



**COUNTY OF HUMBOLDT**  
**PLANNING AND BUILDING DEPARTMENT**  
**CURRENT PLANNING DIVISION**

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Phone: (707)445-7541 Fax: (707) 268-3792

Hearing Date: October 7, 2021

To: Humboldt County Zoning Administrator

From: Cliff Johnson, Supervising Planner

Subject: **John Miranda Special Permit**  
Record Number: PLN-12147-SP  
Assessor's Parcel Number (APN): 223-034-005  
3761 East Blue Rock Road, Benbow area

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Please contact Megan Marruffo, Assigned Planner, at 707-443-5054 or by email at [marruffom@lacoassociates.com](mailto:marruffom@lacoassociates.com), if you have any questions about the scheduled public hearing item.

**AGENDA ITEM TRANSMITTAL**

<b>Hearing Date</b> October 7, 2021	<b>Subject</b> Special Permit	<b>Contact</b> Megan Marruffo
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**Project Description:** A Special Permit for an existing 10,000 square foot (SF) outdoor cannabis cultivation. Ancillary propagation, totaling 600 SF, occurs within an existing 1,200 SF building also used for storage and processing. Irrigation water is sourced from an onsite spring. Existing available water storage is 216,500 gallons in four (4) water storage bladders and a series of hard-sided tanks. Estimated annual water usage is 360,000 gallons. Processing, including drying, curing, and trimming, occurs onsite within the existing 1,200 SF building. A maximum of four (4) people will be on-site during peak operations. Power is provided by generators; however, the applicant has long-term plans to switch to alternative power sources.

**Project Location:** The project is located in the Benbow area, on the south side of East Blue Rock Road, approximately 2.5 miles south from the intersection of Low Gap Road and East Blue Rock Road, on the property known as 3761 East Blue Rock Road.

**Present Plan Land Use Designations:** Timberland (T) Density: forty to one hundred and sixty acres per dwelling unit, Slope Stability: High instability (3).

**Present Zoning:** Timberland Production Zone (TPZ)

**Record Number:** PLN-12147-SP

**Assessor's Parcel Number:** 223-034-005

**Applicant**

John Miranda  
1943 Port Canyon Road  
Ferndale, CA 95536

**Owner**

same as Applicant

**Agent**

Flowra  
C/O Linnea Kneaper  
PO Box 172  
Weaverville, CA 96093

**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 Zoning Administrator Action:**

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

*Find that the Zoning Administrator has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permit and adopt the Resolution approving the John Miranda project as recommended by staff subject to the recommended conditions.*

**Executive Summary:** John Miranda seeks a Special Permit to allow the continued cultivation of 10,000 square feet (SF) of outdoor cannabis in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The site is designated as Timberland (T) in the Humboldt County 2017 General Plan Update and zoned Timberland Production Zone (TPZ). Cultivation takes place in the northeastern portion of the property. Plants are grown in soft pots within the ground or raised beds. Ancillary propagation, totaling 600 SF, occurs within a 1,200 SF metal building. One (1) harvest is anticipated annually for a growing season that extends from April through October.

Processing, including drying, curing, and trimming, occurs onsite within the 1,200 SF metal building, also utilized for propagation. The operation is conducted by the owner and select family only; no additional employees are required. A maximum of four (4) people will be on-site during peak operations. Power is provided by generators and supply power for the greenhouse fans and drying room, as needed; however, the applicant has long-term plans to switch to alternative power sources. The operation is secured behind a gated access and fence. Additionally, the parcel will be monitored by owners and a resident canine will be onsite.

**Removal of Mixed-Light Cultivation Infrastructure**

Based on information provided by the applicant's agent, the applicant is currently cultivating utilizing mixed-light techniques. Per the County's Cultivation Area Verification (CAV) and interim permit that has been issued for the site, only outdoor cultivation is authorized by this permit. A condition of approval has been added to require the applicant remove all mixed-light infrastructure, including artificial lighting, dehumidifiers, and/or fans.

**Prior Onsite Relocation and Remediation**

Per a technical memorandum prepared by Gregory Engineering, Inc. in July 2020 (Attachment 3), existing cultivation that was previously located in a clearing in the central portion of the subject property, in close proximity to a Class III stream channel, was relocated on the subject site. Per the Report, all materials from the old site have been removed and properly discarded. Additionally, since the time the relocation occurred, the former cultivation area "has been adequately revegetated." No recommendations were contained in the Report.

**Timber Conversion**

Based on review of historic aerial imagery dating back to 2004, timber conversion has occurred onsite in order to accommodate existing development as well as the existing cultivation. While the aerial imagery indicates the majority of timber conversion occurred between 2005 and 2009, before the CMMLU baseline date of January 1, 2016, additional conversion occurred onsite between 2012 and 2014 and between 2014 and 2016. The project is conditioned to require the property be evaluated by a Registered Professional Forester (RPF) to determine the amount of timber conversion that occurred prior

to and after the CMMLUO baseline date of January 1, 2016, and any measures determined to be necessary by the RPF to mitigate for the unauthorized timber conversion shall be implemented. The applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. Additionally, the applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date a rate of 3:1. The report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection.

### **Water Resources**

Estimated annual water usage is 360,000 gallons (36 gal/SF) with peak demand occurring in August and September at approximately 110,000 gallons per month. Per the Cultivation and Operations Plan (Attachment 3), onsite cannabis is irrigated by hand every other day, on average, at no more than agronomic rates.

Water for irrigation is provided by an onsite spring. The applicant has been issued a *Right to Divert and Use Water* (Registration H509635, Certificate H100735) by the State Water Resources Control Board in August 2020 (Attachment 3) for use of the spring point of diversion for irrigation use. Per the *Right to Divert and Use Water*, the water appropriated by storage shall be limited to the quantity which can be beneficially used, shall not exceed 0.475 acre-feet per year (154,779 gallons), and shall be collected between October 1<sup>st</sup> and March 31<sup>st</sup> each year. The project is conditioned to adhere to the terms and conditions of the *Right to Divert and Use Water* issued by the SWRCB.

Existing available water storage is 216,500 gallons in four (4) water storage bladders (totaling 170,000 gallons) and nineteen (19) hard-sided tanks (totaling 46,500 gallons). Decommissioning and replacement of the four (4) existing water storage bladders (three 50,000-gallon and one 20,000-gallon) with hard-sided tanks equal to 170,000 gallons of water storage has been incorporated as a condition of approval. Based on review of the projected water usage by month provided in the Cultivation and Operations Plan (Attachment 3), there is not currently sufficient water storage onsite to meet the water demand during the forbearance period established under the *Right to Divert and Use Water* (April 1<sup>st</sup>-September 31<sup>st</sup>), which equates to approximately 320,000 gallons. As a result, the project is conditioned to add an additional 103,500 gallons of water storage onsite.

It should be noted that the *Right to Divert and Use Water* issued by the SWRCB only allows for 154,779 gallons of water storage while there is 216,500 gallons onsite and an additional 103,500 gallons is required to meet forbearance requirements. Therefore, based on Planning staff's calculations, there is 205,221 gallons of water required to meet operational needs that cannot be supplied by the point of diversion. To meet the additional water need for the project, we are recommending the project be conditioned to use rainwater catchment to meet the annual water demand for the 205,221 gallons of water not authorized for diversion by the water right. This would need to be installed by the 2023 cultivation season. Rain catchment infrastructure could be added to existing structures on site, including the residence and accessory structures. Average annual rainfall in the Benbow area is 67 inches, therefore, there is sufficient surface area to capture 205,221 gallons of water. Conditions of approval also require the applicant to monitor water use from the spring and storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

A Draft Streambed Alteration Agreement (Draft SAA) was prepared by the California Department of Fish and Wildlife (CDFW) in February 2021 (Attachment 3) for eight (8) encroachments, including the existing water diversion from the East Branch of the South Fork of the Eel River. Work for the water diversion will include use and maintenance of the water diversion infrastructure. The seven (7) additional encroachments included upgrades to failing and undersized stream crossings, where work will include excavation, removal of the failing crossings, replacement with new properly sized crossings, backfilling and compaction of fill, and rock armoring, as necessary, to minimize erosion. The project is conditioned to require the application to obtain a Final SAA with CDFW and implement the projects and requirements contained in the Final SAA, including measures to protect fish and wildlife resources. By complying with

the specified requirements contained in the SAA, including but not limited to timing of spring diversion and water diversion infrastructure standards, in addition to SWRCB requirements, impacts to water resources will be minimized.

As shown on the Site Plan, several Class II and Class watercourses traverse the property. Although the associated required Streamside Management Area (SMA) buffers are not depicted on the Site Plan, the cultivation area is shown to be located approximately 250 feet from the nearest watercourse and is therefore located outside of the required SMA buffer. A Site Management Plan (SMP) has been prepared for the site by Flowra, the applicant's agent, in February 2019 (Attachment 3), and details how the best practical treatment or control (BPTC) measures listed in Attachment A of the Cannabis General Order are being implemented. The project is conditioned to continue implementation of the measures detailed in the SMP to minimize any potential impacts associated with the project and minimize runoff into nearby SMAs. Referral comments received from the Building Division in April 2021, not all structures currently located on the subject parcel are indicated on the Site Plan, and an existing structure is located within 50-feet of a SMA. Conditions of approval require updates to the Site Plan to show all existing structures, dimensions, uses, and setbacks to property lines and watercourses, and move such structures to be outside of required SMA buffers on a previously disturbed area. Alternatively, the applicant may discontinue the use of the structure for cannabis operations.

