stream. The applicant is required to submit a Stream Restoration Plan to CDFW for the on-stream pond removal, and shall submit the final approved Stream Restoration Plan to the Planning Division when available (**Condition A.13**). The applicant shall adhere to the

maximum diversion rate, bypass flow, and seasonal diversion rate requirements for the spring diversions, shall complete all the work described in, and shall adhere to the conditions outlined in the SAA 1600-2019-0590-R1, for work to be completed (**Ongoing Condition B.19**).

Biological Resources

The project site does contain habitat for Oregon goldthread, according to the California Natural Diversity Database (CNDDDB) Resource Map, and the nearest Northern Spotted Owl (NSO) activity center is located approximately 2.16 miles from the nearest cultivation site. As the site is for pre-existing activities and no new development is proposed, no Biological Report was required for the proposed project. The project was referred to CDFW on July 18, 2017, and no response was received. The applicant is conditioned to house all generators within permanent shed locations, and all generators shall not exceed 50 decibels at 100 feet or the nearest canopy, whichever is closer (**Ongoing Condition B.4**).

Tribal Cultural Resource Coordination

The project is located within the Bear River Band tribal aboriginal territory. The project was referred to the Bear River Band THPO and the Northwest Information Center (NWIC) on August 1, 2017. The NWIC responded with a recommendation that the lead agency contact the local Native American tribe(s) regarding tradition, cultural, and religious heritage values. A response was received from the Bear River Band THPO on August 7, 2017, requesting the applicant obtain a cultural resource survey (CRS) for the project. The applicant had a CRS prepared by Mark Arsenault, M.A., RPA with Arsenault & Associates, dated March 29, 2019. The CRS found that no new cultural resources or isolated artifacts were identified within the project study area, and concluded that the project would not result in any adverse change to cultural resources. The CRS recommends protocols for Inadvertent Discovery. The project is conditioned to adhere to inadvertent discovery protocols in the event that cultural resources are encountered during project activities (**Informational Note B.3**).

Access

The project site is accessed by Bear Creek Road, from Dinsmore Road off of Hwy 36. Bear Creek Road and Dinsmore Road are non-county maintained roads, and the project was referred to the Department of Public Works on July 18, 2017. Comments were received by the Department on August 14, 2017, recommending that the project be referred to CalTrans. The project was referred to CalTrans on September 7th, 2017, and again on February 5, 2019, and no comments were received. The applicant has submitted a Road Evaluation Report form for both Bear Creek Road and Dinsmore Road, designating both roads as being developed to the equivalent of a Category 4 road standard. The Road Evaluation Report included a route map and pictures of the access road which show adequate visibility and turnouts. The access road has been determined to meet the functional capacity needs for the project.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 61 cultivation permits and the total approved acres would be 23.17 acres of cultivation.

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has prepared an addendum to this document for consideration by the Planning Commission (See Attachment 2 for more information).

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

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

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

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

Resolution Number 22-

Record Number PLN-11241-CUP

Assessor's Parcel Numbers: 208-201-026

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Full Moon Farms Inc., Conditional Use Permit and Special Permits.

WHEREAS, Full Moon Farms Inc., submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 19,661 square feet (sq. ft.) of outdoor commercial cannabis cultivation, and appurtenant drying activities; a Special Permit for the continued use of two (2) spring diversions on-site; a Special Permit for the removal and restoration of an on-stream pond; and a Special Permit to allow the relocation of five (5) water tanks outside of streamside management areas on-site;

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

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on February 17, 2022, and reviewed, considered, and discussed the application for a Conditional Use Permit and Special Permits and reviewed and considered all evidence and testimony presented at the hearing.

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

- 1. FINDING:** **Project Description:** The application is a Conditional Use Permit for 19,661 sq. ft. of pre-existing outdoor cannabis cultivation. Water for irrigation is sourced from two (2) spring diversions on-site under Water Right Certificate H100541. A Special Permit is being requested to allow the continued use of the spring diversions, and to relocate water tanks outside of the streamside management area (SMA) for a spring and a class III stream on-site. An additional Special Permit is required for the removal of an on-stream pond and restoration of the stream. A total of 194,500 gallons of water storage for irrigation exists, and two (2) 2,500 gallon tanks are designated for fire suppression. Annual water usage is 124,000 gallons (6.3 gal/sq. ft./year). Drying and curing will occur on-site and trimming will occur off-site at a licensed processing facility. Two (2) employees will be utilized. Electricity is sourced from two (2) portable generators.

EVIDENCE: a) Project File: PLN-11241-CUP

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

- EVIDENCE:**
- a) Addendum Prepared for the proposed project.
 - b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
 - c) A Water Resources Protection Plan was prepared by Timberland Resource Consultants, dated September 20, 2018, to show requirements to meet compliance with the North Coast Regional Water Quality Control Board Order No. 2015-0023.
 - d) A Notice of Applicability letter showing enrollment is the State Water Board's General Order No. WQ 2019-001-DWQ, under WDID 1_12CC418732. The applicant is conditioned to provide a Site Management Plan to show site requirements in order to meet compliance with the State Water Board General Order No. WQ 2019-001-DWQ.
 - e) The applicant has obtained a Streambed Alteration Agreement (SAA 1600-2019-0590-R1) with the CDFW for the use and maintenance of two (2) spring diversions on-site, upgrade of four (4) culverts, and the removal and restoration of an on-stream pond. The applicant is conditioned to provide a Stream Restoration Plan approved by CDFW to the Planning Division when
 - f) No tree removal has occurred or is proposed as part of the project.
 - g) A Cultural Resources Investigation & Report was prepared by Mark Arsenault, M.A., RPA with Arsenault & Associates, dated March 29, 2019. The Cultural Resource Survey found that no cultural resources were identified within the project area, and recommends protocols for Inadvertent Discovery.
 - h) A Road Evaluation Report Form was submitted for Bear Creek Road, and Dinsmore Road designating it as being developed to a Category 4 road standard. It has been determined that the access road meets the functional capacity for the project.

FINDINGS FOR CONDITIONAL USE PERMIT AND SPECIAL PERMITS

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

- EVIDENCE**
- a) General agriculture is a use type permitted in the Residential Agriculture (RA) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.
 - b) The project is requesting a Special Permit for the removal and restoration of an on-stream pond, for the continued use and maintenance of two (2) spring diversions on-site, and for the removal and relocation of water tanks from streamside management areas on-site.

- 4. FINDING** The proposed development is consistent with the purposes of the existing TPZ zone in which the site is located.
- EVIDENCE**
- a) The Forestry Recreation or FR Zone is intended to be applied to areas of the County in which general agriculture uses is a desirable use.
 - b) All general agricultural uses are principally permitted in the FR zone.
 - c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor cannabis and up to 22,000 square feet of existing mixed-light cannabis on a parcel zoned FR over 1 acres subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 19,661 sq. ft. of outdoor on a 40-acre parcel is consistent with this and with the cultivation area verification prepared by the County.
- 5. FINDING** The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.
- EVIDENCE**
- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned FR (HCC 314-55.4.8.2.2).
 - b) The subject parcel has been determined to be one legal parcel (lot 76) as shown on Record of Survey in Book 26 of Surveys page 135
 - c) The project will obtain water from two (2) on-site spring diversions under Water Right Certificate H100541, and Streambed Alteration Agreement 1600-2019-0590-R1.
 - d) A Road Evaluation Report Form was submitted for Bear Creek Road, and Dinsmore Road designating it as being developed to a Category 4 road standard. It has been determined that the access road meets the functional capacity for the project.
 - e) No tree removal has occurred or is proposed as part of the project.
 - f) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 from any property line, more than 300 feet from any off-site residence, more than 600 feet from any school, church or Tribal Cultural Resource.
- 6. FINDING** The cultivation of 19,661 square feet of cannabis cultivation and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
- EVIDENCE**
- a) The site is in a rural part of the County where the typical parcel size is over 40 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.
 - b) The location of the proposed cannabis cultivation is more than 300 feet from

the nearest off-site residence.

- c) Irrigation water will come from two permitted spring diversions on-site, and the applicant has enough water storage on-site for the project to meet forbearance requirements.

7. FINDING

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

EVIDENCE

- a) The parcel 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.

8. FINDING

Approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds.

EVIDENCE

- a) The project is located in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 61 permits and the total approved acres would be 23.17 acres of cultivation.

DECISION

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

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Conditional Use Permit and Special Permits for Full Moon Farms Inc., based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

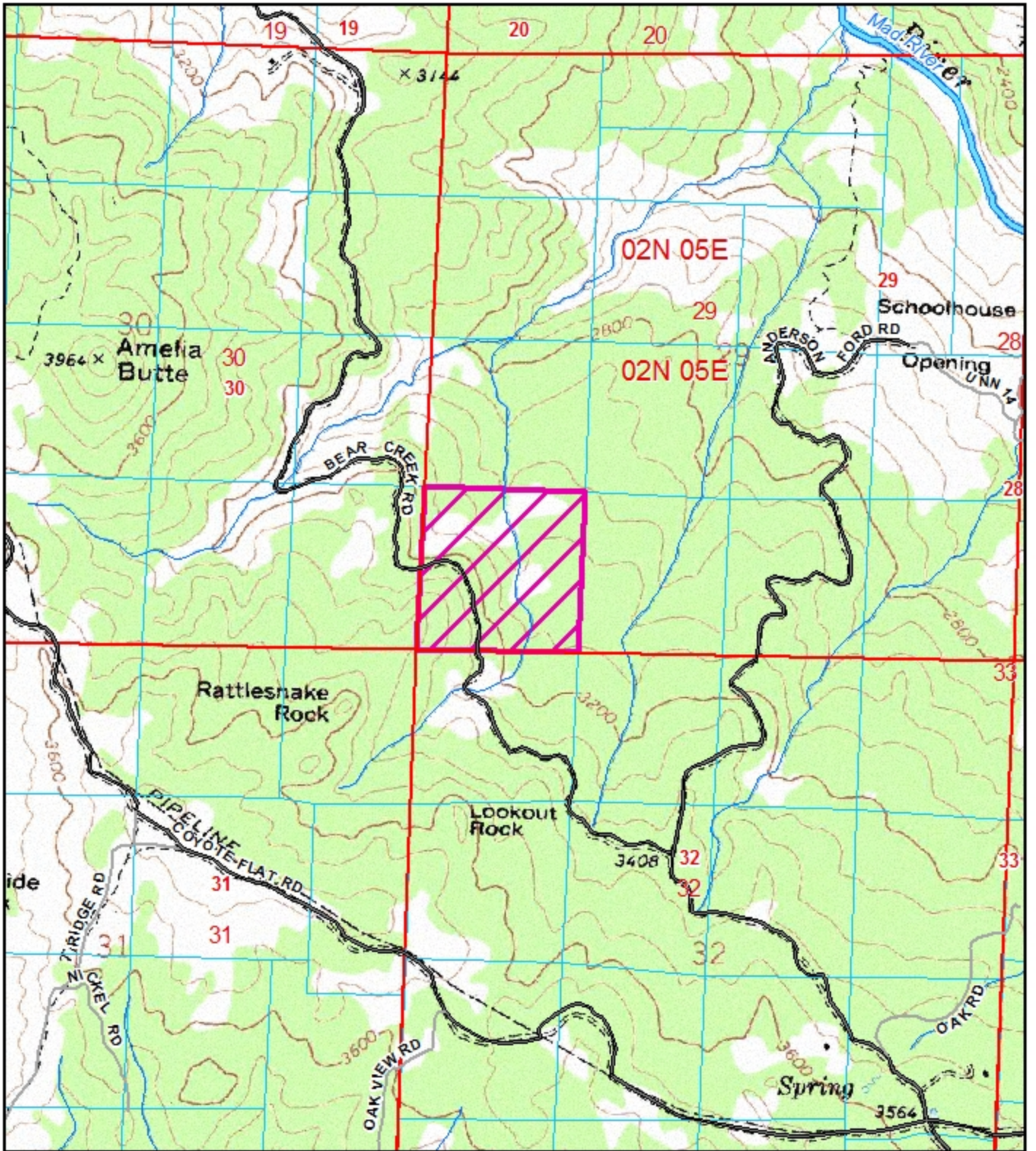
Adopted after review and consideration of all the evidence on February 17, 2022

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

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

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

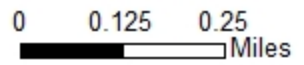
 John Ford, Director
 Planning and Building Department



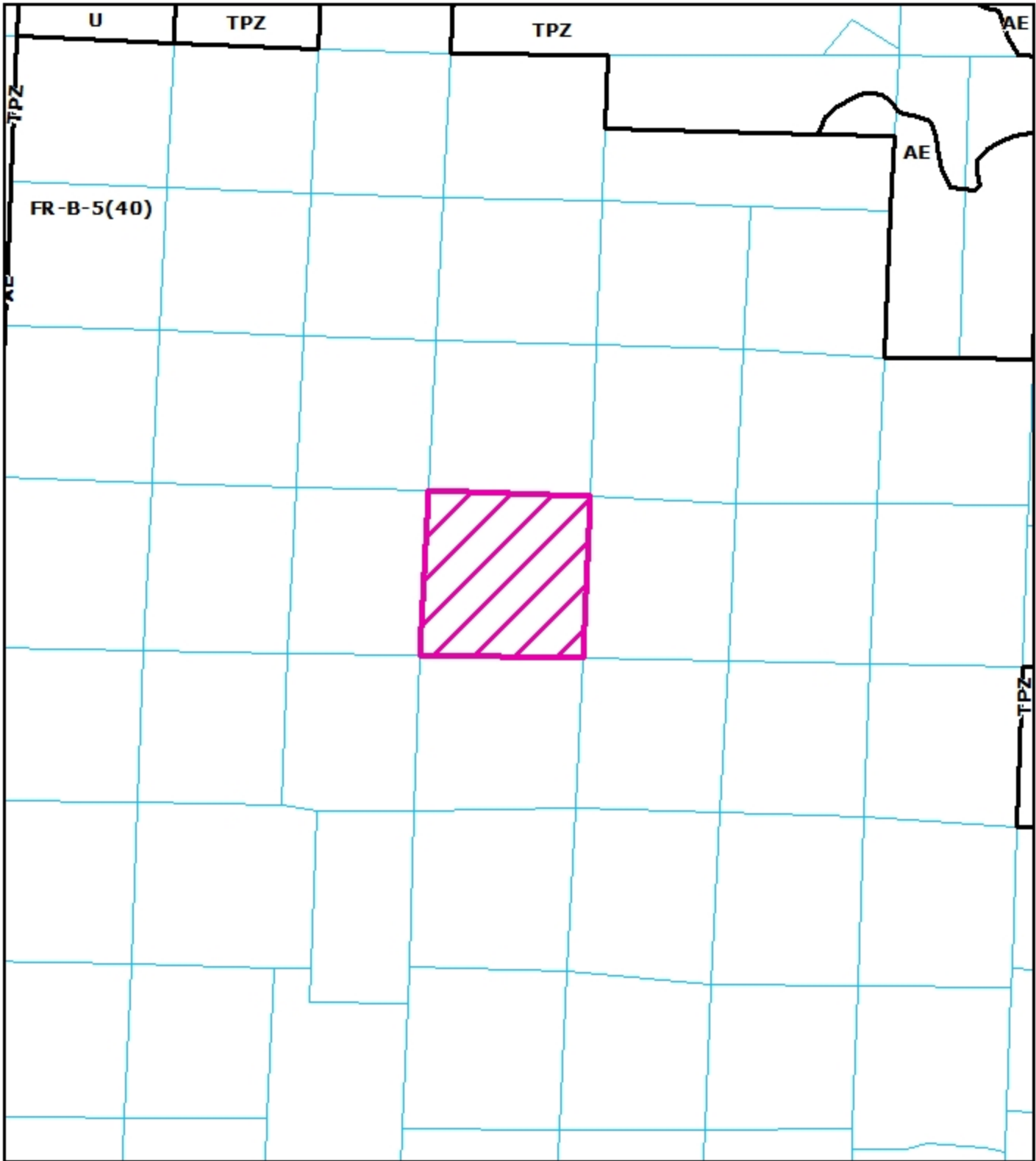
**TOPO MAP
 PROPOSED BRIAN HALL
 DINSMORE AREA
 CUP-16-196
 APN: 208-201-026**

Project Area = 

T02N R05E S29 HB&M (SHOWERS MTN)




