

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

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

APN 214-234-006-000; Miranda Area, County of Humboldt

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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 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.

A Special Permit for 8,640 square feet (SF) of existing outdoor commercial cannabis cultivation and 864 SF ancillary nursery. Estimated annual water usage is 106,963 gallons and is provided by an onsite well. Water storage totals 35,000 gallons. Drying and bucking will occur onsite while all other processing will be performed offsite at a licensed third-party processing facility. Power is provided by generators but are conditioned to switch to a renewable source by January 1st, 2026.

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 ensuring onsite lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources because of light and noise.

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; or
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

A review of Appendix G impacts:

Aesthetics: The project is limited to outdoor light deprivation. Artificial lighting is allowed within specifically designated ancillary nursery greenhouses and project conditions prohibit the use of any artificial lighting until County staff verifies the lighting adheres to International Dark Sky Association standards. The project will not significantly impact scenic vistas or public views as the parcel is privately owned and does not provide any public access to public lands. The project is consistent with the visual character of the area, which is Timberland. The project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project will utilize agricultural production lands for agricultural purposes as contemplated in the MND. The project will not convert prime farmland or conflict with existing zoning for Timberland Production or any proposed Williamson Act contract. The project will not result in the loss of forest land or conversion of forest land to non-forest use. No impact.

Air Quality: The site is already developed with greenhouses for commercial cannabis cultivation and an existing structure for drying harvested product, so development is minimal and already complete. The project will not expose sensitive receptors to pollutants

or create objectionable odors affecting a substantial number of people. The project site is served by a generator for power with a condition to convert to a renewable power source by January 1, 2024. The parcel is approximately 270-acres, so odors from cultivation activities are unlikely to affect neighboring residents. Less than significant impact.

Biological Resources: Per review of CDFW's California Natural Diversity Database (CNDDDB) in December 2021, there are no mapped sensitive species onsite and the nearest NSO activity center is located approximately 0.86 miles from the nearest cultivation area. A generator for all cultivation and domestic uses will only be used as a power supply until the applicant converts to a renewable power source by January 1, 2024. Use of the onsite generator follows all Humboldt County and State of California guidelines. Conditions of approval require the applicant to noise and light attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species. Less than significant impact.

Cultural Resources: No historic or prehistoric era resources were located on the project parcel pertaining to cultivation. No further archaeological study or mitigation measures were recommended for the project beyond inadvertent discovery protocol. Less than significant impact.

Energy: Power is provided by generator for cultivation. Project is conditioned to switch to a renewable source by January 1, 2026. Less than significant impact.

Geology and Soils: The project occurs on flat land that has historically been used for cannabis cultivation. No new structures are proposed that would expose people to risk of life from earthquakes. The cultivation area will take place on existing graded flats. No new grading will occur. No impact.

Greenhouse Gas Emissions: Cultivation proposed is outdoor. Power is provided by solar power and a generator for the well pump and conditioned to convert fully to a renewable power source by January 1, 2026. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers and herbicides are stored in a storage shed with secondary containment to prevent contamination with runoff. All hazardous materials are stored in a locked area with secondary containment in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as a very high fire risk area; however, no significant wood framed structures will be constructed as part of this project. The project would not impair emergency response or create a significant risk from wildfire. Less than significant impact.

Hydrology and Water Quality: The project is for a total of 8,640 square feet of cannabis cultivation on a property zoned for Timberland Production. The project will not degrade any water sources or contribute to sedimentation. The site is enrolled with the State Water Resources Control Board and is subject to a Site Management Plan. Electricity is sourced via generator which is conditioned to convert to a renewable source of energy by January 1, 2026.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned Agricultural Exclusive (AE) and Timberland Production Zone (TPZ). The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact.

Mineral Resources: No mining is proposed. The project will not result in the loss of availability of a known mineral resources that would be of value to the region and the residents of the state. The project will not result in the loss of availability of a locally important mineral resource recover site. No impact.

Noise: The project is located on lands that have been historically utilized for cannabis activities. Power is provided by solar power and a generator with a condition to convert fully to renewable power source by January 1, 2026. There is no reason to believe the noise source will be increased substantially onsite. The project will not result in the generation of excessive ground borne vibration or noise levels. No impact.

Population and Housing: The project is for outdoor cannabis cultivation. No housing is proposed nor is any removal of housing proposed. The project will not induce substantial unplanned population growth in an area nor displace substantial numbers of existing people or housing necessitating the construction of replacement housing. No impact.

Public Services: The project is for 8,640 SF of cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

Recreation: The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. No impact.

Transportation: Access to the site is by private road via French Road. 0.130 miles of French Road is maintained by the County while both private roads are to be maintained by a road maintenance association. A maximum of two (2) employees may be utilized during peak operations. Less than significant impact.