### **Biological Resources**

Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) in August 2021, there are no mapped sensitive species onsite and the nearest positive sighting and Northern Spotted Owl (NSO) activity center are located approximately 0.7 miles and 2.2 miles from the cultivation area, respectively. Power to the site is provided by five (5) generators (two gasoline, two diesel, and one propane). Per the Cultivation and Operations Plan (Attachment 3), it is noted the applicant is "working toward limited generator use by planning for alternative power sources." Conditions of approval require the applicant to implement noise and light attenuation measures. The project is conditioned to ensure the combination of background, generator, or other operational equipment created noise meets the noise level threshold. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service (USFWS). Additionally, all lighting utilized onsite shall comply with International Dark-Sky Association standards. Furthermore, conditions of approval require the applicant to 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.

### **Access**

Access to the site is via a driveway off a private access road from Blue Rock Road, a private road, via Benbow Drive, a County-maintained road. Road Evaluation Reports for three segments of Blue Rock Road and the private access road (a 1.0-mile segment of Blue Rock Road from Benbow Drive, a 3.0-mile segment of Blue Rock Road from the end of the 1.0-mile segment to the private access road, and a 0.75-mile segment of the private access road to Blue Rock Road) were prepared by DTN Engineering and Consulting in March 2020 (Attachment 3), which indicate that the 1.0-mile segment of Blue Rock Road meets a Category 4 road equivalent standard and is adequate for the proposed use. However, the Road Evaluation Reports for the 3.0-mile segment of Blue Rock Road and the 0.75-mile segment of the private access road indicate the entire 3.0-mile and 0.75-mile segments are not developed to the equivalent of a road Category 4 or better. Part B of the Road Evaluation Report indicates that although the road segments do not meet a Category 4 road standard, the road segments can accommodate the cumulative increase in traffic anticipated under the project and from all known cannabis projects.

Included with the Road Evaluation Reports is a Roadway Evaluation technical memorandum prepared by DTN Engineering and Consulting (not dated; Attachment 3), with sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight. Per the Report, Blue Rock Road and the private access road do not meet the Category 4 and 2 criteria, respectively;

however, the registered civil engineer finds the road segments adequate for their intended use, with the minor maintenance improvements identified in the memorandum. Such improvements include mowing grass along the roadside to expose turnouts, cleaning roadside ditches, containing fuel tanks along the roadway, and removing old culverts. The project is conditioned to implement the recommendations contained within the Report. Per referral comments received from the Department of Public Works, Land Use Division, dated March 2021, while the engineer does not recommend that road grades in excess of 16% be surfaced with asphalt concrete, Public Works recommends the applicant apply for an exception request pursuant to County Code (§§3111-9 and 3112-9), which has been included as a condition of approval. Further, the project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1) and improve the access roads that serve the project to current commercial driveway standards.

Additionally, due to the number of cultivation projects along Blue Rock Road, both approved and pending, conditions of approval require the applicant to take steps to form a Road Maintenance Association for the maintenance of Blue Rock Road. The necessary steps include sending notices to all road users of the requirement to form a Road Maintenance Association and conducting a meeting with the users of the road, especially those engaged in commercial cannabis activities to discuss formation of the Road Maintenance Association. The applicant shall provide evidence, including notice, meeting minutes, and the decision as to whether a Road Maintenance Association is being formed to show this effort. In the event the applicant is unable to coordinate formation a Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road.

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 Zoning Administrator (See Attachment 2 for more information).

Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

**Alternatives:** Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.

**RESOLUTION OF THE ZONING ADMINISTRATOR  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 21 -  
Record Number: PLN-12147-CUP  
Assessor's Parcel Number: 223-034-005**

**Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the John Miranda Special Permit request.**

**WHEREAS, John Miranda** submitted an application and evidence in support of approving a Special Permit for an existing 10,000 square feet (SF) outdoor cannabis cultivation. Ancillary propagation, totaling 600 SF, occurs within an existing 1,200 SF building used for processing, storage, and propagation. Irrigation water is sourced from an onsite spring. Existing available water storage is 216,500 gallons in four (4) water storage bladders and a series of hard-sided tanks. Estimated annual water usage is 360,000 gallons. Processing, including drying, curing, and trimming, occurs onsite within the existing 1,200 SF building. A maximum of four (4) people will be on-site during peak operations. Power is provided by generators; however, the applicant has long-term plans to switch to alternative power sources; and

**WHEREAS,** the County Planning Division, the lead agency, prepared an Addendum to the Final 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 previous 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 Zoning Administrator held a duly-noticed public hearing on October 7, 2021, and reviewed, considered, and discussed the application for a Conditional Use Permit and Special Permit, and reviewed and considered all evidence and testimony presented at the hearing.

**Now, THEREFORE BE IT RESOLVED,** that the Zoning Administrator makes all the following findings:

- 1. FINDING:**                    **Project Description:** The application is a Special Permit for an existing 10,000 square foot (SF) outdoor cannabis cultivation. Ancillary propagation, totaling 600 SF, occurs within an existing 1,200 SF building used for processing, storage, and propagation. Irrigation water is sourced from an onsite spring. Existing available water storage is 216,500 gallons in four (4) water storage bladders and a series of hard-sided tanks. Estimated annual water usage is 360,000 gallons. Processing, including drying, curing, and trimming, occurs onsite within the existing 1,200 SF building. A maximum of four (4) people will be on-site during peak operations. Power is provided by generators; however, the applicant has long-term plans to switch to alternative power sources.

**EVIDENCE:**            a) Project File: PLN-12147-SP
- 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 Site Management Plan was prepared by Flowra in February 2019 and submitted by the applicant to show compliance with the State Water Board Cannabis General Order for Waste Discharge. The applicant is required to provide a copy of all documents filed with the State Water Resources Control Board, including, but not limited to, a Notice of Availability. Conditions of approval also require the applicant to maintain compliance with the State Cannabis Cultivation Policy for the life of the project.
- d) California Department of Fish and Wildlife Resource Maps indicate no Special Status species are known to occur within the project area. A review of the California Natural Diversity Database (CNDDDB) Spotted Owl Observation Database in August 2021 showed that Northern Spotted Owl habitat exists in the vicinity and the nearest positive sighting and activity center are approximately 0.7 and 2.2 miles from the cultivation area, respectively. Conditions of approval will require noise to be at below 50 decibels at 100 feet which is below the guidance established by the California Department of Fish and Wildlife for protection of the species.
- e) Based on review of historic aerial imagery dating back to 2004, timber conversion has occurred onsite in order to accommodate existing development and the existing cultivation. While the aerial imagery indicates the majority of timber conversion occurred between 2005 and 2009, before the CMMLU baseline date of January 1, 2016, additional conversion occurred onsite between 2012 and 2014 and between 2014 and 2016. The project is conditioned to require the property be evaluated by a Registered Professional Forester (RPF) to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date of January 1, 2016, and any measures determined to be necessary by the RPF to mitigate for the unauthorized timber conversion shall be implemented. The applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. Additionally, the applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date a rate of 3:1. The report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection.
- f) A Cultural Resources Investigation was prepared by Archaeological Research and Supply Company in March 2021, which noted that no resources were located on the subject property during the site survey. Inclusion of the inadvertent discovery protocol is recommended and is included as an ongoing condition of approval. No referral response from the Intertribal Sinkyone Wilderness Council has been received to date.
- g) Road Evaluation Reports for three segments of Blue Rock Road and the private access road (a 1.0-mile segment of Blue Rock Road from Benbow Drive, a 3.0-mile segment of Blue Rock Road from the end of the 1.0-mile segment to the private access road, and a 0.75-mile segment of the private access road to Blue Rock Road) were prepared by DTN Engineering n Consulting in March 2020, which indicates that the 1.0-mile segment of Blue Rock Road meets a Category 4 road equivalent standard and is adequate for the proposed use. However, the Road Evaluation Reports for the 3.0-mile segment of Blue Rock Road and the 0.75-mile segment of the private access road indicate the entire 3.0-mile and 0.75-mile segments are not developed



to the equivalent of a road Category 4 or better. Part B of the Road Evaluation Report indicates that although the road segments do not meet a Category 4 road standard, the road segments can accommodate the cumulative increase in traffic anticipated under the project and from all known cannabis projects.

Included with the Road Evaluation Reports is a Roadway Evaluation technical memorandum prepared by DTN Engineering and Consulting (not dated), with sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight. Per the Report, Blue Rock Road and the private access road do not meet the Category 4 and 2 criteria, respectively; however, the registered civil engineer finds the road segments adequate for their intended use and suitable for safe access to and from the project site, with the minor maintenance improvements identified in the memorandum. Such improvements include mowing grass along the roadside to expose turnouts, cleaning roadside ditches, containing fuel tanks along the roadway, and removing old culverts. The project is conditioned to implement the recommendations contained within the Report. Additionally, per referral comments received from the Department of Public Works, Land Use Division, dated March 2021, while the engineer does not recommend that road grades in excess of 16% be surfaced with asphalt concrete, Public Works recommends the applicant apply for an exception request pursuant to County Code (§§3111-9 and 3112-9), which has been included as a condition of approval. Further, the project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1) and improve the access roads that serve the project to current commercial driveway standards.