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

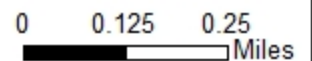


**ZONING MAP
 PROPOSED BRIAN HALL
 DINSMORE AREA**

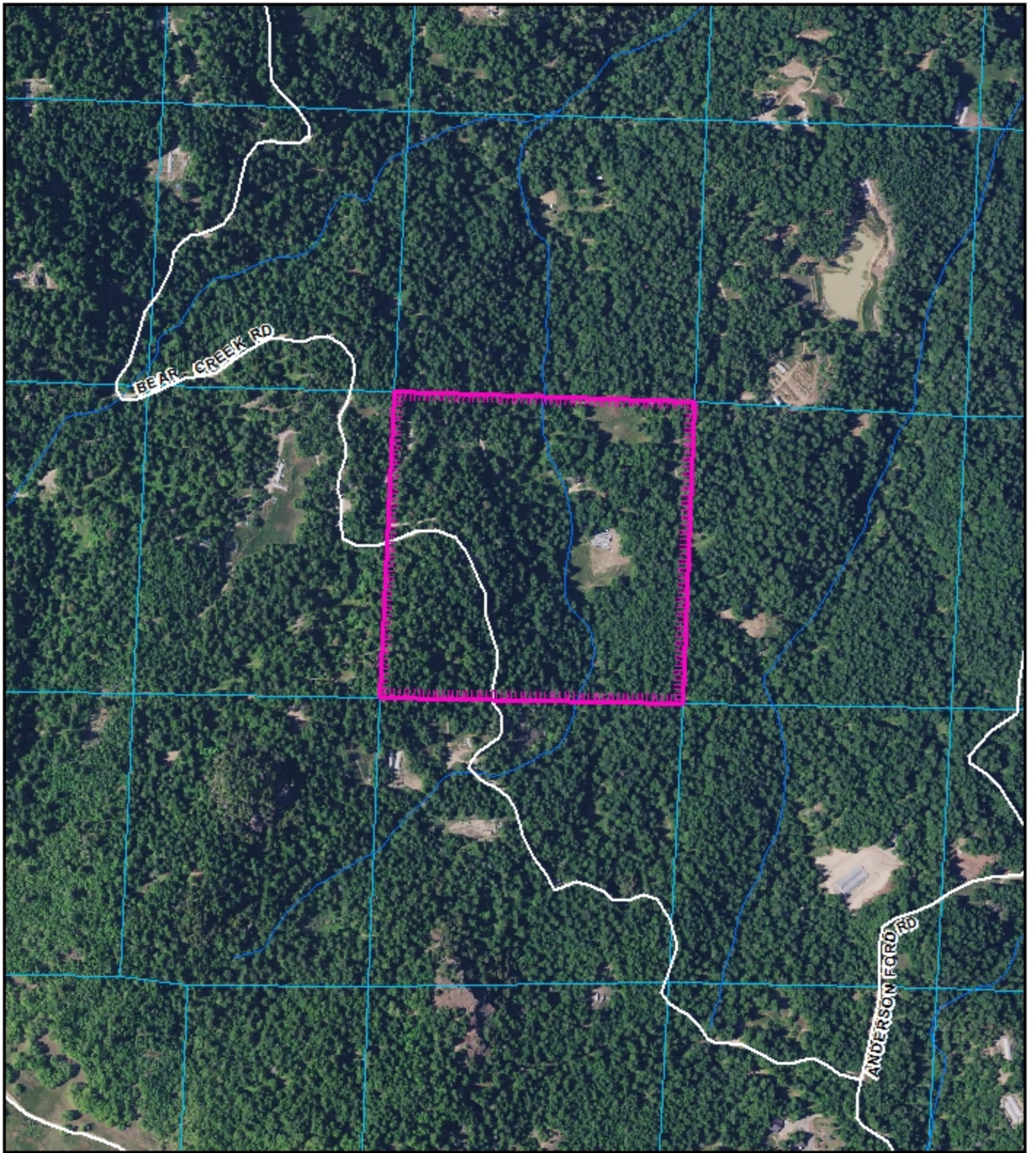
**CUP-16-196
 APN: 208-201-026**

T02N R05E S29 HB&M (SHOWERS MTN)

Project Area = 




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



**AERIAL MAP
PROPOSED BRIAN HALL
DINSMORE AREA**


**CUP-16-196
APN: 208-201-026**

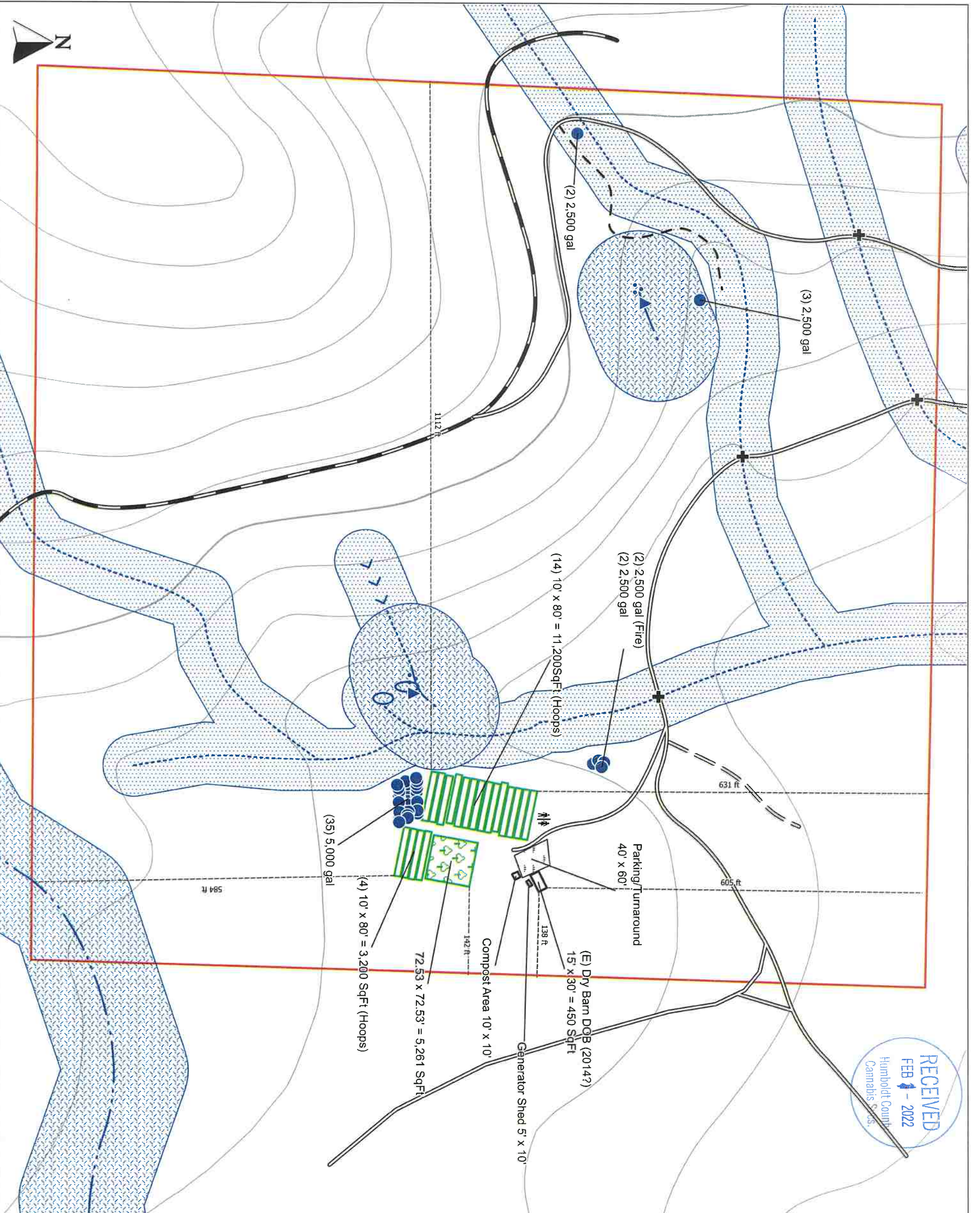
T02N R05E S29 HB&M (SHOWERS MTN)

Project Area = 



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

0 250 500
 Feet



APN 208-201-026
Site Plan

- Property Boundary
- Outdoor Cultivation Greenhouse
- Full-Sun Outdoor
- Parking Area
- Structure
- Portable Toilet
- Class II, 100-foot Buffer
- Class III, 50-foot Buffer
- Pond
- Swale
- Spring
- Class III Watercourse
- Class II Watercourse
- Permanent Road
- Seasonal Road
- ATV Trail
- Bear Creek Road
- Watercourse Crossing
- Point of Diversion (POD)
- Water Tank

Project Information:
 APPS: 11241
 APN: 208-201-026
 Application/Owner: Brian & Sheila Hall
 Parcel Size: 40 acres
 Zoning: FR-B-5(40)
 Cultivation Area: 19,661 SqFt

For Planning Purposes Only.

This is not a Boundary Survey

No Schools, School Bus Stops, Places of Worship or Tribal Cultural Resources are located within 600 feet of Cultivation Area.

Directions: Take CA-36 east. Turn left on Bear Creek Road. Approximately 3.7 miles from the intersection of CA-36 and Bear Creek Road, Take a right at the "Y".

Map Scale 1" = 150'

ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

APPROVAL OF THE CONDITIONAL USE PERMIT AND SPECIAL PERMITS ARE CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE PROVISIONAL CANNABIS CULTIVATION PERMIT CAN BE FINALIZED.

A. General Conditions

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.
2. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
3. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at time of annual inspection. A conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. The Department will file the NOD and will charge this cost to the project.
5. The applicant shall provide an updated Site Plan to the Planning Division within 30 days of approval to show the relocation site for the five (5) water tanks within the streamside management areas on-site.
6. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #7 through #13. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
7. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to: eight (8) hoop houses, one (1) 15' x 30' Dry Barn, and one (1) 5' x 10' Generator Shed. The plans submitted for building permit approval shall be consistent with the project description and the 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.
8. The applicant shall submit a grading, erosion and sediment control plan for any previous grading done in excess of 50 cubic yards. The plan shall identify the cubic yards of all grading that has been completed. A letter or similar communication from the Building Division verifying that all grading related to the cannabis cultivation operation are permitted, or not needed, will satisfy this condition.

9. The applicant is conditioned to transition to 100% renewable energy source for the project by the 2026 cultivation season, and after transition shall be allowed to keep one generator on-site for emergency backup purposes only. The applicant shall provide an Energy Plan to the Planning Division to show how all power required by the project will be sourced 100% by renewable energy sources.
10. The applicant shall relocate the existing tanks outside of the SMA's on-site. The applicant shall also submit a Stream Restoration Plan addressing the relocation of water tanks outside of SMA's on-site to the California Department of Fish & Wildlife (CDFW) and to the Planning Division, and shall adhere to the recommendations within the report.
11. The applicant shall monitor the diversion and use of domestic and irrigation water separately, and shall keep records of separate uses on-site to be furnished during an annual inspections.
12. The applicant is required to have a Site Management Plan (SMP) prepared for the project to show measures required to meet compliance with the State Water Resource Control Board's General Order. A condition of approval for the project is to provide a copy of the final SMP report to the Planning Department when available, and to adhere to the mitigation measures outlined within the SMP Report.
13. The applicant is required to submit a Stream Restoration Plan to CDFW for the removal and restoration of an on-stream pond, and shall submit the final approved Stream Restoration Plan to the Planning Division when available. The applicant shall adhere to the recommendations within the report.
14. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
15. 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.

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

1. The applicant shall provide an invoice, or other equivalent documentation to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of an annual permit.
2. The applicant shall abide by all conditions and limitations set forth within the Right to Divert & Use Water Certificate H100541.
3. The applicant shall comply with the ongoing General Recommendations #1 - #3, and #6, along with adhering to the ongoing monitoring recommendations listed within the Mitigation Report, in the Water Resource Protection Plan that was prepared by TRC.
4. The combination of background, generator and greenhouse fan or other operational equipment created noise must not result in the harassment of Northern Spotted Owl species as required to meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11 (o) requirements. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.

5. All artificial lighting shall be fully contained within mixed-light and propagation structures such that no light escapes (e.g., through blackout tarps). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed.
6. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment, and noise levels have been repaired, inspected, and corrected as necessary.
7. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
8. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
9. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
10. The use of anticoagulant rodenticide is prohibited.
11. 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.
12. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Cultivation & Operations Plan, 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. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
13. 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.
14. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.

15. 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.
16. 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.
17. 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).
18. Maintain enrollment in Tier 1, or 2 certification with State Water Resource Control Board (SWRCB) Order No. WQ 2019-0001-DWQ, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
19. Comply with the terms and conditions of any applicable Lake and Stream Alteration Permit (SAA 1600-2019-0590-R1) obtained from the California Department of Fish and Wildlife (CDFW).
20. The applicant shall keep documentation from a licensed off-site processing service, to be furnished during annual inspections.
21. 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.
22. 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 through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
23. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
24. Pay all applicable application, review for conformance with conditions and annual inspection fees.
25. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.
26. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
27. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

Performance Standards for Cultivation and Processing Operations

28. 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."

29. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
30. Cultivators engaged in processing shall comply with the following Processing Practices:
 - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - d. Employees must wash hands sufficiently when handling cannabis or use gloves.
31. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - (1) Emergency action response planning as necessary;
 - (2) Employee accident reporting and investigation policies;
 - (3) Fire prevention;
 - (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - (5) Materials handling policies;
 - (6) Job hazard analyses; and
 - (7) Personal protective equipment policies, including respiratory protection.
 - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - (1) Operation manager contacts;
 - (2) Emergency responder contacts; and
 - (3) Poison control contacts.
 - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
 - d. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
32. 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
33. Term of Commercial Cannabis Activity Conditional Use Permit & Special Permits. Any Commercial Cannabis Cultivation CUP or 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.

34. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request reinspection or to cure any items of noncompliance shall terminate the Conditional Use Permit & 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.
35. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
36. 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.
37. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
 - a. Identifying information for the new owner(s) and management as required in an initial permit application;
 - b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
 - c. The specific date on which the transfer is to occur;
 - d. Acknowledgement of full responsibility for complying with the existing permit; and
 - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
38. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

Informational Notes:

1. Pursuant to Section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years after the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to Section 314-55.4.13 of the CMMLUO.

2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"), except where the Compliance Agreement per Condition of Approval #6 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 the Ongoing Requirements/Development Restrictions, above.
3. If cultural resources are encountered during construction activities, the contractor on-site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

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

ATTACHMENT 2

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

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

**APN's 208-201-026;
Dinsmore Area
County of Humboldt**

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

February 2022

Background

Modified Project Description and Project History –

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance in order to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015 was included in the environmental baseline for the MND and the MND states that “Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting.” The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

Project Description: The modified project involves a Conditional Use Permit for 19,661 sq. ft. of pre-existing outdoor cannabis cultivation. Water for irrigation is sourced from two (2) spring diversions on-site under Water Right Certificate H100541. A Special Permit is being requested to allow the continued use of the spring diversions, and to relocate water tanks outside of the streamside management area (SMA) for a spring and a class III stream on-site. An additional Special Permit is required for the removal of an on-stream pond and restoration of the stream. A total of 194,500 gallons of water storage for irrigation exists, and two (2) 2,500 gallon tanks are designated for fire suppression. Annual water usage is 124,000 gallons (6.3 gal/sq. ft./year). Drying and curing will occur on-site and trimming will occur off-site at a licensed processing facility. Two (2) employees will be utilized. Electricity is sourced from two (2) portable generators.

The project will consist of 14,400 sq. ft. of outdoor light-deprivation cultivation in eighteen (18) hoop houses, and one 5,261 sq. ft. full-sun outdoor cultivation area. The applicant will purchase clones from an off-site licensed nursery. Two (2) harvests are anticipated for light-deprivation cultivation, and one harvest for full-sun outdoor. Other buildings with a nexus to cannabis include one (1) 15' x 30' Dry Barn, and one (1) 5' x 10' Generator Shed. As well, some historic grading has occurred in association with the cannabis cultivation site. The project is conditioned to obtain the appropriate building permits for all structures related to cannabis, and for any historic grading that was done in excess of 50 cubic yards.

The project was referred to the Department of Environmental Health (DEH) on July 18, 2018. Comments were received from DEH on December 13, 2017, which included the recommendation of conditional approval for the project that the applicant shall provide an invoice, or other equivalent documentation to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of an annual permit.

Energy

The project currently utilizes two (2) portable generators, one 6.5kW Honda generator and one 1kW Honda EU generator. The applicant is conditioned to transition to 100% renewable energy source for the project by the 2026 cultivation season, and after transition shall be allowed to keep one generator on-site for emergency backup purposes only. The applicant shall provide an Energy Plan to the Planning Division to show how all power required by the project will be sourced 100% by renewable energy sources.

Setbacks

The project site contains five (5) 2,500-gallon water tanks which are located within the SMA of a spring and one class III stream on-site. Per the Humboldt County's Streamside Management Area and Wetlands

Ordinance, and the required SMA setbacks per the State Water Board's Order R1-2015-0023, the applicant shall relocate the existing tanks outside of the SMA's on-site. The applicant shall also submit a Stream Restoration Plan addressing the relocation of water tanks outside of SMA's on-site to the California Department of Fish & Wildlife (CDFW) and to the Planning Division, and shall adhere to the recommendations within the report. The applicant shall also provide an updated Site Plan to the Planning Division to show the relocation site for the water tanks.

Timber Conversion & Fire Safety

No timber conversion has occurred on the site, and none is proposed as part of the project. The project was referred to CalFire on July 18, 2017, and the agency commented on July 20, 2017, with a general letter outlining State Responsibility Area (SRA) requirements on-site. The project is located in an area designated to have a Very High Fire Hazard Severity. The applicant has identified two (2) 2,500-gallon water tanks designated for fire suppression, and the site has ample room for a firetruck turnaround. The project is within the Ruth Lake Community Services District (RLCSD) for fire response. The project was referred to the RLCSD on July 18, 2017, and no response was received from the agency.

Water Resources

Water for irrigation is provided by two (2) on-site spring diversions under Water Right Certificate H100541. The applicant shall abide by all conditions and limitations set forth within the Right to Divert & Use Water Certificate H100541. The applicant has also obtained a Streambed Alteration Agreement (SAA 1600-2019-0590-R1) with the CDFW for the use and maintenance of these spring diversions, and the applicant is applying for a Special Permit to approve the continued use of the spring diversions for cannabis irrigation. The applicant is required to abide the forbearance period required by the State Water Board and CDFW, and shall not divert water during any designated forbearance period. The SAA states that the applicant will be using the two (2) spring diversions for domestic and irrigation purposes, and the applicant shall monitor the diversion and use of domestic and irrigation water separately, and shall keep records of separate uses on-site to be furnished during an annual inspections. Total annual water demand for the project is 124,000 gallons per year (6.3 gal/sq. ft./year). There is a total of 192,500 gallons of existing water storage in hard tanks for irrigation needs, and there are two (2) 2,500-gallon tanks designated for fire suppression.

The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B70540CHUM. A Water Resource Protection Plan (WRPP) was prepared for the project by Timberland Resource Consultants (TRC) dated September 20, 2018. The WRPP states that all cultivation areas are located outside of any SMA on-site, and mentions that the site was not meeting all standard conditions required by the Water Board Order No. R-1-2015-0023. The WRPP lists General Recommendations for the site to meet the standard conditions, which include upgrades to roads on-site, the replacement of culverts, and the need for additional water storage to meet the forbearance period. The applicant has completed General Recommendations #4 & #5 addressing water storage to meet forbearance requirements, and the applicant shall continue to comply with the ongoing General Recommendations #1 - #3, and #6, along with adhering to the ongoing monitoring recommendations listed within the Mitigation Report of the WRPP.

The site has also been enrolled in the State Water Board's General Order 2019-0001-DWQ under WDID 1_12CC418732, as a Tier 1 Low Risk site. A Notice of Applicability letter dated September 24, 2019 is attached for proof of enrollment in the General Order. The applicant is required to have a Site Management Plan (SMP) prepared for the project to show measures required to meet compliance with the General Order, and a condition of approval for the project is to provide a copy of the final SMP report to the Planning Division when available, and to adhere to the measures outlined within the final SMP Report.

The applicant has obtained a Streambed Alteration Agreement (SAA 1600-2019-0590-R1) with the CDFW for the instream work required to replace and upgrade four (4) culverts on-site, the use and maintenance of two (2) spring diversions for irrigation and domestic purposes, and for the removal of an on-stream pond and restoration of the stream. The applicant is required to submit a Stream Restoration

Plan to CDFW for the on-stream pond removal, and shall submit the final approved Stream Restoration Plan to the Planning Division when available. The applicant shall adhere to the maximum diversion rate, bypass flow, and seasonal diversion rate requirements for the spring diversions, shall complete all the work described in, and shall adhere to the conditions outlined in the SAA 1600-2019-0590-R1, for work to be completed.

Biological Resources

The project site does contain habitat for Oregon goldthread, according to the California Natural Diversity Database (CNDDDB) Resource Map, and the nearest Northern Spotted Owl (NSO) activity center is located approximately 2.16 miles from the nearest cultivation site. As the site is for pre-existing activities and no new development is proposed, no Biological Report was required for the proposed project. The project was referred to CDFW on July 18, 2017, and no response was received. The applicant is conditioned to house all generators within permanent shed locations, and all generators shall not exceed 50 decibels at 100 feet or the nearest canopy, whichever is closer.

Tribal Cultural Resource Coordination

The project is located within the Bear River Band tribal aboriginal territory. The project was referred to the Bear River Band THPO and the Northwest Information Center (NWIC) on August 1, 2017. The NWIC responded with a recommendation that the lead agency contact the local Native American tribe(s) regarding tradition, cultural, and religious heritage values. A response was received from the Bear River Band THPO on August 7, 2017, requesting the applicant obtain a cultural resource survey (CRS) for the project. The applicant had a CRS prepared by Mark Arsenault, M.A., RPA with Arsenault & Associates, dated March 29, 2019. The CRS found that no new cultural resources or isolated artifacts were identified within the project study area, and concluded that the project would not result in any adverse change to cultural resources. The CRS recommends protocols for Inadvertent Discovery. The project is conditioned to adhere to inadvertent discovery protocols in the event that cultural resources are encountered during project activities.

Access

The project site is accessed by Bear Creek Road, from Dinsmore Road off of Hwy 36. Bear Creek Road and Dinsmore Road are non-county maintained roads, and the project was referred to the Department of Public Works on July 18, 2017. Comments were received by the Department on August 14, 2017, recommending that the project be referred to CalTrans. The project was referred to CalTrans on September 7th, 2017, and again on February 5, 2019, and no comments were received. The applicant has submitted a Road Evaluation Report form for both Bear Creek Road and Dinsmore Road, designating both roads as being developed to the equivalent of a Category 4 road standard. The Road Evaluation Report included a route map and pictures of the access road which show adequate visibility and turnouts. The access road has been determined to meet the functional capacity needs for the project.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 61 cultivation permits and the total approved acres would be 23.17 acres of cultivation.

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO which were intended to mitigate impacts of existing cultivation. These include the preparation of a Site Management Plan, ensuring project related noise does not harass nearby wildlife, and the relocation of water tanks outside of the streamside management areas on-site.

Purpose - Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (MND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling

for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

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

Summary of Significant Project Effects and Mitigation Recommended

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the project is fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents:

- Site Plan received February 1, 2022.
- Cultivation & Operations Plan received October 16, 2020.
- Water Resources Protection Plan (WRPP) prepared by Timberland Resource Consultants for the North Coast Regional Water Quality Control Board Order No. 2015-0023.
- Notice of Applicability dated September 24, 2019, for proof of enrollment in the State Water Resources Control Board Order WQ 2019-0001-DWQ.
- Road Evaluation Report form for Bear Creek Road dated 12/5/2018.
- Road Evaluation Report for Dinsmore Road dated 12/5/2018.
- Right to Divert & Use Water Certificate H100541.
- Streambed Alteration Agreement with Fish & Wildlife (1600-2019-0590-R1) received 1/25/2022.
- Cultural Resource Investigation Report prepared by Mark Arsenault, M.A., RPA with Arsenault & Associates, dated March 29, 2019.

Other CEQA Considerations

Staff suggests no changes for the revised project.

EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT

See **Purpose** statement above.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial project for which the MND was adopted. Based upon this review, the following findings are supported:

FINDINGS

1. The proposed project will permit an existing cannabis operation and bring the operation into compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.
3. For the current proposed project, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

CONCLUSION

Based on these findings it is concluded that an Addendum to the certified MND is appropriate to address the requirements under CEQA for the current project proposal. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.

ATTACHMENT 3

Applicant's Evidence in Support of the Required Findings

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

1. The name, contact address, and phone number(s) of the applicant. (Application form on-file)
2. If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement. (On-file)
3. Site plan showing the entire parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within one-quarter mile (1,320 feet) of a school, school bus stop, church or other place of religious worship, public park, or tribal cultural resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet. (Site Plans – **Attached** with project Maps)
4. A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel; and a description of cultivation activities (outdoor, indoor, mixed light), the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable, and schedule of activities during each month of the growing and harvesting season. (**Attached**)
5. Description of water source, storage, irrigation plan, and projected water usage. (Included in Cultivation Operations Plan (item 4. above))
6. Copy of Notice of Applicability filed with the State Water Resource Control Board Order No. WQ 2019-0001-DWQ, under WDID: 1_12CC418732. (**Attached**)
7. If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing, impacts the bed or bank of any stream or other watercourse, a copy of the Streambed Alteration Permit obtained from the California Department of Fish and Wildlife. (Notification No. 1600-2019-0590-R1 received 1/25/2022– **Attached**)
8. If the source of water is a well, a copy of the County well permit, if available. (Not applicable)
9. Water Resources Protection Plan (WRPP) prepared by Timberland Resource Consultants for the North Coast Regional Water Quality Control Board Order No. 2015-0023. (**Attached**)
10. If the parcel is zoned FR, U or TPZ, or involves the conversion of timberland as defined under Section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that the landowner has completed a civil or criminal process and/or entered into a negotiated settlement with Cal Fire. (Not applicable)

11. Consent for on-site inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter. (On-file)
12. For indoor cultivation facilities, identify the source of electrical power and how it will meet with the energy requirements in Section 55.4.8.2.3, and plan for compliance with applicable building codes. (Not applicable)
13. Acknowledge that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed, will not support diversions for irrigation. (On-file)
14. Acknowledge that the County reserves the right to engage with local tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize, or mitigate impacts to tribal cultural resources, as defined herein. Examples include, but are not limited to, conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The County shall request that a records search be performed through the California Historical Resources Information System (CHRIS). (On-file)
15. Cultural Resource Investigation Report prepared by Mark Arsenault, M.A., RPA with Arsenault & Associates, dated March 29, 2019. (On-file and confidential)
16. Road Evaluation Report form for Bear Creek Road and Dinsmore Road dated 12/5/2018. (**Attached**)
17. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits (DEH Form). (On-file)
18. Right to Divert and Use Water Certificate H100541 (**Attached**).

CMMLUO SITE/OPERATIONS OVERVIEW (10-15-2020)

APPS: 11241

APN: 208-221-026



Project Description: The applicant is seeking a Conditional Use Permit under the Humboldt County CMMLUO to allow continued outdoor cultivation up to 19,661 ft², and development of appurtenant support infrastructure/facilities on the subject parcel.

The applicant acknowledges that the commercial cannabis activity approval being sought is subject to compliance with all other applicable Humboldt County zoning and land use regulations, as well as other applicable provisions of the Humboldt County Code and applicable state laws. Determination of compliance will require multi-agency review and may also require site inspections by personnel from various governmental agencies.

If development and/or activities on the subject parcel are determined, for some reason, to be out of compliance with any applicable State or County code, regulation or policy, a compliance agreement can be formulated between the applicant and relevant agency or agencies, which includes a compliance timeline whereby operations may continue under a "Provisional Clearance or Permit" and corrective action is initiated to achieve compliance under agreed upon terms.

