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Subject: PLN-12277-SP, APN: 208-201-017
Date: Tuesday, October 1, 2024 4:16:51 PM
Attachments: [1600-2017-0571-R1_HUM_MJV_Lorist_Water_Diversion_and_Stream_Crossings_RevFinalLSAA.pdf](#)
[NOV_051117_HUM_MJ_Lorist_Mad_River.PDF](#)

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Good Afternoon,

Please see the comments below regarding the above-referenced project.

Project Number: PLN-12277-SP

Project Name: Cherrytree, LLC

APN(s): 208-201-017

CEQA No: CEQA-2024-0277-R1

Project Description

Cherrytree, LLC - 10,000 sf existing outdoor cultivation

An application for a Special Permit for 10,000 square foot existing outdoor medical cannabis cultivation. Water source is an onsite point of diversion and a well. Water storage onsite is 7,850 gallons between 7 hard tanks. Processing would be performed off-site. Power source is a generator.

CDFW COMMENTS:

Thank you for referring this application to the California Department of Fish and Wildlife (CDFW) for review and comment. On September 11, 2024, CDFW staff conducted a site inspection at the subject property on Assessor' Parcel Number (APN) 208-201-017. During the site visit, staff walked the property to observe current and historic cultivation activities. The following comments are intended to assist the Lead Agency in making informed decisions in the planning process. The following comments shall supersede prior comments submitted by CDFW regarding PLN-12277-SP. CDFW requests that all comments are incorporated in the final Humboldt County Staff Report.

1. On May 3, 2017, CDFW conducted a site inspection at the project property, Assessor's Parcel Number (APN) 208-201-017. While onsite, CDFW staff observed activities that were in violation of Fish and Game Code (FGC) sections 1602, 5650, and 5652. On May 11, 2017, CDFW issued a Notice of Violation (NOV, see attached) to document FGC violations and encourage the applicant to cure these violations.
2. On May 8, 2017, a Lake and Streambed Alteration Agreement (LSAA, 1600-2017-0571-R1) was issued to Jean Paul Lorist on APN 208-201-017 in response to the NOV. The LSAA permitted one Point of Diversion (POD) for domestic and irrigation use, to upgrade and maintain six stream crossings, and to remove and remediate an on-stream pond. Not all required work

was completed and the LSAA expired on May 8, 2023.

3. While onsite, CDFW observed that work and maintenance is required for Crossing-1, Crossing-2, Crossing-3, Crossing-4 and on the On-stream Pond Removal and Remediation (see attached expired LSAA). The applicant does not have a final LSAA. CDFW requests, as a condition of approval, that the applicant receives a Final LSAA prior to the initiation of cannabis cultivation. CDFW further requests, as a condition of approval, that the applicant completes the following items listed below by the requested dates, or within two weeks of project approval.
 - a. Notify for a LSAA from CDFW by November 30, 2024.
 - b. Complete all required work by October 15, 2025.
4. While onsite, CDFW observed a cultivation site (at coordinates 40.521391, -123.652533) located within the Streamside Management Area (SMA) of a Class II tributary to the Mad River. CDFW requests, as a condition of approval, all cultivation and cultivation related infrastructure and refuse is removed and relocated outside of the SMA.
5. The proposed project states that water will be sourced from an existing groundwater well. The Project Description states that water will be stored in water tanks totaling 7,850 gallons. CDFW requests, as a condition of approval, that the applicant maintain at least 25,000 gallons of water on site to be used if the well does not produce for a full cultivation season.
6. While onsite, CDFW observed uncontained fertilizer and pesticides (at coordinates 40.522337, -123.652255 and at 40.521631, -123.653629) that pose a threat to wildlife. CDFW requests, as a condition of approval, that the applicant properly store all fertilizers, pesticides, and chemicals on site.
7. While onsite, CDFW observed cannabis cultivation related refuse located in the headwaters of a Class III drainage (at coordinates 40.523252, -123.652266). CDFW requests, as a condition of approval, that the applicant removal all cultivation related waste from the stream channel and the Streamside Management Area (SMA).
8. While onsite, CDFW observed sediment discharge to Waters of the State through erosion of a hydrologically connected road (at coordinates 40.520134, -123.652837) that is used to access the cultivation sites. CDFW requests, as a condition of approval, that the applicant implement a stormwater plan (site management plan) to direct surface flow away from streams to mitigate the existing threats of sediment delivery.
9. The proposed project may have a potentially significant adverse effect on biological resources, specifically the Northern Spotted Owl (*Strix occidentalis caurina*; NSO). At least two known NSO Activity Centers occurs within 1.3 miles of the cultivation sites and designated Final Critical Habitat occurs for the NSO occur within 0.5 miles of the cultivation sites (CDFW

2024). CDFW requests that the applicant assume presence of NSO and avoid impacts as determined by a qualified biologist, in consultation with CDFW. CDFW recommends that cannabis cultivation at this location be limited to full sun outdoor methods with no mixed light. Additionally, CDFW requests the succeeding measures, as conditions of approval.

- a. All ground-disturbing activities should be limited to occur outside of the breeding season for the NSO (February 1 through July 9).
- b. The construction of noise containment/dampening structures for all operation related generators, water pumps and fans. Additionally, CDFW requests that the use of generators is phased out after 2024 and only used as a backup energy source.
- c. That artificial light used for cannabis cultivation operations (i.e., ancillary nurseries) be fully contained within structures such that no light escapes (e.g., through automated blackout curtains) between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular and nocturnal wildlife. CDFW further requests, that security lighting 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. CDFW further requests a light attenuation monitoring and management plan for this activity within thirty days, following execution of the final permit.

10. To minimize the risk of wildlife entrapment, CDFW requests, as a condition of project approval, the prohibition of synthetic netting (e.g., plastic or nylon) including photo or biodegradable plastic netting for the purpose of cultivation operations and/or erosion control.

Thank you for the opportunity to comment on this project.

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Environmental Scientist

Habitat Conservation and Planning

Humboldt/Del Norte LSA Program

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