- h) Due to the number of cultivation projects along Blue Rock Road, both approved and pending, conditions of approval require the applicant to take steps to form a Road Maintenance Association for the maintenance of Blue Rock Road. The necessary steps include sending notices to all road users of the requirement to form a Road Maintenance Association and conducting a meeting with the users of the road, especially those engaged in commercial cannabis activities to discuss formation of the Road Maintenance Association. The applicant shall provide evidence, including notice, meeting minutes, and the decision as to whether a Road Maintenance Association is being formed to show this effort. In the event the applicant is unable to coordinate formation a Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road.

#### **FINDINGS FOR SPECIAL PERMIT**

### **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 Timberland (T) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for timberland purposes, but which allows for agricultural uses, consistent with the use of Open Space land for managed production of resources. The use of the parcel which allows 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.

**4. FINDING** The proposed development is consistent with the purposes of the existing TPZ zone in which the site is located.

- EVIDENCE**
- a) The Timber Production Zone (TPZ) is intended to be applied to areas of the County in which primary uses include the growing and harvesting of timber and timber production facilities, including portable processing equipment. Compatible uses other than the direct growing, harvesting, and portable processing of timber include grazing and other agricultural uses.
  - b) All general agricultural uses are principally permitted in the TPZ zone.
  - c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis and up to 10,000 square feet of existing mixed-light cannabis on a parcel over 1 acre subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 10,000 square feet of outdoor cultivation on an 80-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 TPZ (HCC 314-55.4.8.2.2).
  - b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created by an approved and recorded lot line adjustment (Notice of Lot Line Adjustment and Certificate of Subdivision Compliance, Document No. 2001-31558-4, Recorded December 10, 2001).
  - c) Water for irrigation is provided by an onsite spring. The applicant has been issued a *Right to Divert and Use Water* (Registration H509635, Certificate H100735) by the State Water Resources Control Board in August 2020 for use of the spring point of diversion for irrigation use. Per the *Right to Divert and Use Water*, the water appropriated by storage shall be limited to the quantify which can be beneficially used, shall not exceed 0.475 acre-feet per year (154,779 gallons), and shall be collected between October 1<sup>st</sup> and March 31<sup>st</sup> each year. The project is conditioned to adhere to the terms and conditions of the *Right to Divert and Use Water* issued by the SWRCB. Existing available water storage is 216,500 gallons in (4) water storage bladders (totaling 170,000 gallons) and nineteen (19) hard-sided tanks (totaling 46,500 gallons). Decommissioning and replacement of the four (4) existing water storage bladders (three 50,000-gallon and one 20,000-gallon) with hard-sided tanks equal to 170,000 gallons of water storage has been incorporated as a condition of approval. Based on review of the projected water usage by month provided in the Cultivation and Operations Plan, there is not currently sufficient water storage onsite to meet the water demand during the forbearance period established under the *Right to Divert and Use Water* (April 1<sup>st</sup>-September 31<sup>st</sup>), which equates to approximately 320,000 gallons. As a result, the project is conditioned to add an additional 103,500 gallons of water storage onsite. Additionally, conditions of approval require the applicant to monitor water use from the water pond and storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

The *Right to Divert and Use Water* issued by the SWRCB only allows for 154,779 gallons of water storage while there is 216,500 gallons onsite and an

additional 103,500 gallons is required to meet forbearance requirements. Therefore, based on Planning staff's calculations, there is 205,221 gallons of water required to meet operational needs that cannot be supplied by the point of diversion. To meet the additional water need for the project, we are recommending the project be conditioned to use rainwater catchment to meet the annual water demand for the 205,221 gallons of water not authorized for diversion by the water right. This would need to be installed by the 2023 cultivation season. Rain catchment infrastructure could be added to existing structures on site, including the residence and accessory structures. Average annually rainfall in the Benbow area is 67 inches, therefore, there is sufficient surface area to capture 205, 221 gallons of water. Conditions of approval also require the applicant to monitor water use from the spring and storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

- d) Road Evaluation Reports for three segments of Blue Rock Road and the private access road (a 1.0-mile segment of Blue Rock Road from Benbow Drive, a 3.0-mile segment of Blue Rock Road from the end of the 1.0-mile segment to the private access road, and a 0.75-mile segment of the private access road to Blue Rock Road) were prepared by DTN Engineering n Consulting in March 2020, which indicates that the 1.0-mile segment of Blue Rock Road meets a Category 4 road equivalent standard and is adequate for the proposed use. However, the Road Evaluation Reports for the 3.0-mile segment of Blue Rock Road and the 0.75-mile segment of the private access road indicate the entire 3.0-mile and 0.75-mile segments are not developed to the equivalent of a road Category 4 or better. Part B of the Road Evaluation Report indicates that although the road segments do not meet a Category 4 road standard, the road segments can accommodate the cumulative increase in traffic anticipated under the project and from all known cannabis projects.

Included with the Road Evaluation Reports is a Roadway Evaluation technical memorandum prepared by DTN Engineering and Consulting (not dated), with sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight. Per the Report, Blue Rock Road and the private access road do not meet the Category 4 and 2 criteria, respectively; however, the registered civil engineer finds the road segments adequate for their intended use and functionally appropriate for the expected traffic, with the minor maintenance improvements identified in the memorandum. Such improvements include mowing grass along the roadside to expose turnouts, cleaning roadside ditches, containing fuel tanks along the roadway, and removing old culverts. The project is conditioned to implement the recommendations contained within the Report. Additionally, per referral comments received from the Department of Public Works, Land Use Division, dated March 2021, while the engineer does not recommend that road grades in excess of 16% be surfaced with asphalt concrete, Public Works recommends the applicant apply for an exception request pursuant to County Code (§§3111-9 and 3112-9), which has been included as a condition of approval. Further, the project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1) and improve the access roads that serve the project to current commercial driveway standards.

- e) The slope of the land where cannabis will be cultivated is less than 30%.

- f) Based on review of historic aerial imagery dating back to 2004, timber conversion has occurred onsite in order to accommodate existing development and the existing cultivation. While the aerial imagery indicates the majority of timber conversion occurred between 2005 and 2009, before the CMMLU baseline date of January 1, 2016, additional conversion occurred onsite between 2012 and 2014 and between 2014 and 2016. The project is conditioned to require the property be evaluated by a Registered Professional Forester (RPF) to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date of January 1, 2016, and any measures determined to be necessary by the RPF to mitigate for the unauthorized timber conversion shall be implemented. The applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. Additionally, the applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date a rate of 3:1. The report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection.
- g) 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, and more than 600 feet from any school, church, public park or Tribal Cultural Resource.

**6. FINDING**

The cultivation of 10,000 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 located on road that has been certified to safely accommodate the amount of traffic generated by the proposed cannabis cultivation, with implementation of the recommendations contained within the Roadway Evaluation technical memorandum prepared by DTN Engineering and Consulting (not dated). The project is further conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1) and improve the access roads that serve the project to current commercial driveway standards.
- b) The site is in a rural part of the County where the typical parcel size is over 20 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.
- c) Water for irrigation is provided by an onsite spring. The applicant has been issued a *Right to Divert and Use Water* (Registration H509635, Certificate H100735) by the State Water Resources Control Board in August 2020 for use of the spring point of diversion for irrigation use. Per the *Right to Divert and Use Water*, the water appropriated by storage shall be limited to the quantify which can be beneficially used, shall not exceed 0.475 acre-feet per year (154,779 gallons), and shall be collected between October 1<sup>st</sup> and March 31<sup>st</sup> each year. The project is conditioned to adhere to the terms and conditions of the *Right to Divert and Use Water* issued by the SWRCB. Existing

available water storage is 216,500 gallons in four (4) water storage bladders (totaling 170,000 gallons) and nineteen (19) hard-sided tanks (totaling 46,500 gallons). Decommissioning and replacement of the four (4) existing water storage bladders (three 50,000-gallon and one 20,000-gallon) with hard-sided tanks equal to 170,000 gallons of water storage has been incorporated as a condition of approval. Based on review of the projected water usage by month provided in the Cultivation and Operations Plan, there is not currently sufficient water storage onsite to meet the water demand during the forbearance period established under the *Right to Divert and Use Water* (April 1<sup>st</sup>-September 31<sup>st</sup>), which equates to approximately 320,000 gallons. As a result, the project is conditioned to add an additional 103,500 gallons of water storage onsite. Additionally, conditions of approval require the applicant to monitor water use from the water pond and storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

The *Right to Divert and Use Water* issued by the SWRCB only allows for 154,779 gallons of water storage while there is 216,500 gallons onsite and an additional 103,500 gallons is required to meet forbearance requirements. Therefore, based on Planning staff's calculations, there is 205,221 gallons of water required to meet operational needs that cannot be supplied by the point of diversion. To meet the additional water need for the project, we are recommending the project be conditioned to use rainwater catchment to meet the annual water demand for the 205,221 gallons of water not authorized for diversion by the water right. This would need to be installed by the 2023 cultivation season. Rain catchment infrastructure could be added to existing structures on site, including the residence and accessory structures. Average annually rainfall in the Benbow area is 67 inches, therefore, there is sufficient surface area to capture 205, 221 gallons of water. Conditions of approval also require the applicant to monitor water use from the spring and storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

- d) Provisions have been made in the applicant's proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected. The project is conditioned to continue implementation of the measures detailed in the Site Management Plan, prepared by Flowra in February 2019, to minimize any potential impacts on groundwater resources and minimize runoff into nearby SMAs.