Parcel Information: The subject parcel (APN: 208-221-026) is approximately 40 acres, zoned FR-B-5(40) with AL(40) framework designation. It is accessed from Bear Creek Road near the community of Dinsmore.

Topography/Landscape: The subject parcel slopes northeasterly from the SW corner at 42% to the approximate center of the parcel where the ground slope abruptly decreases. A centralized clearing of approximately 2 acres and an additional 1 acre clearing (just north) average ground slopes of 10% or less. Native tree species cover the parcel with the exception of the clearings which are grasslands.

Surface Water Features: A Class III watercourse (un-named tributary to the Mad River) flows northward at the break in slope, bisecting the parcel and it is addressed in a CDFW LSAA.

Roads/Stream Crossings/Easements: The subject parcel is accessed from Bear Creek out of Dinsmore. A private road branching from Bear Creek Road providing access to neighboring parcels, passes through the north half of the subject parcel and crosses the aforementioned Class III watercourse. Access and interior road conditions were evaluated as part of a Water Resources Protection Plan (WRPP). Road conditions and stream crossings requiring corrections are identified in the WRPP and CDFW LSAA along with a timeline in which to complete corrective measures. Corrective measures prescribed in the WRPP/CDFW LSAA do not preclude the need for roads and associated features to be brought into compliance with all applicable state and local requirements.

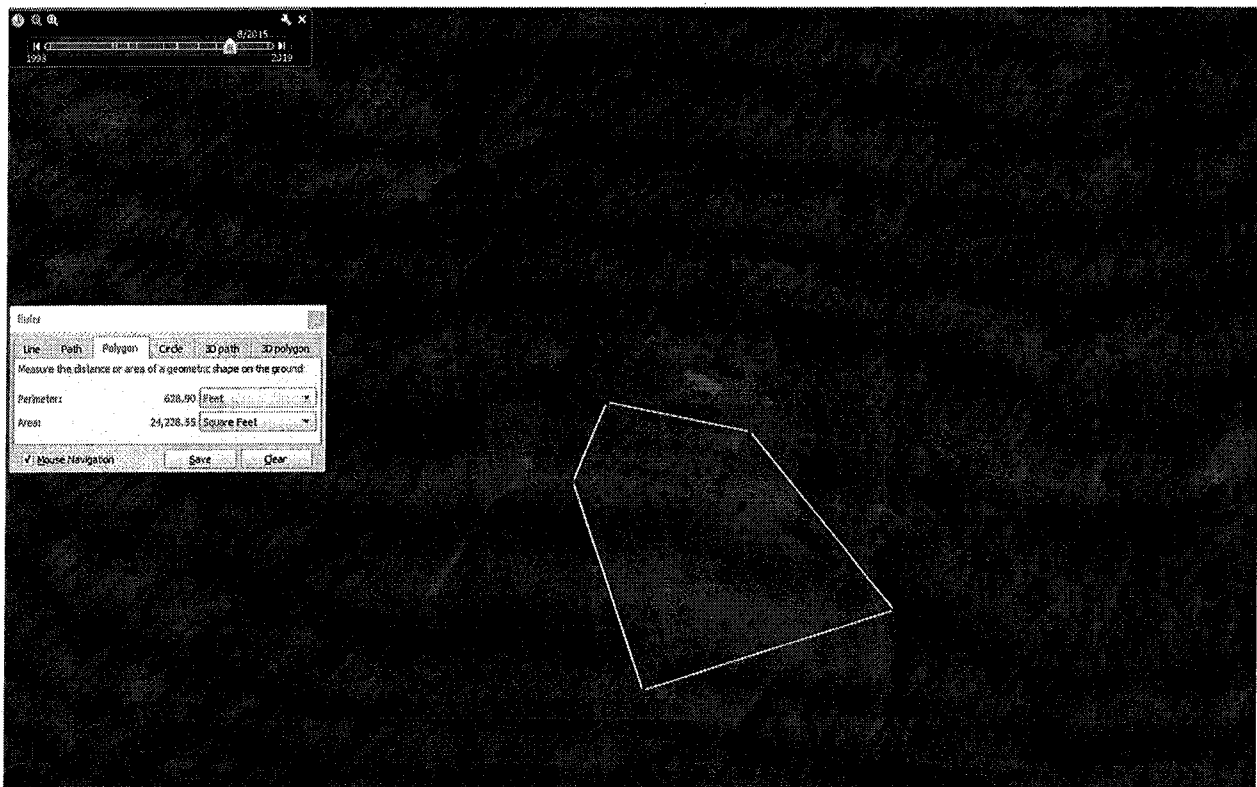
Utilities: The subject parcel has no residential development or full-time inhabitants. Activities are limited to seasonal agricultural operations. Electric power is supplied by portable generators. A portable toilet is available for use when needed. A spring provides water.

Water Supply: Water for Agriculture use is sourced from a spring as described in a copy of *DWR Right to Divert and Use Water* and *CDFW LSAA NOTIFICATION* included with this submission. The applicant will obtain legal authorization from all state agencies having regulatory jurisdiction over water rights, source development, water usage/storage and appurtenant facilities as applicable to the intended use of the spring.

Water Storage: Water is stored in hard plastic tanks at separate locations around the subject parcel (see site plan).

No of Tanks	Capacity (US Gallons)	Total Gallons
9	2,500	22,500
35	5,000	175,000
		197,000

Cultivation Area(s) and/or other graded flats: Cultivation on the subject parcel is limited to a centralized clearing as shown below in the 2015 Google Earth Image. No relocation of cultivation to another area is proposed. Cultivation has been limited to the eastern side of the clearing shown below.



Cultivation proposed includes:

(18) - greenhouses each 10' x 80' = 14,400 ft²

and remaining full-term outdoor (5,261 ft²) to total 19,661 ft².

Cultivation Areas and surrounding ground surfaces were evaluated in the development of a site-specific Water Resources Protection Plan (WRPP). The WRPP prescribes corrective measures (if needed) to address conditions which may adversely impact water resources and it will establish a timeline in which to achieve compliance with RWQCB Order No.2015-0023. Corrective measures prescribed in the WRPP do not preclude the need for Cultivation Areas to be brought into compliance with all applicable state and local grading, excavation and erosion/sediment control regulations/requirements.

Peak Water Demand: The peak water demand (calculated using 1.4 gallons/ft² of cultivation area) to maintain plants during the warmest months is 28,000 gallons per month.

The table below shows water use during the grow season. Totalizing flow meters shall be incorporated into the irrigation system enabling accurate monitoring and recording of water usage in compliance with applicable regulations.

There is no agricultural water use during the months not shown

	<i>Total Gallons</i>
May	13,000
June	20,000
July	25,000
August	28,000
September	22,000
October	16,000

Irrigation Method(s): Irrigation is accomplished by use of drip lines. The flow to drip lines is regulated by timers and adjusted for maximum efficiency taking into consideration temperature, plant demand etc. Water delivery throughout the system is carefully monitored on a regular basis to ensure proper function and responsible water use. Mulch is carefully placed as a top dressing to optimize soil water retention. Occasional hand watering may be employed if needed.

Irrigation Runoff/Erosion control: The use of carefully regulated drip irrigation minimizes the chance of overwatering or residual discharge of irrigation solutions outside of the “targeted” root zone. In the unlikely event that residual discharge did occur it would contact permeable soil on nearly level ground in and around cultivation areas and be rapidly absorbed. **Lateral movement/irrigation runoff** of any irrigation solutions away from the point of ground contact is very unlikely. The ground surface in and around cultivation areas is proactively managed year-round to prevent any unwanted migration of entrained constituents such as fine sediment, fertilizer or other organic particles.

Watershed Protection: The Cultivation Areas on the subject parcel meet applicable setback requirements to watercourses, riparian zones or wetlands (see site plan). The applicant ensures BMP's related to storage, use and disposal of cultivation related materials/products in and around cultivation areas are in use at all times. This includes limiting cultivation activities to the immediate area where cultivation occurs and keeping products/materials securely confined so spreading due to weather or pests does not occur. **Watershed protection** will be ensured by adherence to measures prescribed in the Water Resources Protection Plan and the Site Management Plan being developed specifically for this parcel. Water Board enrollees are required to engage in ongoing monitoring, reporting and maintenance including periodic site inspections and reviews of operational practices to ensure regulatory requirements related to the following listed items are being met:

<i>Site maintenance, erosion control, and drainage features</i>	<i>Stream crossing maintenance</i>
<i>Riparian and wetland protection and management</i>	<i>Spoils management</i>
<i>Water storage and use</i>	<i>Irrigation runoff</i>
<i>Fertilizers and soil amendments</i>	<i>Pesticides and herbicides</i>
<i>Petroleum products and other chemicals</i>	<i>Cultivation-related wastes</i>
<i>Refuse and human waste</i>	

Additionally, participants ensure that management measures and controls are effectively protecting water resources, and that any newly developing problems representing a water quality concern are identified and corrected quickly.

Generator use is limited to a few periods of short duration immediately following harvest in July and October. The site where a generator would be in use is no closer than 280 feet to any property line. The Honda generators used may include:

Honda 6500 which has a noise rating of 75dB(A) at rated load – using the calculator at http://www.engineeringtoolbox.com/inverse-square-law-d_890.html, the expected noise level at the nearest property line approximately 280 feet away would be 28dB

Honda EU 1000 has a noise rating of 59dB(A) at rated load; the aforementioned calculator indicates the noise level expected at 280 feet to be 12Db.

Fertilizers/Amendments/Regulated Products:

List and describe machinery and equipment used for cultivation and associated activities.

There are two portable generators used to supply auxiliary power. A Honda 6500 and a Honda 1000. A total of six (6) dehumidifiers may be used.

Describe equipment service and maintenance; including where it is done (oil change, cleaning, etc.)

No equipment is serviced on the subject parcel; if needed, generators are brought to town for servicing.

List and describe petroleum products and automotive fluids used onsite - Indicate amounts normally stored and how/where they are stored. Gasoline is kept in conventional 5 gallon canisters. There is usually no more than two full canisters at any one time. Gasoline cans are stored inside the barn building away from any ignition source or potential disturbance.

List and describe compressed gases, cleaners, solvents and sanitizers used (including, but not limited to household chemicals, bleach, alcohol); indicate amounts normally stored and how/where they are stored. n/a

List and describe fertilizers, soil amendments, pesticides, herbicides and rodenticides used.

Indicate the amount normally stored and how/where they are stored

The following fertilizers/amendments are used at the start of the grow season. The mixing of these products takes place only within a small area near cultivation sites and the products are kept protected from accidental spillage or disturbance from wildlife.

Max Sea - 50 lb. bag
Fish Emulsion – 8 gallons
Bat Guano – 50 lb. bag
Kelp Meal – 50 lb. bag

Any remaining product is stored within the Ag Building located at the east side of the clearing. Stored products are kept on pallets in the original packaging secured such that no spillage occurs. The Ag building is weather-proof and prevents exposure to pests and inclement weather.

The applicant acknowledges that the storage and/or use of certain materials in specified volumes and/or weights will be subject to regulation through Humboldt County Division of Environmental Health CUPA and may require: submittal of inventories for those materials, documentation of emergency and training procedures, maintenance of hazardous waste disposal records, obtaining an EPA generator ID number and be subject to site inspections.

Cultivation Related Wastes: Cultivation related wastes are sorted such that green waste materials are recycled/composted onsite within a small area equipped with perimeter and top containment to prevent unwanted movement of materials due to weather conditions or animals/pests. Other materials, unsuitable for composting, are stored in conventional lid trash containers along with domestic garbage and hauled to an approved transfer station/disposal facility as needed.

Soils Management: If it becomes necessary, exhausted soil will be removed from cultivation beds and carefully mixed and spread over native soils on level ground at select locations to initiate microbial reconditioning and prevent unwanted constituent migration. Spent growth medium containing inorganic substances such as perlite, will be stored in weatherproof containers and hauled to an approved waste facility as needed.

Human Waste: The subject parcel has no residential development or full-time inhabitants. Activities are limited to seasonal agricultural operations. A portable toilet with handwashing facilities is available for use when needed. A spring provides domestic water for handwashing.

Cultivation Operations/Practices: Young plants are obtained from an approved source and established into beds at the beginning of May. Two cultivation cycles are anticipated by use of black out tarps on greenhouses. Anticipated two individuals to assist owner/operator at peak operations.

		<i>Avg. Hours Generator/Day</i>	<i>Estimate Lights on Hours/Day</i>
April	Begin site preparation and cleanup		
	Prepare soil for planting		
May	Place young plants into beds/plots, mix nutrient tanks		
June	Start outdoor planting, monitor/record water usage apply 1 st DEP Cover		
July	General garden care and maintenance, monitor Continue water usage monitoring, Harvest 1 st round DEP	12	Dehum/Fans
August	Dry 1 st round harvest, ongoing garden care and Operations maintenance, Monitor water use.		
September	Ongoing garden care, water use monitoring		
October	Garden care, 2 nd round harvest Dry etc.	12	Dehum/Fans
November	Initiate site cleanup and winterization		

Processing: Plants are harvested at peak ripeness and brought to the Dry Barn. Dehumidifiers and fans may be used to facilitate natural air drying. Processing will occur offsite at a licensed third-party facility until such time as on-site facilities are developed which comply with applicable regulations.

Security: Access to the subject parcel is restricted to property owners by the use of locking metal gates at two separate road locations.



North Coast Regional Water Quality Control Board

September 24, 2019

WDID:1_12CC418732

BRIAN HALL
PO BOX 104
RIO DELL, CA 95562

Subject: Notice of Applicability - Waste Discharge Requirements Water Quality Order WQ 2019-0001-DWQ

The attached Notice of Applicability provides notice that the requirements of the State Water Board *Cannabis Cultivation Policy- Principles and Guidelines for Cannabis Cultivation* (Policy), and the *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities*, Order WQ 2019-0001-DWQ (General Order – previously WQ 2017-0023-DWQ, with updates and revisions effective April 16, 2019) are applicable to the site as described below. Based on the information provided, the Discharger self-certifies the cannabis cultivation activities are consistent with the requirements of the State Water Board Policy and General Order.

Please direct all submittals, discharge notifications, and questions regarding compliance and enforcement to the North Coast Regional Water Quality Control Board Cannabis Program at (707) 576-2676 or northcoast.cannabis@waterboards.ca.gov.

Sincerely,

2019.09.25 10:16:30 PDT
Kason Grady
On Behalf Of
Water Boards

Matthias St. John
Executive Officer
North Coast Regional Water Quality Control Board

190924_1L_1_12CC418732_1B170540CHUM_Bear_Creek_Farms_NOA_TW

NOTICE OF APPLICABILITY – WASTE DISCHARGE REQUIREMENTS, WATER QUALITY ORDER WQ 2019-0001-DWQ, BRIAN HALL, HUMBOLDT COUNTY APN(s) 208-201-026

Brian Hall (hereafter “Discharger”) submitted information through the State Water Resources Control Board’s (State Water Board’s) online portal on June 27, 2019, for discharges of waste associated with cannabis cultivation related activities. Based on the information provided, the Discharger self-certifies the cannabis cultivation activities are consistent with the requirements of the Policy and General Order. This letter provides notice that the Policy and General Order are applicable to the site as described below. You are hereby assigned waste discharge identification (WDID) number **1_12CC418732**. The original WDID assigned by the North Coast Regional Water Quality Control Board was 1B170540CHUM.