Tribal Cultural Resources: The project was referred to the Northwest Information Center

and the Bear River Band of Rohnerville Rancheria. Bear river requested that the stand inadvertent discovery protocol language be added as a condition of approval. As such, ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect any previously unknown cultural or tribal cultural resources that may be encountered in the future. Less than significant impact.

Utilities and Service Systems: Solid waste is stored in a manner to prevent access by wildlife and prevents discharge to any surface waters. Solid waste is to be disposed of at an authorized municipal waste transfer station. Water for irrigation is provided by a well located on a neighboring parcel. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. There will be no significant new structures that will increase the risk of wildfire other than the cultivation hoops which will comply with all building and fire codes pertaining to Agricultural Exempt structures. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 8,640 SF of existing outdoor cannabis cultivation with ancillary propagation and processing activities is fully consistent with the impacts identified and adequately mitigated in the original MND. The project is 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:

- Operations Plan and Site Plan
- Site Management Plan
- Letter of Completed Work for Final Streambed Alteration Agreement with CDFW

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.

Project impact analysis of conformance to the Mitigated Negative Declaration Mitigation Monitoring and Reporting Program

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.11(d) and 55.4.10(n)).

The project was referred to Northwest Information Center and Bear River Band of the Rohnerville Rancheria. Bear River responded that the parcel does not appear to be sensitive/ likely to contain cultural resources. Additionally, the requested the standard inadvertent discovery language be added as a condition of approval. The project therefore aligns with the provisions of Humboldt County Code Sections 55.4.11(d) and 55.4.10(n).

Mitigation Measure 2: Curing violations of state, county code (55.4.11(a)).

The project is for existing cultivation and project approval includes a compliance agreement to cure unresolved violations of state or county code.

Mitigation Measure 3: Required setbacks from watercourses, wetlands, and Environmentally Sensitive Habitat Areas (55.4.11(d)).

The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel contains one Class III stream that required no additional work. Additionally, the project has completed the required improvements that were mentioned in the LSAA, see attachment 4E.

Mitigation Measure 4: Permitting Tiers and related requirements (55.4.8.2 *et seq.*)

The project is for 8,640 square feet of existing cultivation in a Agriculture Exclusive (AE) which general agriculture is principally permitted and Timber Production zone which requires a Conditional Use Permit. The project complies with the requirements described in 55.4.8.2 *et seq.*

Mitigation Measure 5: Retirement, Remediation, and Relocation Program (55.4.14 *et seq.*)

The project is not participating in the Retirement, Remediation, and Relocation program therefore this mitigation measure does not apply.

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for existing cultivation consistent with baseline conditions which is eligible in a zone designated Agricultural Exclusive (AE) and/ or Timber Production

(TPZ). No increase of cultivation will occur beyond the verified pre-existing cultivation (between Jan. 1, 2006 and Jan. 1, 2016).

Mitigation Measure 7: Use of fertilizer, pesticide, fungicide, rodenticide, or herbicide (55.4.11(j)).

The project operations plan describes measures that will be taken to properly store and handle hazardous materials. Compliance with the operations plan is a condition of project approval. The use of anticoagulant rodenticide is prohibited. The project is conditioned requiring the applicant to provide written compliance with the Certified Unified Program Agency (CUPA) requirements.

Mitigation Measure 8: Diversion of surface water and trucked water (55.4.11(l)-(m)).

The primary source of electrical power for the project solar power and generator for the pump. The project is conditioned to convert fully to a renewable energy source by January 1, 2024 (Condition A19).

Mitigation Measure 9: Generator Use (55.4.11(o)).

The primary source of electrical power for well pumps, booster pumps, and sprayers is from generator, which is conditioned to be phased out by January 1, 2024 and switch to a renewable energy source (Condition A18). Generator noise associated with generators is conditioned to be disallowed until the applicant can demonstrate it/they operate at or below the 50 decibel (dB) threshold at 100 feet or nearest forested edge, whichever is closer. These conditions will prevent disturbance of any Northern Spotted Owl or Marbled Murrelet, or any other sensitive receptors.

Mitigation Measure 10: Storage of Fuel (55.4.11(p)).

The project is generally conditioned that fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

Mitigation Measure 11: Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).

Applicant has provided a statement declaring they are 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). The project includes a proposed on-site ancillary processing, and the operations plan describes processing practices and up to three (4) employees are proposed.

Mitigation Measure 12: Performance Standards for Mixed Light Cultivation (55.4.11(v)-(w)).

The project is for outdoor cultivation. Onsite lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources because of light and noise.

Mitigation Measure 13: Humboldt Artisanal Branding Provision (55.4.15).

The proposed project is for more than 3,000 square feet therefore this measure does not apply.

Mitigation Measure 14: Sunset Clause for applications

- The application was received on August 5, 2016, prior to the sunset of the ordinance.

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.