**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 is currently developed with one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for the existing residence to continue to be utilized on this parcel.

## DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Humboldt County Zoning Administrator does hereby:

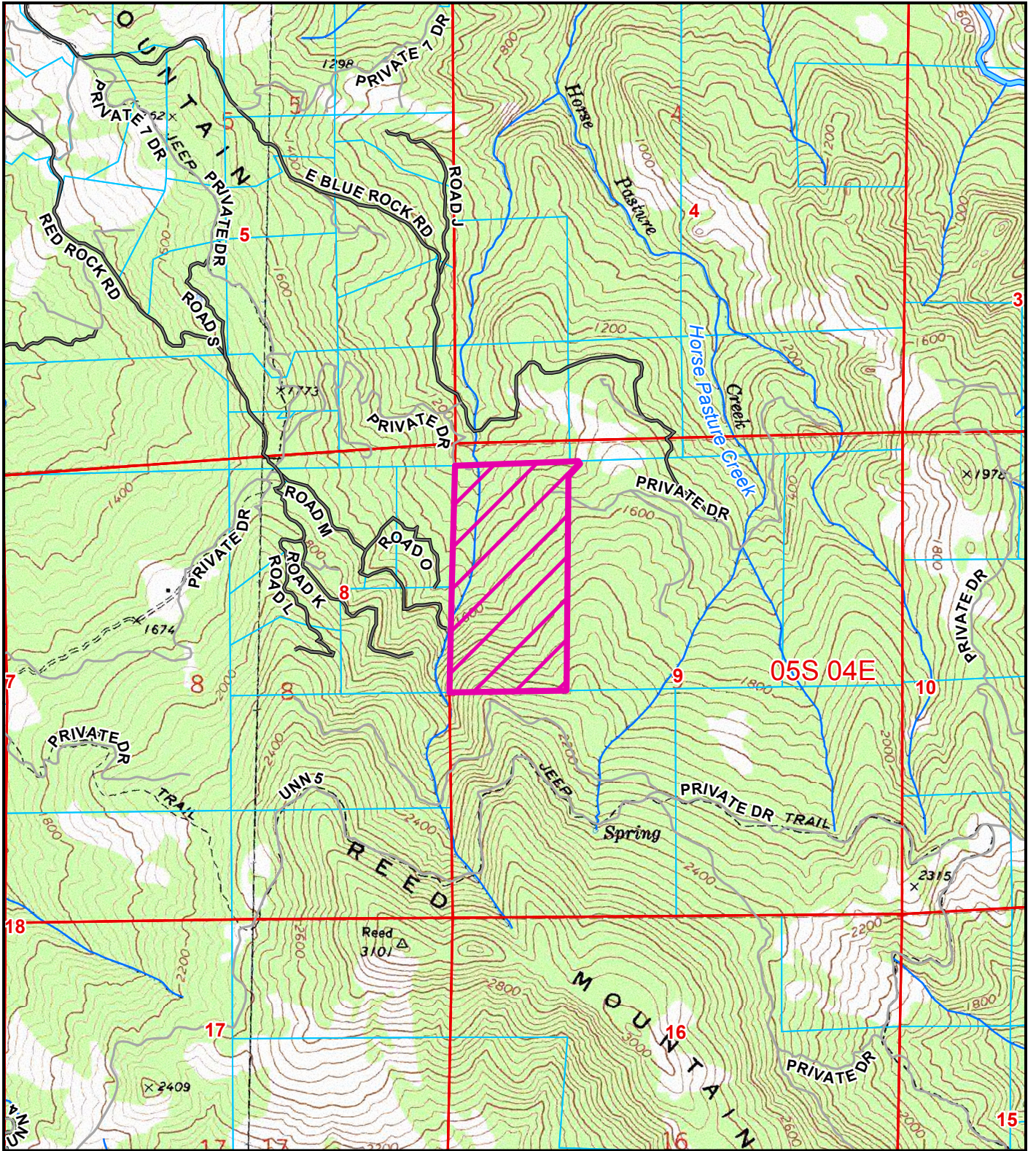
- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permit for John Miranda based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on October 7, 2021.

I, John Ford, Zoning Administrator 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 Zoning Administrator at a meeting held on the date noted above.

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John H. Ford, Zoning Administrator,  
Planning and Building Department

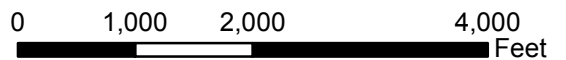


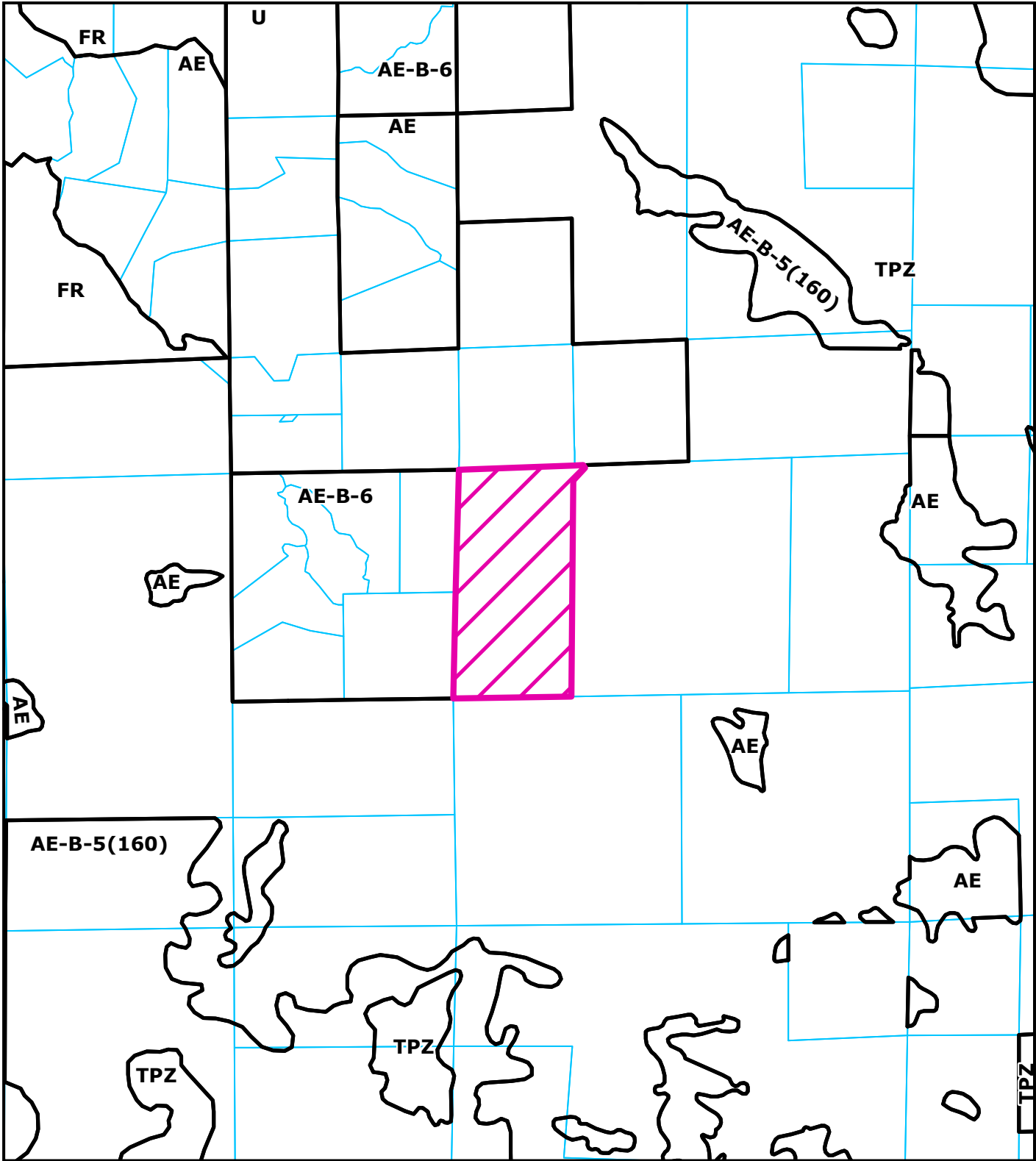
Project Area = 

**TOPO MAP**  
**PROPOSED JOHN MIRANDA**  
**BENBOW AREA**  
**SP-16-414**  
**APN: 223-034-005-000**  
**T05S R04E S9 HB&M (HARRIS)**