The Discharger is responsible for all the applicable requirements in the Policy, General Order, and this Notice of Applicability (NOA). This includes making any necessary changes to the enrollment, and the Discharger is the sole person or entity with legal authority to make those changes. The Discharger will be held liable for any noncompliance with the Policy, General Order, and the NOA.

1. FACILITY AND DISCHARGE DESCRIPTION

All dischargers enrolled under the North Coast Regional Water Board’s Order (R1-2015-0023) or the Central Valley Regional Water Board’s Order (R5-2015-0113) as of October 17, 2017, (the adoption date of the General Order) may retain the reduced setbacks applicable under the appropriate Regional Water Board order unless the Executive Officer for the appropriate Regional Board determines that the reduced setbacks applicable under their regional order are not protective of water quality. However, sites that expand their cannabis cultivation area or other cannabis related activities must comply with the riparian setbacks in the General Order.

The information submitted by the Discharger states the disturbed area is equal to or greater than 2,000 square feet and less than 1 acre (43,560 square feet) no portion of the disturbed area is within the setback requirements, no portion of the disturbed area is located on a slope greater than 30 percent, and the cannabis cultivation area is less than or equal to 1 acre.

Based on the information submitted by the Discharger, the cannabis cultivation activities are classified as Tier 1 Low Risk.

2. SITE-SPECIFIC REQUIREMENTS

The Policy and General Order are available on the Internet at:

https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_water_quality.html

The Discharger shall ensure that all site operating personnel know, understand, and comply with the requirements contained in the Policy, General Order, this NOA, and the Monitoring and Reporting Program (MRP, Attachment B of the General Order). Note that the General Order contains standard provisions, general requirements, and prohibitions that apply to all cannabis cultivation activities.

The application requires the Discharger to self-certify that all applicable Best Practicable Treatment or Control (BPTC) measures are being implemented, or will be implemented by the onset of the winter period (November 15 - April 1), following the enrollment date. Landowners of the cultivation site in the North Coast Region are required to submit and implement Site Management Plans that describes how BPTC measures are implemented property-wide, including BPTC measures implemented to address discharges from legacy activities (e.g. former timber harvest, road building, mining, etc.) at the site per Provision C.1.a. of the General Order. Dischargers that cannot implement all applicable BPTC measures by the onset of the winter period, following their enrollment date, shall submit to the appropriate Regional Water Board a *Site Management Plan* that includes a time schedule and scope of work for use by the Regional Water Board in developing a compliance schedule as described in Attachment A of the General Order.

The Policy and General Order require that, prior to conducting any work in streams or wetlands, the Discharger obtain water quality certification from the Water Boards and other required permits from other agencies (e.g. a Clean Water Act section 404 permit from the United States Army Corps of Engineers, a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife, and other local permits). Enrollment in the General Order requires that the Discharger obtain water quality certification for any such work, but this NOA does not provide the necessary certification. If the Discharger proposes or requires work in streams or wetlands, they must apply for water quality certification separately by filling out and submitting a separate application for that work. The application is available for download at the following Regional Water Board website:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/

Currently, the direct link to that application is as follows:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/pdf/190403/180731_031616_401_WQ2017-0023-Application.pdf

Note: Water Quality Certifications require separate application and monitoring fees. A fee calculator and additional information are available at:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/water_quality_certification/#401_calc

During reasonable hours, the Discharger shall allow the State Water Board or Regional Water Board (collectively Water Boards), California Department of Fish and Wildlife, CAL FIRE, and any other authorized representatives of the Water Boards upon presentation of a badge, employee identification card, or similar credentials, to:

- i. enter premises and facilities where cannabis is cultivated; where water is diverted, stored, or used; where wastes are treated, stored, or disposed; or in which any records are kept;
- i. access and copy, any records required to be kept under the terms and conditions of the Policy and General Order;
- ii. inspect, photograph, and record audio and video, any cannabis cultivation sites, and associated premises, facilities, monitoring equipment or device, practices, or operations regulated or required by the Policy and General Order; and
- iii. sample, monitor, photograph, and record audio and video of site conditions, any discharge, waste material substances, or water quality parameters at any location for the purpose of assuring compliance with the Policy and General Order.

3. TECHNICAL REPORT REQUIREMENTS

The following technical report(s) shall be submitted by the Discharger as described below:

A Site Management Plan, by September 24, 2019, consistent with the requirements of General Order Provision C.1.a., and Attachment A, Section 5. Attachment D of the General Order provides guidance on the contents of the Site Management Plan.

A Site Closure Report must be submitted 90 days prior to permanently ending cannabis cultivation activities and seeking to rescind coverage under the General Order. The *Site Closure Report* must be consistent with the requirements of General Order Provision C.1.e., and Attachment A, Section 5. Attachment D of the General Order provides guidance on the contents of the *Site Closure Report*.

4. MONITORING AND REPORTING PROGRAM

The Discharger shall comply with all provisions of the Monitoring and Reporting Program (MRP), which appears as Attachment B to the General Order. The Discharger shall also comply with all provisions of the *North Coast Regional Supplement to Annual Monitoring and Reporting Requirements for Statewide Cannabis General Order WQ 2017-0023-DWQ* (Regional Supplement), which independently appears as Investigative Order No. R1-2019-0023, issued by the Regional Water Board Executive Officer on March 22, 2019. Annual reports for both sets of requirements shall be submitted to the Regional Water Board in a combined report by March 1 following the year being monitored through the online portal (<https://public2.waterboards.ca.gov/cgo>). The Discharger shall not implement any changes to the MRP or to the Regional Supplement unless and until a revised MRP or Regional Supplement is issued by the Regional Water Board Executive Officer or the State Water Board Division of Water Quality Deputy Director, or the State Water Board Chief Deputy Director.

A copy of Attachment B to the General Order can be obtained online at the following location, or by contacting staff at the phone number and email address listed below. https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2019/wq2019_0001_dwq.pdf#page=32.

A copy of the Regional Supplement can be obtained online at the following location, or by contacting staff at the phone number and email address listed below.

https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2019/19_0023_Regional%20Supplement%2013267%20Order.pdf.

5. ANNUAL FEE

According to the information submitted, the discharge is classified as Tier 1 Low Risk. The 2018-2019 annual fee for that tier and risk level was set at \$600, but please note that the Fee Schedule is updated annually and future fees may be invoiced at different rates. Invoices are sent by the State Water Board at the beginning of each calendar year (generally in February). Do not submit payments without receiving an invoice. If you have questions or concerns about your fees please contact the Fee Branch at FeeBranch@waterboards.ca.gov or (916) 341-5247. The fee is due and payable on an annual basis until coverage under this General Order is formally rescinded. To rescind coverage, the Discharger must submit a Request for Termination in writing through the online portal (available at: <https://public2.waterboards.ca.gov/cgo>), including a Site Closure Report at least 90 days prior to termination of activities and include a final MRP report.

6. TERMINATION OF COVERAGE UNDER THE GENERAL ORDER & REGIONAL WATER BOARD CONTACT INFORMATION

Enrollees that propose to terminate coverage under the General Order must submit a Request for Termination in writing through the online portal (<https://public2.waterboards.ca.gov/cgo>). The Request for Termination consists of a formal statement regarding the reason for requesting termination (i.e. cultivation is no longer occurring, the property is being sold, etc.), documentation that the site is in compliance with the General Order, including dated photographs and a written discussion. If the site is not meeting the requirements of the General Order, then the enrollment cannot be terminated. Regional Water Board staff will review the Request for Termination for completeness before determining if a property inspection, enrollment termination, or a request for additional information is appropriate.

If the Discharger cannot comply with the General Order, or will be unable to implement an applicable BPTC measure contained in Attachment A by the onset of the winter period each year, the Discharger shall notify the North Coast Regional Cannabis Unit staff at (707) 576-2676 or northcoast.cannabis@waterboards.ca.gov so that a site-specific compliance schedule can be developed.

Cc: Kevin Porzio, State Water Resources Control Board,
dwq.cannabis@waterboards.ca.gov
Cheri Sanville, California Department of Fish and Wildlife,
cheri.sanville@wildlife.ca.gov
Cliff Johnson, Humboldt County Planning and Building,
cjohnson@co.humboldt.ca.us

Notice of Applicability
WQ 2019-0001-DWQ-R1
WDID #1_12CC418732

- 6 -

September 24, 2019

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



STREAMBED ALTERATION AGREEMENT

NOTIFICATION No. 1600-2019-0590-R1

Unnamed Tributary to Unnamed Tributary to Mad River and the Pacific Ocean

Brian Hall and Sheila Hall
Hall Water Diversion and Stream Crossings Project
7 Encroachments

This Lake or Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Brian and Sheila Hall (Permittee).

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on July 12, 2019, 2019 with additional information January 30, 2020 that the Permittee intends to complete the project described herein.

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

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

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

PROJECT LOCATION

The project to be completed is located within the Mad-Redwood River watershed, approximately 2.6 miles south east of the town of Dinsmore, County of Humboldt, State of California. The project is located in Section 29 T02N, R05E, Humboldt Base and Meridian; in the Showers Mountain U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel Number 208-201-026; latitude 40.5187 N and longitude -123.6453 W at the point of diversion (POD).

PROJECT DESCRIPTION

The project is limited to 7 encroachments (Table 1). Two points of diversions POD-1 and POD-2 are for water diversion for domestic and irrigation uses. The first diversion is

from a spring. The second diversion is from an onstream pond. The third encroachment is to decommission an on-stream spring-fed pond, referred to as Pond A by implementing a Stream Restoration Plan. Water Right H507270 was filed September 9, 2019 for the same two encroachments for cannabis irrigation for this parcel. Work for the water diversion POD-1 spring will include use and maintenance of the water diversion infrastructure. The 4 other proposed encroachments are to upgrade failing and undersized culverts. Work for these encroachments will include excavation, removal of the failing culverts, replacement with new properly sized culverts, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion.

Table 1. Project Encroachments with Description

ID	Latitude/Longitude	Description
POD-1 Spring	40.5187, -123.6453	<p>POD diverts water from a spring for domestic and agricultural use. Point of diversion is a screened 1 ½ inch polyline from a spring.</p> <p><u>Maximum Diversion Rate.</u> The maximum instantaneous diversion rate from the water intake shall not exceed three (3) gallons per minute (gpm) at any time.</p> <p><u>Bypass flow.</u> Permittee shall pass 80% of the flow at all times to keep all aquatic species including fish and other aquatic life in good condition below the POD.</p> <p><u>Seasonal Diversion Rate.</u> No more than 200 gallons in any one day (cumulatively between POD-1 and POD-2) shall be diverted (intend for household domestic use) during the low flow season from May 15 to October 31 of each year. Water shall be diverted only if the Permittee can adhere to the maximum diversion rate and bypass flow conditions of this Agreement.</p>
POD-2 Onstream Pond A (Stream Restoration Plan to take pond off stream)	40.5177, -123.6430	<p>POD diverts water from a spring fed pond for domestic and agricultural use.</p> <p><u>Maximum Diversion Rate.</u> The maximum instantaneous diversion rate from the water intake shall not exceed three (3) gallons per minute (gpm) at any time.</p> <p><u>Bypass flow.</u> Permittee shall pass 80% of the flow at all times to keep all aquatic species including fish and other aquatic life in good condition below the POD.</p> <p><u>Seasonal Diversion Rate.</u> No more than 200 gallons in any one day (cumulatively between POD-1 and POD-2) shall be diverted (intend for household domestic use) during the low flow season from May 15 to October 31 of each year. Water shall be diverted only if the Permittee can adhere to the maximum diversion rate and bypass flow conditions of this Agreement.</p> <p>Permittee shall submit a Stream Restoration Plan (SRP) prepared by a licensed engineer or other qualified professional for CDFW review and approval at least 90 days before initiating work.</p>
Crossing-1	40.5196, -123.6457	Replace undersized 18" culvert with a minimum 36" diameter culvert. Hydrologically disconnect road from stream.
Crossing-2	40.5199, -123.6448	Replace failed 36" diameter culvert with minimum 36" diameter culvert. Hydrologically disconnect road from stream.

Crossing-3	40.5191, -123.6444	Replace undersized 36" culvert with a minimum 66" diameter culvert. Hydrologically disconnect road from stream.
Crossing-4	40.5188, -123.6430	Replace undersized 18" culvert with a minimum 54" diameter culvert. Hydrologically disconnect road from stream.

One additional point of diversion exists depicted as Pond B, which appears to be an onstream pond subject to FGC section 1602 in Table 2. The pond has not been evaluated in the field, but only from the desk. It appears highly likely to be hydrologically connected. This Agreement does not retroactively permit the construction of the pond or diversion for any use. This Agreement does not retroactively permit any stream crossings, water diversions or other encroachments not described in Table 1.

Table 2. Encroachment with description subject to 1600 and **not** covered under this Agreement

ID	Latitude/Longitude	Description
Pond B	40.0166, -123.8443	Appears to be an onstream pond subject to FGC section 1602. This Agreement does not retroactively permit the construction of the pond or authorize diversion for any use.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), Western Brook Lamprey (*Lampetra richardsoni*), Pacific Lamprey (*Entosphenus tridentatus*), Southern Torrent Salamander (*Rhyacotriton variegatus*), Pacific Giant Salamander (*Dicamptodon tenebrosus*), Foothill Yellow-legged Frog (*Rana boylei*), Coastal Tailed Frog (*Ascaphus truei*), Western Pond Turtle (*Actinemys marmorata marmorata*) amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

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

Impacts to water quality:

increased water temperature;
 reduced instream flow;
 temporary increase in fine sediment transport;

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

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

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

cumulative effect when other diversions on the same stream are considered;
 diversion of flow from activity site;
 direct and/or incidental take;

indirect impacts;
impediment of up- or down-stream migration;
water quality degradation; and
damage to aquatic habitat and function.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

The Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. The Permittee shall notify CDFW if the Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact the Permittee to resolve any conflict.
- 1.4 Project Site Entry. The Permittee agrees to allow CDFW employees access for the purpose of inspecting and/or monitoring the activities covered by this Agreement, provided CDFW: a) provides 24 hours advance notice; and b) allows the Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW enforcement personnel.
- 1.5 Adherence to Existing Authorizations. All water diversion facilities that the Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights.
- 1.6 Other Agency Permitting Requirements. The U.S. Army Corps of Engineers (Corps) has permitting requirements for certain instream projects under Section 404 of the Federal Clean Water Act. If this project features the placement of dredged or fill materials into the channels of streams (below the ordinary high water mark) that are waters of the United States, a permit may be required by the Corps. If your project needs a permit from the Corps, you will also need to obtain a Water Quality Certification pursuant to Section 401 of the Federal Clean Water

Act from the Regional Water Quality Control Board (Regional Water Board). In addition, if your project will involve disturbance within or discharges of pollutants to Waters of the State of California, the Regional Water Boards may require a permit, whether or not the Corps requires a permit. If there is any question regarding the possibility of the project meeting the above limitations, the Permittee should contact the Corps and the Regional Water Board prior to beginning work. This Agreement in no way represents permitting requirements by the Corps or the Regional Water Board. It is the responsibility of the Permittee to contact the Corps, and to comply with the provisions of any Section 404 permit issued, if required by the Corps. Similarly, it is the responsibility of the Permittee to contact the Regional Water Board and to comply with the provisions of any Section 401 Certification, Regional Water Board Waste Discharge Requirements or waiver of Waste Discharge Requirements issued by the Regional Water Board.