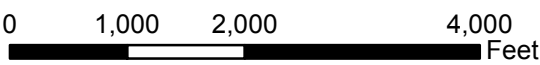
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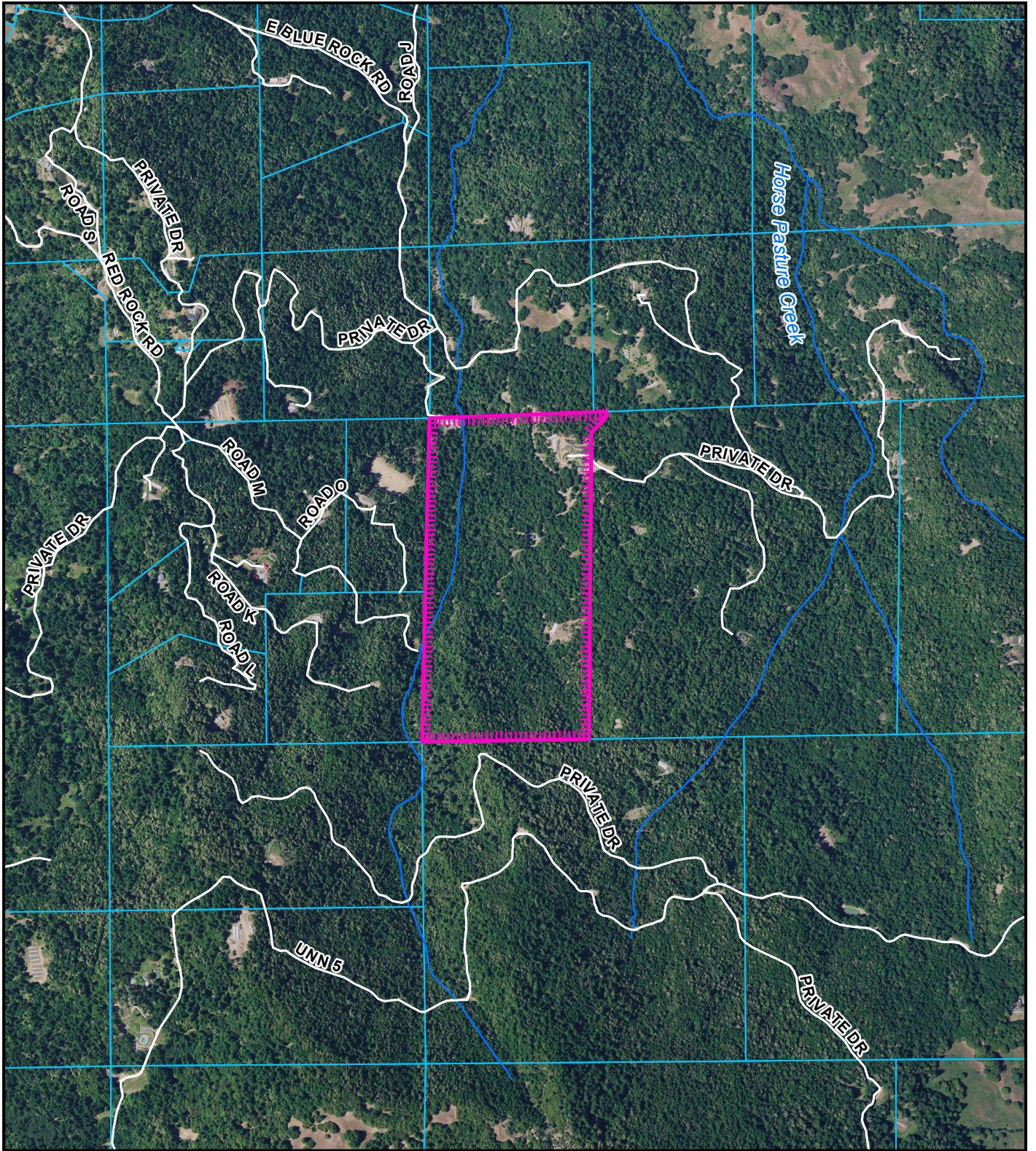
**ZONING MAP**  
**PROPOSED JOHN MIRANDA**  
**BENBOW AREA**  
**SP-16-414**  
**APN: 223-034-005-000**  
**T05S R04E S9 HB&M (HARRIS)**

**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.



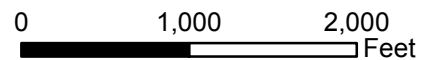


Project Area = 

**AERIAL MAP  
 PROPOSED JOHN MIRANDA  
 BENBOW AREA  
 SP-16-414  
 APN: 223-034-005-000  
 T05S R04E S9 HB&M (HARRIS)**



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.



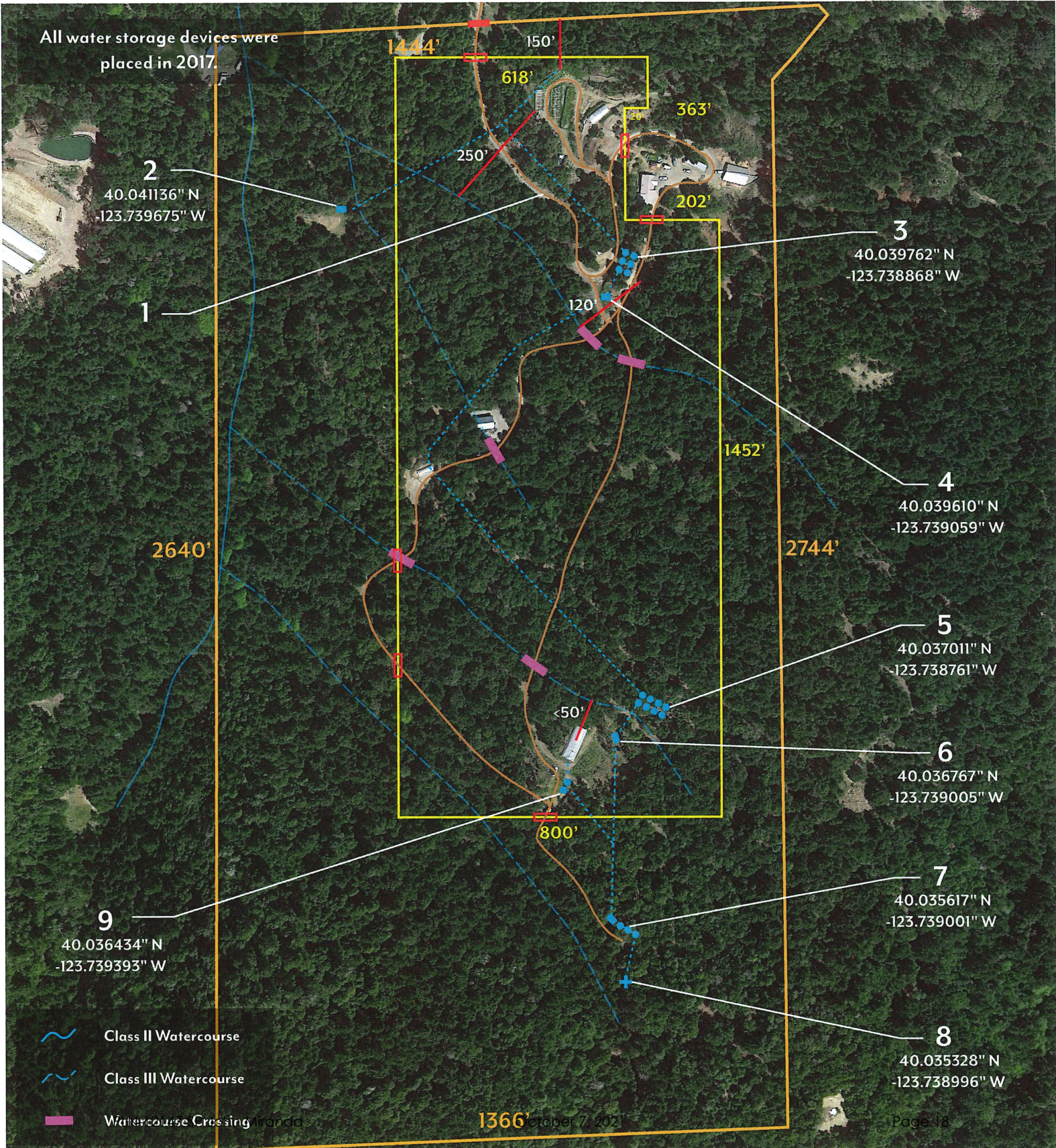
- 1.) Access Road
- 2.) 50,000G Water Storage Bladder
- 3.) Six 2500G Water Storage Tanks (Plastic)
- 4.) 50,000G Water Storage Bladder
- 5.) One 1500G Water Storage Tank (Plastic) and Seven 2500G Water Storage Tanks (Plastic)
- 6.) 50,000G Water Storage Bladder
- 7.) Three 2500G Water Storage Tanks (Plastic) and One 20,000G Water Storage Bladder
- 8.) Point of Diversion - Spring (agriculture, domestic, fire)
- 9.) Two 2500G Water Storage Tanks

-  Parcel Boundary
-  Premises Boundary
-  Parcel Entrance/Exit
-  Premises Entrance/Exit