- 1.7 Change of Conditions and Need to Cease Operations. If conditions arise, or change, in such a manner as to be considered deleterious by CDFW to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information becoming available that indicates bypass flows, diversion rates or other measures provided in this Agreement are not providing adequate protection to keep aquatic life downstream in good condition or to avoid "take" or "incidental take" of federal or State listed species.
- 1.8 CDFW Notification of Work Initiation and Completion. The Permittee shall contact CDFW within the 7-day period preceding the beginning of work permitted by this Agreement. Information to be disclosed shall include Agreement number, and the anticipated start date. Subsequently, the Permittee shall notify CDFW no later than seven (7) days after the project is fully completed. **Notification of completion will include photographs of the completed work, erosion control measures, waste containment and disposal, and a summary of any CNDDDB submissions as required below.**
- 1.9 Notification to the California Natural Diversity Database. If any special status species are observed at any time during the project, a qualified Biologist shall submit California Natural Diversity Data Base (CNDDDB) forms to the CNDDDB within five (5) working days of the sightings. A summary of CNDDDB submissions shall be included with the completion notification. Forms and instructions for submissions to the CNDDDB may be found at:
<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

2. Avoidance and Minimization Measures

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

- 2.1 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with Permittee Notification, together with all maps,

Best Management Practices (BMPs), photographs, drawings, and other supporting documents submitted with the Notification and received on July 12, 2019 and with additional information on January 30, 2020.

- 2.2 Listed Species. This Agreement does not allow for the take, or incidental take of any state or federal listed threatened, endangered, or candidate species. No direct or indirect impacts shall occur to any threatened or endangered species as a result of implementing the project or the project's activities. If the project could result in the "take" of a state listed threatened or endangered species, the Permittee has the responsibility to obtain from CDFW, a California Endangered Species Act Permit (CESA section 2081).
- 2.3 Nesting Birds. Actively nesting birds and their nests shall not be disturbed by project activities. If construction, grading, vegetation removal, or other project-related improvements are necessary during the nesting season of protected raptors and migratory birds (**March 1 through August 15**), the Permittee shall notify CDFW of proposed work and a focused survey for bird nests and/or nesting behavior shall be conducted by a qualified biologist within seven (7) days prior to the beginning of project-related activities. Surveys should encompass the area up to 50 feet from disturbance to account for songbirds, and up to 250 feet from disturbance for raptors. If a nest is found or suspected to be present, Permittee shall consult with CDFW regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and FGC. If a lapse in project-related work of seven (7) days or longer occurs, another focused survey, and if required, consultation with CDFW shall be required before project work can be reinitiated.

Project Timing

- 2.4 Work Period. All work, not including diversion of water, shall be confined to the period **June 15 through October 15** of each year. Work within the active channel of a stream shall be restricted to periods of **dry weather**. Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Construction activities shall cease and all necessary erosion control measures shall be implemented prior to the onset of precipitation. Limited vegetation removal may occur outside of this work period as per Measure 2.6.
- 2.5 Extension of the Work Period. If weather conditions permit, and the Permittee wishes to extend the work period after October 15, a written request shall be made to CDFW **at least 10-working days before the proposed work period variance**. Written approval (letter or e-mail) for the proposed time extension must be received from CDFW prior to activities continuing past October 15.
- 2.6 Work Completion. The proposed work shall be completed by no later than **October 15, 2021**. Failure to complete work by this date may result in suspension or revocation of this Agreement. A notice of completed work, including

photographs of each site, shall be submitted to CDFW within seven (7) days of project completion.

Vegetation Management

- 2.7 Minimum Vegetation Removal. No native riparian vegetation shall be removed from the bank of the stream, except where authorized by CDFW. Permittee shall limit the disturbance or removal of native vegetation to the minimum necessary to achieve design guidelines and standards for the Authorized Activity. Permittee shall take precautions to avoid damage to vegetation outside the work area.
- 2.8 Vegetation Maintenance. Permittee shall limit vegetation management (e.g., trimming, pruning, or limbing) and removal for the purpose of Authorized Activity to the use of hand tools. Vegetation management shall not include treatment with herbicides.
- 2.9 Avoidance of Nesting Birds. Vegetation maintenance/removal as necessary within the scope of the project shall be confined to the period commencing August 16 and ending February 28, of any year in which this Agreement is valid, provided the work area is outside of the actively flowing stream. Work may continue during precipitation events provided stream flows have not risen into work areas and sediment delivery will not result.

General Stream Protection Measures

- 2.10 Fish and Aquatic Amphibians. If possible, work shall be conducted when the affected stream channel is void of surface water. If surface water is present during construction, the Permittee shall: a) have a biologist or other qualified professional survey the site and adjacent area for fish, amphibians, and turtles three (3) days or less before commencing project activities and b) if fish, amphibians, or turtles are detected, CDFW will be contacted and work shall not commence until authorized by a CDFW representative.
- 2.11 Stream Protection. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other material deleterious to fish, plant life, mammals or bird life shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the stream.
- 2.12 No Dumping. Permittee shall not deposit, permit to pass into, or place where it can pass into a stream, lake, or other Waters of the State any material deleterious to fish and wildlife, or abandon, dispose of, or throw away within 150 feet of a stream, lake, or other Waters of the State any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.

- 2.13 Maintain Aquatic Life. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, Permittee shall allow sufficient water at all times to pass downstream to maintain aquatic life below the dam pursuant to FGC section 5937.
- 2.14 Maintain Passing of Fish Up and Down Stream. It is unlawful to construct or maintain in any stream any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish (*wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn or ovum of any of those animals*) up and down stream pursuant to FGC section 5901
- 2.15 Equipment Maintenance. Refueling of machinery or heavy equipment, or adding or draining oil, lubricants, coolants or hydraulic fluids shall not take place within stream bed, channel and bank. All such fluids and containers shall be disposed of properly off-site. Heavy equipment used or stored within stream bed, channel and bank shall use drip pans or other devices (e.g., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.
- 2.16 Hazardous Spills. Any material, which could be hazardous or toxic to aquatic life and enters a stream (i.e. a piece of equipment tipping-over in a stream and dumping oil, fuel or hydraulic fluid), the Permittee shall immediately notify the California Emergency Management Agency State Warning Center at 1-800-852-7550, and immediately initiate clean-up activities. CDFW shall be notified by the Permittee within 24 hours at 707-445-6493 and consulted regarding clean-up procedures.
- 2.17 Clean-up. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the ordinary high water mark before such flows occur or the end of the yearly work period, whichever comes first. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.
- 2.18 Erosion Control Measures
- 2.18.1 Seed and Mulch. Upon completion of construction operations and/or the onset of wet weather, Permittee shall stabilize exposed soil areas within the work area by applying mulch and seed. Permittee shall restore all exposed or disturbed areas and access points within the stream and riparian zone by applying local native and weed free erosion control grass seeds. Locally native wildflower and/or shrub seeds may also be included in the seed mix. Permittee shall mulch restored areas using at least two (2) to four (4) inches of weed-free clean straw or similar biodegradable mulch over the seeded area. Alternately, Permittee may cover seeding with jute netting, coconut fiber blanket, or similar non-synthetic monofilament netting erosion control blanket.

2.18.2 Erosion and Sediment Barriers. Permittee shall monitor and maintain all erosion and sediment barriers in good operating condition throughout the work period and the following rainy season, defined herein to mean October 15 through June 15. Maintenance includes, but is not limited to, removal of accumulated sediment, replacement of damaged sediment fencing, coir rolls/logs and/or straw bale dikes and ensuring drainage structures and altered streambeds and banks remain sufficiently armored and/or stable. If the sediment barrier fails to retain sediment, Permittee shall employ corrective measures, and notify CDFW immediately.

2.18.3 Cover Spoil Piles. Permittee shall have readily available erosion control materials such as wattles, natural fiber mats, or plastic sheeting, to cover and contain exposed spoil piles and exposed areas in order to prevent sediment from moving into a stream or lake. Permittee shall apply and secure these materials prior to rain events to prevent loose soils from entering a stream, lake, or other Waters of the State.

2.18.4 Prohibition on Use of Monofilament Netting. To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.

2.19 Waste Containment and Disposal. Permittee shall contain all operation associated refuse in enclosed, wildlife proof, storage containers, at all times, and relocate refuse to an authorized waste management facility, in compliance with State and local laws, on a regular and ongoing basis. All refuse shall be removed from the site and properly disposed of, at the close of the cultivation season and/or when the parcel is no longer in use. Photo documentation of newly installed storage containers shall be included in the Work Completion Report.

2.20 Site Management Plan. Permittee shall submit to CDFW the initial preparation and subsequent updates to the project's Site Management Plan that is prepared in conformance with the State Water Board's Cannabis Cultivation Policy and Guidelines.

Water Diversion

2.21 Maximum Diversion Rate. The maximum instantaneous diversion rate from the water intake shall not exceed **three (3) gallons per minute (gpm)** at any time.

2.22 Bypass Flow. The Permittee shall pass **80% of the flow** at all times to keep all aquatic species including fish and other aquatic life in good condition below the POD.

- 2.23 Seasonal Diversion Minimization. No more than **200 gallons in any one day (cumulatively between POD-1 and POD-2)** shall be diverted (intend for household domestic use) during the low flow season **May 15 to October 31** of each year. Water shall be diverted only if the Permittee can adhere to the maximum diversion rate and bypass flow conditions of this Agreement.
- 2.24 Measurement of Diverted Flow. Permittee shall install and maintain an adequate measuring device for measuring the instantaneous and cumulative rate of diversion. This measurement shall begin as soon as this Agreement is signed by the Permittee. The device shall be installed within the flow of diverted water. The Permittee shall maintain records of diversion, and provide information including, but not limited to the following:
- 2.24.1 A log including the date, time and quantity of water diverted from the POD.
- 2.24.2 The amount of water used per day for cannabis cultivation separated out from the amount of water used for other irrigation purposes and other uses of water (e.g., domestic use or fire protection).
- 2.24.3 Permittee shall make available for review at the request of CDFW the diversion records required by the State Water Resources Control Board (Board) in Attachment A to the Board's Cannabis Cultivation Policy (October 17, 2017), No. 84, pages 40-41 (see Cal. Code Regs., tit. 23, § 2925).
- 2.25 Water Management Plan. The Permittee shall submit a Water Management Plan no later than **sixty days** from the time this Agreement is made final that describes how compliance will be achieved under this Agreement. The Water Management Plan shall include details on water storage, water conservation, or other relevant material to maintain water needs in coordination with forbearance and bypass flow requirements. The Water Management Plan shall include a brief narrative describing water use on the property, photographs to support the narrative, and water use calculations to ensure compliance with this Agreement.

Water Diversion Infrastructure

- 2.26 Intake Structure. No polluting materials (e.g., particle board, plastic sheeting, bentonite) shall be used to construct or screen, or cover the diversion intake structure.
- 2.27 Intake Structure Placement. Infrastructure installed in the streambed (e.g., spring box) shall not exceed 10% of the active channel width and shall not be located in the deepest portion of the channel. The depth of the intake shall be no greater than one foot (12 inches) below the streambed.

2.28 Intake Screening. The Permittee shall regularly inspect, clean, and maintain screens in good condition.

2.28.1 The water intake screens shall be securely attached (e.g., threaded or clamped) to the intake line and have a minimum wetted area of 0.25 square feet.

2.28.2 The intakes screen shall be designed so that approach velocity is no more than 0.1 foot per second (fps). Approach velocity is the velocity of the water perpendicular to the screen face measured three (3) inches in front of the screen surface.

2.28.3 A water intake screen with round openings shall not exceed 3/32-inch diameter; a screen with square openings shall not exceed 3/32-inch measured diagonally; and a screen with slotted openings shall not exceed 0.069 inches in width. Slots must be evenly distributed on the screen area.

2.28.4 The water intake screen may be constructed of any rigid material, perforated, woven, or slotted and should have a minimum of 27% open area. Stainless steel or other corrosion-resistant material is recommended to reduce clogging due to corrosion. Care should be taken not to use materials deemed deleterious to aquatic species.

2.28.5 The screen shall be designed to distribute the flow uniformly over the entire screen area.

2.28.6 The water intake screen shall be placed in fast moving water with the long axis of the screen parallel to the streamflow. The water intake shall not be placed in pool habitat.

2.29 Intake Shall Not Impede Aquatic Species Passage. The water diversion structures shall be designed, constructed, and maintained such that they do not constitute a barrier to upstream or downstream movement of aquatic life.

2.30 Intake Maintenance. Intakes shall be kept in good repair. Intakes shall be inspected periodically and kept clean and free of accumulated algae, leaves or other debris, which could block portions of the screen surface and increase approach velocities at any point on the screen. No part of screen surfaces shall be obstructed.

2.31 Exclusionary Devices. Permittee shall keep the diversion structures (e.g. cistern) covered at all times to prevent the entrance and entrapment of amphibians and other wildlife.

- 2.32 Diversion Intake Removal. Permittee shall plug, cap, block (e.g., with a shut-off valve), or remove all intakes at the end of each diversion season.
- 2.33 Heavy Equipment Use. No heavy equipment shall be used in the excavation or replacement of the existing water diversion structure. The Permittee shall use hand tools or other low impact methods of removal/replacement. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.
- 2.34 Diversion Infrastructure Plan (DIP). The Permittee shall submit a DIP for CDFW review and approval prior to diverting water. The DIP shall include a narrative describing the different elements of the water diversion infrastructure, supporting photographs and/or diagrams, and justification of how compliance with the **Water Diversion Infrastructure** conditions will be achieved under this Agreement.