Light-Blue-Dashed Line Indicates Water Transport from Well to Water Tanks to Cultivation

APN:  
223-034-005-000

Remaining Portion of Parcel is Used for Horses and Residential Purposes



## ATTACHMENT 1

### RECOMMENDED CONDITIONS OF APPROVAL

**APPROVAL OF THE CONDITIONAL USE PERMIT IS 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. **Within three days of the effective date of permit approval**, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the NOD and will charge this cost to the project.
5. Within 90 days of the effective date of permit approval or issuance of a building permit, whichever comes first, the applicant shall submit a revised plot plan showing the following, in addition to what is shown:
  - a. All structures, including size, dimensions, use, and setbacks from watercourses and property lines.
  - b. Size and dimensions of all outdoor cultivation areas.
  - c. Location and size of the hard-sided tanks to replace the four (4) existing water storage bladders.
  - d. All grading, including ponds and roads.
6. No mixed light cultivation is authorized under this permit. Within 30 days of the effective date of permit approval, the applicant shall remove all mixed-light infrastructure from the subject property, including artificial lighting, dehumidifiers, and/or fans. The applicant shall submit evidence (e.g. photographs) that all mixed light infrastructure is removed. Alternatively, the applicant may contact the Planning Department to schedule a site inspection to demonstrate the mixed light infrastructure is removed. A sign-off from the Planning Department will satisfy this condition.
7. 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 #20. 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.

8. The applicant shall secure building permits for all structures and grading related to the cannabis cultivation and other commercial cannabis activity, including but not limited to, greenhouses, water tanks over 5,000 gallons, structures associated with drying, storage, processing, or any activity with a nexus to cannabis, graded flats, rainwater catchment pond and any noise containment structures as necessary. 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.
9. Per comments received from the Building Division in April 2021, there are currently structures located onsite that are within 50 feet of a Streamside Management Area (SMA). Such structures shall be moved to be outside of required SMA buffers on a previously disturbed area. Their new location(s) shall be indicated on the Revised Site Plan (see Condition #5). Alternatively, the applicant may discontinue the use of the structure for cannabis cultivation. A sign-off from the Planning Department will satisfy this condition.
10. Within two years of permit issuance, the three (2) existing 50,000 gallon and one (1) 20,000-gallon water storage bladders onsite shall be decommissioned and replaced with hard tanks equal to 170,000 gallons of water storage in a previously disturbed location, outside of any Streamside Management Area or wetland setbacks. The applicant shall submit evidence (e.g. photographs) that the water bladders are replaced. Alternatively, the applicant may schedule a site inspection with the Planning Department to verify this condition is met. A sign-off from the Planning Department will satisfy this condition.
11. The applicant shall use rainwater catchment to meet the annual water demand for the 205,221 gallons of water not authorized for diversion by the Right to Use and Divert Water issued by the State Water Resources Control Board. This would need to be installed by the 2023 cultivation season. The applicant shall a revised site plan showing which water tanks store rain catchment. The applicant shall separately meter the water used from the point of diversion and water used from rainwater catchment and provide the records at the annual inspection to ensure compliance with this condition for the life of the project. A sign-off from the Planning Department will satisfy this condition.
12. The subject property shall be evaluated by a Professional Registered Forester (RPF) to determine the amount of timber conversion that occurred onsite after the CMMLUO baseline date of January 1, 2016. Any measures determined to be necessary by the RPF to mitigate for the unauthorized timber conversion shall be implemented. The applicant/owner is required to obtain a Timber Conversion Report from a RPF and/or or a Less-Than-Three-Acre Conversion Exemption or Timber Conversion Permit from CalFire, as determined necessary by the RPF. Additionally, the applicant/owner is required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date. A Restocking Plan shall be prepared within 90 days of project approval and the Restocking Plan shall be implemented within a period of two (2) years, should any timber conversion be determined to have occurred after the CMMLUO baseline date. The Restocking Plan shall include details on the locations and total areas to be restocked, the type, number, and spacing of the plantings, and a monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met. A monitoring report prepared by a licensed professional forester shall be submitted annually to the Planning and Building Department until the restocking is complete as indicated by the monitoring report. A sign-off from the Planning Department will satisfy this condition.

13. The applicant shall demonstrate that a properly functioning onsite wastewater treatment system serves the operation prior to processing onsite. This can be accomplished by either installing a new permitted septic system; or by providing the Division of Environmental Health (DEH) with an assessment of the existing system performed by a qualified professional engineer, geologist, soil scientist, or registered environmental health specialist (REHS) that certifies that the existing system complies with the SRWQCB definition of a Tier 0 system - not impairing groundwater or surface water resources. A letter or similar communication from DEH verifying that all their requirements have been met will satisfy this condition.
14. In compliance with the recommendations contained within the Slope Evaluation Services Report, prepared by Bajada Geoservices, Inc., dated September 2019, the applicant shall control drainage from the cannabis cultivation so that concentrated runoff to slopes below the operation does not occur, which will limit the potential for erosion and slope failure to occur in slopes that are currently stable. A sign-off from the Planning Department will satisfy this condition.
15. The applicant is required to implement the recommendations contained within the Roadway Evaluation technical memorandum prepared by DTN Engineering and Consulting (not dated). Such improvements include mowing grass along the roadside to expose turnouts, cleaning roadside ditches, containing fuel tanks along the roadway, and removing old culverts. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license. A letter or similar communication from the Department of Public Works will satisfy this condition.
16. For any portions of the access road that exceed 16% grade and for which DTN Engineering and Consulting has recommended not be surfaced with asphalt concrete pursuant to County Code §3112.5, as provided in the Roadway Evaluation technical memorandum (not dated), the applicant shall apply for an exception request pursuant to County Code. A letter or similar communication from the Department of Public Works will satisfy this condition.
17. Within 1 year from the effective date, the applicant shall take steps to form a Road Maintenance Association for the maintenance of Blue Rock Road. The necessary steps include sending notices to all road users of the requirement to form a Road Maintenance Association and conducting a meeting with the users of the road, especially those engaged in commercial cannabis activities to discuss formation of the Road Maintenance Association. The applicant shall provide evidence, including notice, meeting minutes, and the decision as to whether a Road Maintenance Association is being formed to show this effort. In the event the applicant is unable to coordinate formation a Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road. A sign-off from the Planning Department will satisfy this condition.
18. The applicant shall improve the improve the access roads that serve the project to current commercial driveway standards. Specifically, the applicant shall improve the intersection of Blue Rock Road and Benbow Drive as follows:
  - a. If the County road has a paved surface at the location of the access road, the access road shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road; OR
  - b. If the County road has a gravel surface at the location of the access road, the access road shall be rocked for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.

An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a

business license. A letter or similar communication from the Department of Public Works will satisfy this condition.

19. The applicant shall obtain and implement a Final Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW). Reporting requirements shall be submitted to the Planning Department and the California Department of Fish and Wildlife at 619 Second Street, Eureka, CA 95501, no later than December 31 of each year.
20. The applicant shall submit copies of all documents filed with the State Water Resources Control Board, including, but not limited to, a Notice of Availability. The applicant is required to adhere to and implement the requirements contained in the SWRCB's Cannabis Cultivation Policy, the General Order, the Site Management Plan, and the Notice of Applicability. A copy of the reporting form portion of the Mitigation and Reporting Program (MRP) shall be submitted annually to the Planning and Building Department concurrent with the submittal to the SWRCB.
21. The applicant shall secure permits from the North Coast Unified Air Quality Management District, as applicable. A letter or similar communication from the North Coast Air Quality Management District verifying that all their requirements have been met and/or no additional permitting is required will satisfy this condition.
22. The applicant shall construct noise containment structures for all generators used on the parcel. The applicant shall obtain all required building permits for such structures. The applicant shall maintain generator, fan, and dehumidifier noise at or below 50 decibels at the edge of the clearing or 100 feet, whichever distance is closer. This will satisfy the auditory disturbance guidance prepared by the U.S. Fish and Wildlife (USFS), California Fish and Wildlife (CDFW) and Department Policy Statement No. 16-005 to minimize impacts to the Northern Spotted Owl and Marbled murrelet. All generators must be located on stable surfaces with a minimum 200-foot buffer from Class I and Class II streams, per the requirements of CDFW. No generator use is authorized by this permit until the applicant can demonstrate to compliance with this standard.
23. The applicant shall not use any erosion control measures that contain synthetic (e.g. plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting, on a regular and on-going basis. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without weaves.
24. All refuse shall be contained in wildlife proof containers, at all times, and relocated to an authorized waste management facility, in compliance with State and local laws, on a regular and on-going basis.
25. The applicant shall install and utilize a water meter to demonstrate that there is sufficient water supply to meet the demands of the project. The water use for cultivation is limited to the use of the point of diversion, rain catchment and amount of water available in storage tanks and shall be provided annually prior to or during the annual inspection.
26. The applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.
27. 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.

28. 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:**

29. 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.
30. All artificial lighting shall be fully contained within structures such that no light escapes (e.g., through blackout curtains). 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.
31. 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.
32. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control and/or cultivation 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.
33. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
34. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
35. The use of anticoagulant rodenticide is prohibited.
36. 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.
37. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.

38. 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.
39. 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.
40. 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.
41. 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.
42. 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).
43. Maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (RWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
44. Comply with the terms of the Final Lake and Streambed Alteration Agreement (EPIMS-HUM-09230-R1), as well as any subsequent amendments, obtained from the California Department of Fish and Wildlife (CDFW).
45. 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.
46. 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).
47. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
48. Pay all applicable application, review for conformance with conditions and annual inspection fees.
49. 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.
50. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.



51. 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

52. 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."
53. 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).
54. 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.
55. 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.
56. 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

57. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation SP issued pursuant to the CMMLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
58. 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 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.
59. 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.
60. 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.
61. 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.
62. 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 Conditions of Approval #26 and 27 of 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 223-034-005; 3761 East Blue Rock Road, Benbow  
County of Humboldt**

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

**September 2021**

## 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.

The modified project involves a Special Permit for an existing 10,000 square foot (SF) outdoor cannabis cultivation. Ancillary propagation, totaling 600 SF, occurs within an existing 1,200 SF building used for processing, storage, and propagation. Irrigation water is sourced from an onsite spring. Existing available water storage is 216,500 gallons in four (4) water storage bladders and a series of hard-sided tanks. Estimated annual water usage is 360,000 gallons. Processing, including drying, curing, and trimming, occurs onsite within the existing 1,200 SF building. A maximum of four (4) people will be on-site during peak operations. Power is provided by generators; however, the applicant has long-term plans to switch to alternative power sources.

The *Right to Divert and Use Water* issued by the SWRCB only allows for 154,779 gallons of water storage while there is 216,500 gallons onsite and an additional 103,500 gallons is required to meet forbearance requirements. Therefore, based on Planning staff's calculations, there is 205,221 gallons of water required to meet operational needs that cannot be supplied by the point of diversion. To meet the additional water need for the project, we are recommending the project be conditioned to use rainwater catchment to meet the annual water demand for the 205,221 gallons of water not authorized for diversion by the water right. This would need to be installed by the 2023 cultivation season. Rain catchment infrastructure could be added to existing structures on site, including the residence and accessory structures. Average annually rainfall in the Benbow area is 67 inches, therefore, there is sufficient surface area to capture 205, 221 gallons of water. Conditions of approval also require the applicant to monitor water use from the spring and storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

As shown on the Site Plan, several Class II and Class watercourses traverse the property and all approved cannabis cultivation activities would occur on slopes less than 30%. The Nearest Northern Spotted Owl (NSO) positive sighting and activity center are located approximately 0.7 miles and 2.2 miles from the cultivation area, respectively. Conditions of approval require the applicant use light and noise attenuation to ensure the project has a Less than Significant Impact on NSO. The applicant has enrolled with the State Water Resources Control Board Cannabis Cultivation Policy. A condition of project approval is inadvertent discovery protocols for cultural resources consistent with the recommendation of the Cultural Resources Investigation, prepared by Archaeological Research and Supply Company in March 2021.

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 supplemental lighting and security lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources as a result 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;
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 continued operation of an existing cannabis cultivation site consisting of 10,000 square feet of cultivation with ancillary propagation and processing activities 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 (see Attachment 3 for a complete listing of document):

- Plot Plans prepared by Flowra, received 2/2/21.
- Cultivation and Operations Plan prepared by applicant and revised by Flowra, received 2/2/21, with additional information provided by Flowra on 8/24/21.
- Site Management Plan prepared by Flowra, received 8/13/20, for the State Water Resource Control Board (State Water Board) Cannabis Cultivation Policy (Cannabis Policy) and Order WQ 2017-0023-DWQ General Waste Discharge Requirements for Dischargers of Waste Associated with Cannabis Cultivation Activities (General Order).
- Road Evaluation Reports for Blue Rock Road and Private Access Road, with Roadway Evaluation Technical Memorandum, prepared by DTN Engineering and Consulting, received 8/13/20.
- Site Remediation Plan prepared by Gregory Engineering, Inc., received 8/13/20.
- Right to Divert and Use Water (Registration H509635, Certificated H100735) issued by the SWRCB, dated 8/10/20.

- A Cultural Resources Investigation of the Benbow Miranda Property, Final Report, Benbow, Humboldt County, California, Harris 7.5' USGS Quadrangle, Assessor's Parcel Number: 223-034-005, prepared by Abby Barrios-Gonzales, BA, and Nick Angeloff, MA, Archaeological Research and Supply Company, Rio Dell, CA, dated March 2021.
- Slope Evaluation Services Report prepared by Bajada Geosciences, Inc., received 8/13/20.

### **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. (**Attached** - Plot Plans prepared by Flowra, received 2/2/21)
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** - Cultivation and Operations Plan prepared by applicant and revised by Flowra, received 2/2/21, with additional information provided by Flowra on 8/24/21)
5. Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable. (Attached – Right to Divert and Issue Water (Registration H509635, Certificated H100735) issued by the SWRCB, dated 8/10/20)
6. Description of water source, storage, irrigation plan, and projected water usage. (Included in Cultivation Operations Plan (item 4. above) and Site Management Plan prepared for State Water Board Cannabis General Order (item 7. below)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. (Condition of approval. **Attached** - Site Management Plan prepared by Flowra, received 8/13/20, for the State Water Resource Control Board (State Water Board) Cannabis Cultivation Policy (Cannabis Policy) and Order WQ 2017-0023-DWQ General Waste Discharge Requirements for Dischargers of Waste Associated with Cannabis Cultivation Activities (General Order))
8. 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. (**Attached** – Draft Streambed Alteration Agreement (Notification No. 1600-2019-0323-R1) issued by CDFW on 2/5/21. Condition of approval to obtain and submit a Final SAA.)
9. If the source of water is a well, a copy of the County well permit, if available. (Not applicable)



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. (Condition of approval)
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. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits (DEH Form). (On file)
16. Road Evaluation Reports for Blue Rock Road and Private Access Road, with Roadway Evaluation Technical Memorandum, prepared by DTN Engineering and Consulting, received 8/13/20. **(Attached)**
17. Site Remediation Plan prepared by Gregory Engineering, Inc., received 8/13/20. **(Attached)**
18. Slope Evaluation Services Report prepared by Bajada Geosciences, Inc., received 8/13/20. **(Attached)**
19. A Cultural Resources Investigation of the Benbow Miranda Property, Final Report, Benbow, Humboldt County, California, Harris 7.5' USGS Quadrangle, Assessor's Parcel Number: 223-034-005, prepared by Abby Barrios-Gonzales, BA, and Nick Angeloff, MA, Archaeological Research and Supply Company, Rio Dell, CA, dated March 2021. (On file and confidential)

HUMBOLDT 420, LLC  
CULTIVATION AND OPERATIONS MANUAL  
HUMBOLDT COUNTY, CA

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CANNABIS  
CULTIVATION FACILITIES

PREPARED FOR:



June 2017  
\*edits made and submitted August 2020\*

**HUMBOLDT 420, LLC**

3761 Blue Rock Road  
Garberville, CA 95542

**Cultivation and Operations Plan**

July 2017 \*edits made August 2020\*

APN: 223-034-005

App#: 12147

**Adult-Use Cannabis Cultivation Facilities**

Lead Agency:

***Humboldt County Planning Department***

3015 H Street  
Eureka, CA 95501

Prepared By:



***Emerald Heritage Farms***

Dani Burkhardt  
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**\*\*Edits finished 8/10/20 by Flowra, Inc\*\***

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# 1.0 Operations Plan

## 1.1 Water Management

### 1.11 Source

Humboldt 420, LLC draws water from an on-site spring. This applicant has been enrolled and has paid for enrollment in the State Water Resources Control Board's (SWRCB) General Order as Tier 1, Low Risk, and has a Small Irrigation Use Registration with the SWRCB.

### 1.12 Storage

Humboldt 420, LLC will store water from an On-Site spring in a 20,000 gallon water bladder, 250,000 gallon water bladders and multiple water storage tanks shown on the site plan.

### 1.13 Irrigation Plan & Projected Usage

All irrigation of cannabis is done by hand, every other day on average at no more than agronomic rates. Humboldt 420, LLC plans to keep track of the tank filling frequency through water logs, in addition to implementing rainwater catchment, to reduce water use and increase water storage.

#### Projected Water Usage by Month

- May: 5,000 gallons
- June: 40,000 gallons
- July: 55,000 gallons
- August: 110,000 gallons
- September: 110,000 gallons
- October: 10,000 gallons
- November: 30,000 gallons
- December - April: No water usage

## 1.2 Erosion Control & Habitat Protection

Soil is reused and kept under tarp in the off-season; waddles and maintained water bars are in place for erosion control measures. The cultivation parcel has not been identified as being in a sensitive habitat area. Humboldt 420, LLC is implementing a three-year soil building initiative and will add store-bought soil as needed.

The Site Management Plan has been submitted to local and state agencies. Watercourses that run along the parcel are/will be well buffered from the cultivation zone, as seen in the attached map. Applicant has retired the garden area that did not meet the setback requirements, after following advice of the Humboldt County Planning Department.

Drainage from the site occurs naturally, and erosion control measures listed in the applicant's Site Management Plan are followed accordingly.