Diversion to Storage

- 2.35 Water Storage. All water storage facilities (WSFs) (e.g., reservoirs, storage tanks, mix tanks, and bladders tanks) must be located outside the active 100-year floodplain and outside the top of bank of a stream. Covers/lids shall be securely affixed to water tanks at all times to prevent potential entry by wildlife. Permittee shall cease all water diversion at the POD when WSFs are filled to capacity.
- 2.36 Water Storage Maintenance. WSFs shall have a float valve to shut off the diversion when tanks are full to prevent overflow. Water shall not leak, overflow, or overtop WSFs at any time. Permittee shall regularly inspect all WSFs and infrastructure used to divert water to storage and use and repair any leaks.
- 2.37 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.38 Limitations on Impoundment and Use of Diverted Water. The Permittee shall impound and use water in accordance with a valid water right, including any limitations on when water may be impounded and used, the purpose for which it may be impounded and used, and the location(s) where water may be impounded and used.
- 2.39 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 *et seq.* as appropriate for the water diversion and water storage. The application for this registration is found at:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/sdu_registration.pdf.

Stream Crossings

- 2.40 Road Approaches. The Permittee shall treat road approaches to new or re-constructed permanent crossings to minimize erosion and sediment delivery to the watercourse. Permittee shall ensure road approaches are hydrologically disconnected to the maximum extent feasible to prevent sediment from entering the crossing site, including when a Stream Crossing is being constructed or reconstructed. Road approaches shall be armored from the crossing for a minimum of *50 feet in both directions*, or to the nearest effective water bar or point where road drainage does not drain to the crossing, with durable, clean, screened, angular rock.
- 2.41 Excavated Fill. Excavated fill material shall be placed in upland locations where it cannot deliver to a watercourse. To minimize the potential for material to enter the watercourse during the winter period, all excavated and relocated fill material shall be tractor contoured (to drain water) and tractor compacted to effectively incorporate and stabilize loose material into existing road and/or landing features.
- 2.42 Runoff from Steep Areas. The Permittee shall make preparations so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential or contained behind erosion control structures. Erosion control structures such as straw bales and/or siltation control fencing shall be placed and maintained until the threat of erosion ceases. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.
- 2.43 Crossing Maintenance. The Permittee shall provide site maintenance for the life of the structures, including, but not limited to, re-applying erosion control to minimize surface erosion and ensuring drainage structures, streambeds and banks remain sufficiently armored and/or stable.
- 2.43.1 The placement of armoring shall be confined to the work period when the stream is dry or at its lowest flow.
- 2.43.2 No heavy equipment shall enter the wetted stream channel.
- 2.43.3 No fill material, other than clean rock, shall be placed in the stream channel.
- 2.43.4 Rock shall be sized to withstand washout from high stream flows, and extend above the ordinary high water level.
- 2.43.5 Rock armoring shall not constrict the natural stream channel width and shall be keyed into a footing trench with a depth sufficient to prevent instability.
- 2.44 Isolation of Work Site. Only when work in a flowing stream is unavoidable (e.g., perennial streams), Permittee shall divert the stream flow around or through the

work area during construction operations. Permittee shall adhere to the following conditions:

2.44.1 Stream Diversion. Stream flow shall be diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.

2.44.2 Coffer Dams. Prior to the start of construction, Permittee shall isolate the work area. Cofferdams shall be installed to divert stream flow; isolate and dewater the work site; catch and retain sediment-laden water; and minimize sediment transport downstream. Water tight coffer dams shall be constructed upstream and downstream of the work area and water diverted, through a suitably sized pipe, from upstream of the upstream coffer dam and discharge downstream of the downstream coffer dam. Cofferdams and the stream diversion system shall remain in place and functional throughout the construction period. Cofferdams or stream diversions that fail for any reason shall be repaired immediately. Permittee shall use only clean, non-erodible materials such as sand bags, on-site rock, and/or plastic sheeting. Mineral soil shall not be used in the construction of cofferdams.

2.44.3 Stranded Aquatic Life. Once coffer dams are installed, a qualified biologist or other qualified professional trained to identify listed species shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets, buckets and by hand. Captured aquatic life shall be released immediately in the closest suitable aquatic habitat adjacent to the work site. This condition does not allow for the take or disturbance of any State or federally listed species, or State listed species of special concern. CDFW staff who prepared this Agreement shall be contacted immediately if any of these species are detected.

2.44.4 Dewatering. Permittee shall catch and retain sediment-laden water and minimize sediment transport downstream. Flowing water shall be cleanly bypassed and/or prevented from entering the work area through pumping or gravity flow, and cleanly returned to the stream below the work area. Permittee shall divert stream flow around the work site in a manner that minimizes turbidity, siltation, and pollution, and does not result in erosion or scour downstream of the diversion.

2.44.5 Remove any Materials upon Completion. Permittee shall remove any turbid water and sediment present in the work area prior to restoring water flow through the project site, and place them in a location where they cannot enter the Waters of the State. Permittee shall remove all materials used for

the temporary stream flow bypass after the Authorized Activity is completed.

2.44.6 Restore Normal Flows. Permittee shall restore normal flows to the effected stream immediately upon completion of work at that location.

2.45 Culvert Installation.

2.45.1 Permanent culverts shall be sized to accommodate the estimated 100-year flood flow [i.e. ≥ 1.0 times the width of the bankfull channel width or the 100-year flood size, whichever is greater], including debris, culvert embedding, and sediment loads.

2.45.1 Where diversion potential exists, a critical dip shall be installed to direct flood flow over the crossing fill and back into the channel. Critical dips shall be constructed to accommodate the entire estimated 100-year flood flow and may be installed by lowering the existing fill over the crossing or by constructing a deep, broad rolling dip over the crossing surface to prevent flood flow from diverting down the road.

2.45.2 If the project is located in a high to very high Fire Hazard Severity Zone as designated by CAL FIRE, CDFW recommends culvert materials consist of corrugated metal pipe (CMP). Use of High Density Polyethylene (HDPE) pipe is discouraged.

http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_zones_maps

2.45.3 Existing fill material in the crossing shall be excavated down vertically to the approximate original channel and outwards horizontally to the approximate crossing hinge points (transition between naturally occurring soil and remnant temporary crossing fill material) to remove any potential unstable debris and voids in the older fill prism.

2.45.4 Culvert shall be installed to grade (not perched or suspended), aligned with the natural stream channel, and extend lengthwise completely beyond the toe of fill. If culvert cannot be set to grade, it shall be oriented in the lower third of the fill face, and a downspout or energy dissipator (such as boulders, rip-rap, or rocks) shall be installed above or below the outfall as needed to effectively control stream bed, channel, or bank erosion (scouring, headcutting, or downcutting). The Permittee shall ensure basins are not constructed and channels are not be widened at culvert inlets.

2.45.5 Culvert bed shall be composed of either compacted rock-free soil or crushed gravel. Bedding beneath the culvert shall provide for even distribution of the load over the length of the pipe, and allow for natural settling and compaction to help the pipe settle into a straight profile. The crossing backfill materials shall be free of rocks, limbs, or other debris that could allow water to seep around the pipe, and shall be compacted.

2.45.6 Culvert inlet, outlet (including the outfall area), and fill faces shall be armored where stream flow, road runoff, or rainfall energy is likely to erode fill material and the outfall area.

2.45.7 Project Inspection. The Project shall be inspected by a licensed professional to ensure that the stream crossings were installed as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

Stream Restoration

2.46 Stream Restoration Plan. The Permittee shall submit a Stream Restoration Plan (SRP) prepared by a licensed engineer or other qualified professional **for CDFW review and approval at least 90 days before initiating work**. The SRP shall detail the dimensions and slopes of the stream channel to be remediated. The SRP shall describe any material utilized to restore the channel to a natural condition. The SRP shall include a revegetation plan for remediation of the impacted channel reach.

2.47 Inspection. The Project shall be inspected by licensed engineer or other qualified professional to ensure that the stream restoration was implemented and is functioning as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

2.48 Revegetation Plan. The Permittee shall include a revegetation plan within the SRP. The Revegetation Plan shall, at a minimum, include the following:

2.48.1 The identification of the area and vegetation types that will be restored.

2.48.2 A planting design and palette appropriate to the vegetation type, cover, stratum, and level of biodiversity (i.e., species richness and composition). Use of a reference site is recommended.

2.48.3 Use regionally appropriate native plants for a riparian vegetation type. The derivation of plant material such as containers, plugs, cuttings, divisions, or seeds from coastal areas of Humboldt, Del Norte and Mendocino Counties within 30 miles of the coast. All native seed material shall be from the North Coast ecoregion (Humboldt, Mendocino, Sonoma or Del Norte Counties), if practical. If quantities are not able to be satisfied from these collection sites, propagules may be obtained from other counties in Northern California with pending approval from a restoration ecologist or botanist.

2.48.4 Cuttings of willows, cottonwoods conducted when dormant. Collection of

cuttings within an area dispersed to maintain genetic and sexual diversity, and to avoid adversely impact existing riparian vegetation. Cuttings hydrated between harvesting and planting (e.g., soak cuttings in water several days to a week to stimulate rooting prior to planting). Cuttings planted to depth of 75% of their length with buds pointing up and bottom of cutting in moist soil or water.

- 2.48.5 Planting conducted after the first seasonal rains have saturated soils beyond the first several inches (November/December) and before April.
- 2.48.6 No application of fertilizer on plants or chemical controls on weeds.
- 2.48.7 Measurable success criteria based on plant survival, density, or cover.
- 2.48.8 Monitoring conducted for a minimum of five years to determine whether the revegetation goals and objectives have been met. Remedial measures if revegetation goals and objectives are not met.
- 2.48.9 Annual status reports on the revegetation efforts shall be submitted to CDFW in the by **October 31 of each year** following initial planting for the length of the monitoring period.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 CDFW Notification of Work Initiation. The Permittee shall contact CDFW within the **seven-day period preceding the beginning of work** permitted by this Agreement. Information to be disclosed shall include Agreement number, and the anticipated start date.
- 3.2 Stream Restoration Plan. The Permittee shall submit a **Stream Restoration Plan for CDFW review and approval at least 90 days before initiating work**. The stream restoration plan shall include a revegetation plan. The Stream Restoration Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.
- 3.3 Work Completion. The proposed work shall be completed by no later than **October 15, 2021**. Failure to complete work by this date may result in suspension or revocation of this Agreement. **Notification of completion will include photographs of the completed work, erosion control measures, waste containment and disposal, and a summary of any CNDDDB submissions** and shall be submitted to CDFW, LSA program at 619 Second Street, Eureka, CA 95501 **within seven (7) days** of project completion.
 - 3.3.1 Photo documentation of newly installed storage containers shall be

included in the Work Completion Report. A notice of completed work, with supplemental pictures, shall be submitted to CDFW **within seven (7) days** of project completion as part of the work completion report.

- 3.4 Project Inspection. The Project shall be inspected by a licensed engineer or other qualified professional to ensure that the stream crossings were installed as designed and the stream restoration was implemented as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of each of the six encroachment projects. The Permittee shall submit the **Project Inspection Report** to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501.
- 3.5 Measurement of Diverted Flow. Copies of the **Water Diversion Records** shall be submitted to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501 no later than **March 31** of each year beginning in **2021**.
- 3.6 Water Management Plan. The Permittee shall submit a **Water Management Plan** within **60 days** from the effective date of this Agreement. The Water Management Plan shall be submitted to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501.
- 3.7 Diversion Infrastructure Plan. The Permittee shall submit **Diversion Infrastructure Plan** within **60 days** from the effective date of this Agreement. Permittee shall **allow 60 days for CDFW review and approval** after submittal of a Diversion Infrastructure Plan. This document shall be submitted to CDFW at the 619 Second Street, Eureka, CA 95501.
- 3.8 Site Management Plan. The Permittee shall submit to CDFW the project's **Site Management Plan within 30 days** of submittal to the State Water Board. Permittee shall submit subsequent revisions and updates to the Site Management Plan that is prepared in conformance with the State Water Board's Cannabis Cultivation Policy and Guidelines.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Brian and Sheila Hall
Post Office Box 104
Rio Del, California 95562
707-496-3242

Hall176@sbcglobal.net

To CDFW:

Department of Fish and Wildlife
Northern Region
619 Second Street
Eureka, California 95501
Attn: Lake and Streambed Alteration Program – Christine Hahn Vertical
Notification #1600-2019-0590-R1

LIABILITY

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

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

SUSPENSION AND REVOCATION

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

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

ENFORCEMENT

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

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

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or obtaining any other permits or authorizations that might be required under, other federal, state, or local laws or regulations before beginning the project or an activity related to it. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

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

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

AMENDMENT

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

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

TRANSFER AND ASSIGNMENT

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

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

EXTENSIONS

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

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after the Permittee signature; 2) after CDFW complies with all applicable requirements under CEQA; and 3) after payment of the applicable FGC section 711.4 filing fee listed at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

TERM

This Agreement shall **expire five (5) years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. The Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605, subdivision (a)(2) requires.

AUTHORITY

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

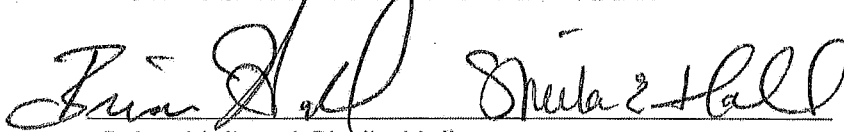
AUTHORIZATION

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

CONCURRENCE

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

FOR BRIAN HALL AND SHEILA HALL



Brian Hall and Sheila Hall

12/7/2020
Date

FOR DEPARTMENT OF FISH AND WILDLIFE

cheri.sanville@wildlife.ca.gov

Digitally signed by cheri.sanville@wildlife.ca.gov
DN: CN=cheri.sanville@wildlife.ca.gov
Reason: I am the author of this document
Location: CDFW 819 2nd Street Eureka, CA
Date: 2020.12.09 12:39:20
Foxit: PhantomPDF Version: 9.6.0

Cheri Sanville
Senior Environmental Scientist Supervisor

Date

Prepared by: Christine Hahn Vertical, Environmental Scientist, October 10, 2019, Revised May 26 and June 10, 2020.



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

DIVISION OF WATER RIGHTS

RIGHT TO DIVERT AND USE WATER

REGISTRATION *H507270*

CERTIFICATE *H100541*

Right Holder: *Brian Hall
PO BOX 104
Rio Dell, CA 95562*

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from *07/02/2019*. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated October 19, 2017.

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

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

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

Name of Diversion	Source	Tributary To:	Thence	Latitude	Longitude	County	Assessor's Parcel Numbers (APN)
POD 1	Unnamed Spring	Unnamed Stream	Mad River	40.517764	-123.643239	Humboldt	208-201-026
POD 2	Unnamed Spring	Unnamed Stream	Mad River	40.518501	-123.645143	Humboldt	208-201-026

2. Purpose of Use and 3. Place of Use

2. Purpose of Use	3. Place of Use		
	County	Assessor's Parcel Numbers (APN)	Acres
Irrigation, Fire Protection	Humboldt	208-201-026	0.46

Note: Assessor's Parcel Numbers provided are based on the user's entries in this portal on *06/27/2019*.

The place of use is shown on the map filed on *06/27/2019* with the State Water Board.

4. Quantity and Season:

The water appropriated by storage shall be limited to the quantity which can be beneficially used and shall not exceed **0.70 acre-feet per year** to be collected from 11/01 to 05/31 and as permitted in the diversion season specified in the current version of the State Water Board's Cannabis Policy, whichever is more restrictive. The total storage capacity shall not exceed 0.81 acre-feet. The rate of diversion to storage shall not exceed **42,000 gallons per day (gpd) or the diversion rate specified in the current version of the State Water Board's Cannabis Policy, whichever is more restrictive**. For onstream storage reservoirs, the diversion rate and diversion season bypass conditions may be modified by the Deputy Director for Water Rights (or designee) or the California Department of Fish and Wildlife as part of the onstream storage

reservoir determinations under the Cannabis Policy.

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

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

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

The current version of the State Water Board's *Cannabis Policy* is available online at:

<https://www.waterboards.ca.gov/cannabis>.

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

downstream senior rights. If a reservoir is involved, right holder may be required to bypass or release water through, over, or around the dam. If release of stored water would not effectively satisfy downstream prior storage rights, right holder may be required to otherwise compensate the holders of such rights for injury caused.

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

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

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

Dated: 06/27/2019 11:03:23

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HUMBOLDT COUNTY DEPARTMENT OF PUBLIC WORKS
ROAD EVALUATION REPORT



PART A: Part A may be completed by the applicant

Applicant Name: BRIAN HALL APN: 208-201-026

Planning & Building Department Case/File No.: APPS: 11241

Road Name: DINSMORE RD (complete a separate form for each road)

From Road (Cross street): ST-Hwy 36

To Road (Cross street): BEAR CRK RD

Length of road segment: 0.6 miles Date Inspected: 12-5-18

Road is maintained by: County Other _____
(State, Forest Service, National Park, State Park, BLM, Private, Tribal, etc)

Check one of the following:

Box 1 The entire road segment is developed to Category 4 road standards (20 feet wide) or better. If checked, then the road is adequate for the proposed use without further review by the applicant.

Box 2 The entire road segment is developed to the equivalent of a road category 4 standard. If checked, then the road is adequate for the proposed use without further review by the applicant.

An equivalent road category 4 standard is defined as a roadway that is generally 20 feet in width, but has pinch points which narrow the road. Pinch points include, but are not limited to, one-lane bridges, trees, large rock outcroppings, culverts, etc. Pinch points must provide visibility where a driver can see oncoming vehicles through the pinch point which allows the oncoming vehicle to stop and wait in a 20 foot wide section of the road for the other vehicle to pass.

Box 3 The entire road segment is not developed to the equivalent of road category 4 or better. The road may or may not be able to accommodate the proposed use and further evaluation is necessary. Part B is to be completed by a Civil Engineer licensed by the State of California.

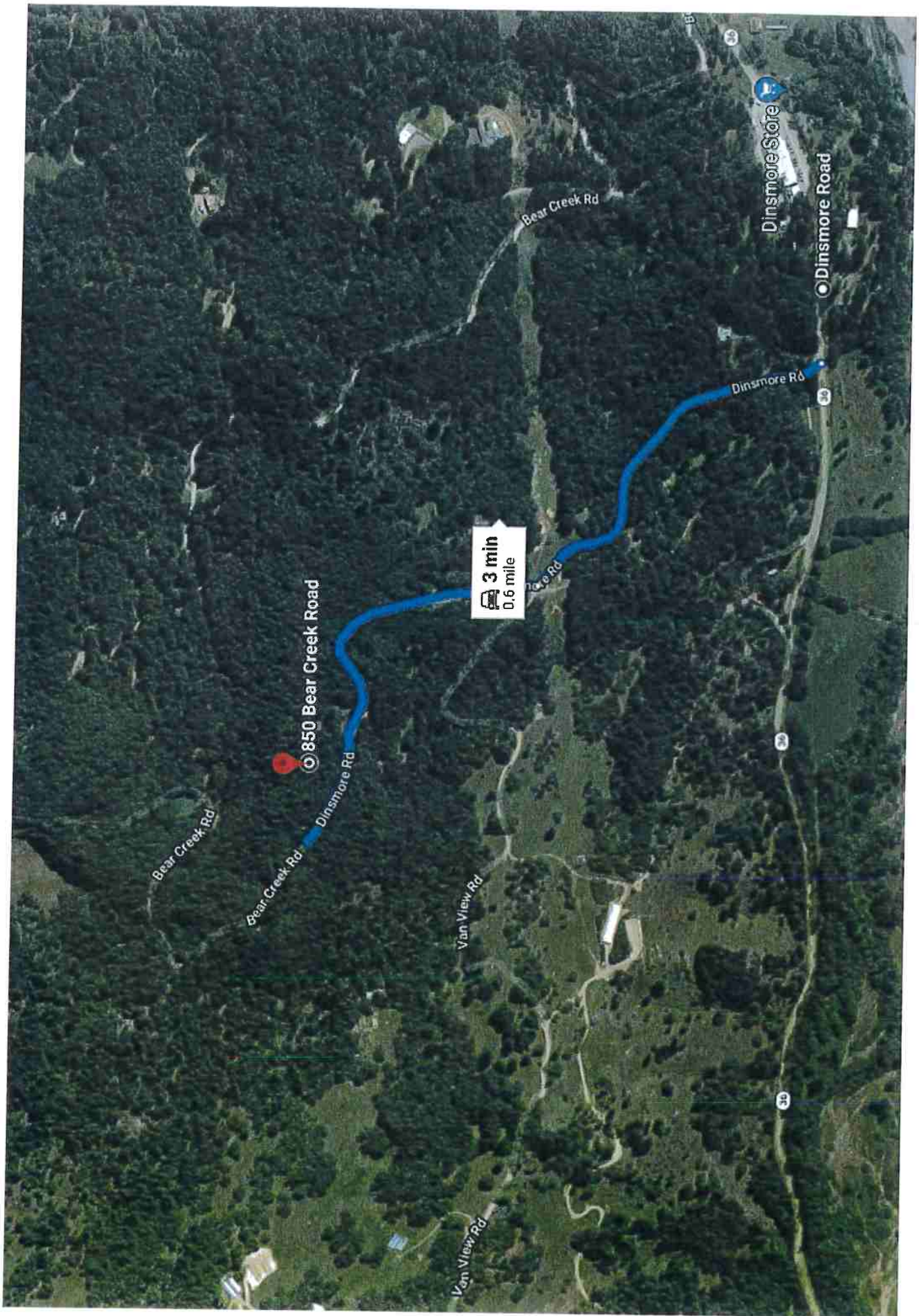
The statements in PART A are true and correct and have been made by me after personally inspecting and measuring the road.

Brian Hall
Signature

12-5-18
Date

Brian Hall
Name Printed

Important: Read the instructions before using this form. If you have questions, please call the Dept. of Public Works Land Use Division at 707.445.7205.



HUMBOLDT COUNTY DEPARTMENT OF PUBLIC WORKS
ROAD EVALUATION REPORT

PART A: Part A may be completed by the applicant

Applicant Name: BRIAN HALL APN: 208-201-026

Planning & Building Department Case/File No.: APPS: 11241

Road Name: BEAR Creek Rd (complete a separate form for each road)

From Road (Cross street): DINSMORE RD

To Road (Cross street): SUBJECT PARCEL

Length of road segment: 2.3 miles Date Inspected: 12-5-18

Road is maintained by: County Other
(State, Forest Service, National Park, State Park, BLM, ~~Private~~, Tribal, etc)

Check one of the following:

Box 1 The entire road segment is developed to Category 4 road standards (20 feet wide) or better. If checked, then the road is adequate for the proposed use without further review by the applicant.

Box 2 The entire road segment is developed to the equivalent of a road category 4 standard. If checked, then the road is adequate for the proposed use without further review by the applicant.

An equivalent road category 4 standard is defined as a roadway that is generally 20 feet in width, but has pinch points which narrow the road. Pinch points include, but are not limited to, one-lane bridges, trees, large rock outcroppings, culverts, etc. Pinch points must provide visibility where a driver can see oncoming vehicles through the pinch point which allows the oncoming vehicle to stop and wait in a 20 foot wide section of the road for the other vehicle to pass.

Box 3 The entire road segment is not developed to the equivalent of road category 4 or better. The road may or may not be able to accommodate the proposed use and further evaluation is necessary. Part B is to be completed by a Civil Engineer licensed by the State of California.

The statements in PART A are true and correct and have been made by me after personally inspecting and measuring the road.

Brian Hall
Signature

12-5-18
Date

Brian Hall
Name Printed

Important: Read the instructions before using this form. If you have questions, please call the Dept. of Public Works Land Use Division at 707.445.7205.

u:\pwrk\landdev\projects\referrals\forms\road evaluation report form (02-24-2017).docx



Apps: 11241

APPS: 11241

1



APPS: U241

2



APPS: 11241

3



APPS: 11241

4



Apps: 11241

5



APP5:11241



AP 15-11241

7



ATTACHMENT 4

REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

The project was referred to the following referral agencies for review and comment. Those agencies that provided written comments are checked off.

Referral Agency	Response	Recommendation	Location
Division Environmental Health	✓	Conditional Approval	Attached
Public Works, Land Use Division	✓	Comments	Attached
Northwest Information Center	✓	Further Study	On file and confidential
Bear River Band THPO	✓	Further Study & Conditional Approval	On file and confidential
CalFIRE	✓	Comments	Attached
County Counsel	✓	Comments	On file
Building Inspection Division		No response	
California Department of Fish & Wildlife		No response	
Ruth Lake Community Services District		No response	
Trinity County Unified School District		No response	
Southern-Trinity Joint Unified School District		No response	
Humboldt County Sheriff		No response	
Humboldt County Agricultural Commissioner		No response	
Humboldt County District Attorney		No response	
CalTrans		No response	
Mad River Unified School District		No response	
North Coast Regional Water Quality Control Board		No response	
Humboldt Bay Municipal Water District		No response	



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



PROJECT REFERRAL TO: Health and Human Services Environmental Health Division

*DEH received
7-18-17*

17/18-0080

Project Referred To The Following Agencies:

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, Supervising Planner, Current Planning Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, Ruth Lake CSD Community Services District, Humboldt County Sheriff, Mad River USD School District, Trinity County USD School District, Southern Trinity USD School District, Cal Trans

Applicant Name Brian Hall **Key Parcel Number** 208-201-026-000

Application (APPS#) 11241 **Assigned Planner** Cannabis Planner (CPOD) (707) 445-7541 **Case Number(s)** CUP16-196

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

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

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

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

Return Response No Later Than

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

We have reviewed the above application and recommend the following:

Conditional Approval

Comments:

DEH recommends approval with the following conditions:

- (1) **No processing can be approved** until an acceptable site suitability report can establish potential for onsite waste treatment system.
- (2) **An invoice, or equivalent documentation, is provided to DEH** to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of annual permit.

*This review and recommendation is for the Land Use aspects of the planning project and does not include or imply compliance with all DEH programs. Although DEH recommends the approval of the Planning project, Solid Waste and HazMat Program requirements need to be addressed directly with staff from those programs.





DEPARTMENT OF PUBLIC WORKS
C O U N T Y O F H U M B O L D T

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



ARCATA-EUREKA AIRPORT TERMINAL
McKINLEYVILLE
FAX 839-3596

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

CLARK COMPLEX
HARRIS & H ST., EUREKA
FAX 445-7388

AVIATION 839-5401

ADMINISTRATION	445-7491	NATURAL RESOURCES	445-7741
BUSINESS	445-7652	NATURAL RESOURCES PLANNING	267-9540
ENGINEERING	445-7377	PARKS	445-7651
FACILITY MAINTENANCE	445-7493	ROADS & EQUIPMENT MAINTENANCE	445-7421

LAND USE 445-7205

LAND USE DIVISION INTEROFFICE MEMORANDUM

TO: Cannabis Planner, Planning & Building Department

FROM: Ken Freed, Assistant Engineer

DATE: 8-14-2017

RE: **NOTICE OF INCOMPLETE APPLICATION**
APPLICATION No. 11241; APN 208-201-026

The Department has received a greater number of projects than can be processed in the time frame provided. The Department is providing the following abbreviated review of the project. Once the requested information has been provided, please re-refer the project to the Department.

All boxes that are checked apply.

- (1) Prior to the project being presented to the Planning Commission or the Zoning Administrator, it is recommended that the project should be referred to:
 - Caltrans; Bureau of Land Mgmt.; US Forest Service; City of _____

Prior to the project being presented to the Planning Commission of the Zoning Administrator, the following must be done:

- (2) Applicant shall submit a completed Public Works Road Evaluation Report form for each road that is used to access the subject property. The applicant shall provide a "google earth" type map showing the locations of the road being evaluated that is indexed to each Road Evaluation Form. Road evaluations are needed for all roads that access off of HWY 36. A Road Evaluation Report form is available from the Land Use Division. The Department recommends that the applicant make an appointment with staff to go over the road evaluation process.
- The submitted Road Evaluation Form(s) is(are) inadequate. See attached road evaluation report response for comments.
- (3) Applicant shall submit Airspace Clearance Form. The subject property is located within the area covered by County Code section 333-1 et seq., the applicant shall submit evidence that the project complies or will comply with County Code.
 - The submitted Airspace Clearance Form is inadequate. See below for comments.
- (4) The subject property has deferred subdivision improvements that must be completed. Prior to the project being presented to the Planning Commission or the Zoning Administrator for approval or prior to the issuance of any building permits, whichever occurs first.

u:\pwrk\landdevprojects\referrals_____

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

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



Ref: 7100 Planning
Date: July 20, 2017

John Ford, Director
Humboldt County Planning Department
3015 H Street
Eureka, CA 95501

Attention: Cannabis Planner (CPOD)
Applicant: Hall, Brian
APN: 208-201-026-000
Area: Dinsmore
Case Numbers: CUP16-196

Humboldt County Application #: 11241
Type of Application: Conditional Use Permit
Date Received: 7/19/2017
Due Date: 8/2/2017

Project Description: A Conditional Use Permit for 20,000 square feet (SF) of outdoor cannabis cultivation. Water for irrigation is sourced from an on-site spring. Water from the spring is stored in thirteen (13) hard tanks (31,500 gallons), and three (3) bladders (52,000 gallons) totaling 83,500 gallons of water storage. Processing, including drying and trimming, takes place in an existing on-site agricultural utility building. The Applicant states two (2) full-time employees are needed year round, with a third during peak operations. Electricity is sourced from generators.

Mr. Ford,

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

- Fire Safe
- Resource Management
- Cannabis

The following pages address these concerns directly.

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

By: Planning Battalion
CALFIRE Humboldt – Del Norte Unit

For **Hugh Scanlon**, Unit Chief

FIRE SAFE

General:

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

Local Responsibility Areas:

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

State Responsibility Areas:

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

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

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

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

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

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

RESOURCE MANAGEMENT

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

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

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

Cannabis

General:

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

Local Responsibility Areas:

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

State Responsibility Areas:

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

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