### 1.3 Noise Compliance

Generators are used regularly for commercial and domestic use, and to top-off solar batteries. There are two gasoline generators, two diesel generators, and one propane generator. Noise levels generated by normal farming activities will be below the 60 decibel maximum allowed at the property line. Owner is working towards limited generator use by planning for alternative power sources.

### 1.4 Storage Protocols

Currently, there are no pesticides or herbicides registered specifically for use directly on cannabis. Locally sourced dairy compost is stored away from water sources and covered to prevent run-off. Dr. Earth, Tappin Root, Platinum Plant Therapy, Flying Skulls, Dr. Zymes, and chicken manure by the bag are stored in secondary containment within the designated on-site Fertilizer Facility.

All labels are kept, and directions are followed when amendments are applied. All excess compost and amendments are stored and/or disposed of according to manufacturer's guidelines.

#### 1.41 Hazardous Materials

About 25 gallons of gasoline and 45 gallons of diesel are kept onsite at any given time for generators, kept in approved containers and secondary containment in an appropriate storage facility.

### 1.5 Security Plan

Only persons approved by the owners will be allowed onto the property. The driveway leading into the cultivation parcel will have a locked gate and secure fence to prevent unwanted vehicle access. The parcel will be monitored by owners and a resident canine.

## 2.0 Cultivation Plan

Humboldt 420, LLC will feature 10,000 square feet (sqft) of outdoor cultivation. There will be one full-term run of the cultivation area.

### 2.1 Schedule of Activities for Growing and Harvest Seasons

Month	Activity
January	Maintain cover crop in cultivation zone
February/ March	Prepare cultivar starts in on-site propagation area or purchase from a permitted nursery.
April	Plant stock for full-term cycle goes into the ground in 65 gallon and 100 gallon soft pots (may vary by seasonal conditions). All pots are in ground holes or placed in raised beds.
May	Continue hand-watering and monitoring full-term cycle, supplementing with chicken manure and Dr. Earth as the plant stock requires.
June	Continue hand-watering and monitoring full-term cycle, supplementing with chicken manure and Dr. Earth as the plant stock requires.
July	Continue hand-watering and monitoring full-term cycle, supplementing with chicken manure and Dr. Earth as the plant stock requires.
August	Continue hand-watering and monitoring full-term cycle, supplementing with chicken manure and Dr. Earth as the plant stock requires.
September	Continue hand-watering and monitoring full-term cycle, supplementing with chicken manure and Dr. Earth as the plant stock requires. Harvest and process the varieties that finish maturing flowers this month. Curing and trimming will be handled on-site.
October	Harvest and process the varieties that finish maturing flowers this month. Curing and trimming will be handled on-site.
November	Maintain cover crop in cultivation zone
December	Maintain cover crop in cultivation zone.

## 2.2 Standard Cultivation Practices

- *Planting:* A portion of the total cannabis clones will be planted in garden beds, and the remaining will be placed in 65-100 gallon pots in the ground, raised beds or directly in the raised garden beds.
- *Soil Management:* Current soil is reused and stored under tarp to prevent loss. Applicant's goal is to transition to a permaculture garden that utilizes its natural environment in a regenerative fashion.
- *Compost Tea Management:* No compost tea is used.
- *Mildew management:* Excessive signs of mold and/or mildew will require containment and destruction.

## 2.3 Propagation

Propagation is done through seed starts and cloning in a 30x40 ft metal building, referenced on the map as the Propagation and Dry Shed. Some starts/clones may be acquired from an off-site licensed nursery to provide genetic diversity and supplement propagation needs. Preventative measures are taken to prevent pests during this stage only, including the use of Dr. Zymes, Flying Skulls, and Platinum Plant Therapy.

## 2.4 Processing Plan

Drying, curing, and trimming currently takes place in the Propagation and Drying Shed. During the processing of the product, only the owner and select family members will be involved. Anyone who works for the company will be compensated and documented appropriately, following local and state regulations.

## 2.5 Facilities

The facilities on-site are capable for handling the owner and the family members who live there, as a residential home currently exists on the property. This includes the septic system for the home, the toilet and handwashing facilities for the home, and the source of drinking water for the home. All facilities are compliant with residential housing. Employees and employer maintain safe working conditions throughout the property by ensuring all handwashing and toilet facilities are accessible at all times. Generator usage is approximately 250 - 300 hours per month on average. Solar panels assist with energy production for the home and cultivation sites.

## 2.6 Road Impacts

This cultivation site sees the average residential traffic in and out of the parcel as the family also lives at this site. Potential impacts on the access roads and roads on the property will be mitigated by watering the road to minimize dust, with a backup plan of a tactifier if watering does not suffice.



### 2.7 Recordkeeping

Humboldt 420, LLC will comply with all accountability requirements from the state and county. A perpetual inventory system will be used to comply with track-and-trace measures once it is available.

### 2.8 Waste Removal

Solid Waste and recycling are removed from the parcel and taken to a waste transfer station in Redway. Dump trips are usually 1x per week at peak operation times. All plant material and organic material is composted on-site in a designated compost area. Wastewater is from domestic use and discharges to a septic system onsite.

### 2.9 Human Resources

The cultivation will be operated by the owner of Humboldt 420, LLC. Currently, labor is done by the owner and family members. Should additional workers be needed, the applicant will acknowledge that it is an agricultural employer and will comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code). All workers will be trained in visitor protocols, loss aversion requirements, emergency action response planning as necessary; employee accident reporting and investigation policies; fire prevention; hazard communication policies, including maintenance of material safety data sheets (MSDS); materials handling policies; job hazard analyses; and personal protective equipment policies, including respiratory protection. All workers will be given a copy of this operations manual and the applicant will ensure each worker signs Appendix A acknowledging they received a copy of this operations plan.

### 3.0 Tourism and Hospitality

Humboldt 420, LLC may host guests from time to time for educational and marketing purposes. Visits are arranged in advance. Visitors will always be accompanied by a representative of Humboldt 420, LLC when touring cultivation facilities.

## Appendix A: Personnel Acknowledgement Form

It is the intention of Humboldt 420 LLC to create an enjoyable, safe and sane workplace if it decides to hire laborers. We feel that understanding and compliance with our Operations Manual will create just that. It is the responsibility of each employee to read and understand the procedures outlined herein. If after reading and reviewing this entire document, you have any questions please see the Agent in Charge immediately for clarification. By signing this document below, it confirms your reading, understanding and adherence to the entire Humboldt 420 LLC OPERATIONS MANUAL.

---

Employee sign and date

---

Agent in Charge sign and date

## Appendix B: Emergency Procedures and Contact Information for Humboldt 420 LLC

The first priority in the event of an emergency is for the safety of all people present.

Move quickly out of area danger.

Meet at assigned meeting place to get a headcount.

Enact Emergency Procedures.

### **Emergency Phone Numbers Dial 911 for Fire/Police/Ambulance:**

1. Tell the operator which emergency service you want
2. Wait until the service answers
3. Give the following address: 3761 Blue Rock Road, Garberville
4. Do not hang up until told to do so by the 911 Operator

### **Other Emergency Contacts**

Humboldt County Sheriff: 707-445-7251

Garberville Volunteer Fire Department: 707-923-7204

Humboldt County HazMat: 707-445-6215

Humboldt County Ag Dept.: 707-441-5260

## **Fire and Emergency Procedures Checklist**

You must know and understand what to do if a fire occurs. Your first concern is the immediate safety of visitors and staff; secondly, the need to call emergency services and then to contain the fire but only if it is safe to do so. If help is available, allocate responsibilities to others to create a competent firefighting team.

- Evacuate people from the area
- If it is safe to do so, switch off power to all equipment
- Call the fire department (dial 911)
- If a small fire, use your fire extinguisher, tools and water hoses if it is safe to do so – try to contain and extinguish the fire
- If the fire is near a fuel tank, do not attempt to extinguish the fire – retreat to a safe distance
- Be prepared to direct the fire service to the scene

## **Spill Procedures Checklist**

You must know and understand what to do if a spill occurs. Your first consideration is the immediate safety of visitors and staff; secondly, the need to call emergency services and then contain the spill if it is safe to do so. If help is available, allocate responsibilities to others to create a competent team to deal with the spill.

- If the spill is from the hose or tap, shut the isolation valve
- Warn people in area of the spill – evacuate if necessary
- Remove sources of ignition if flammable substance is present
- Evaluate the spill – only respond if you believe it is safe to do so
- Refer to the Materials Safety Data Sheet or call on an approved handler or other specialists for advice
- If necessary, call emergency services and advise local authority
- Put on safety equipment (e.g., overalls, boots, gloves, eye protection, etc.)
- Contain the spill if it is safe to do so – utilize a drip tray or oversize container or spill kit to soak up the substance
- Dispose of waste safely as set out in the Materials Safety Data Sheet

## **Incident Reporting**

- Every accident resulting in injury or damage to the property must be reported to your manager immediately
- Respond to the accident promptly and positively
- Collect relevant information about the accident
- Develop and take remedial actions
- Complete insurance claims and reports required First Aid
- A first aid kit must be kept on the premises and maintained
- All staff must know basic first aid procedures

## **Minor Injury Accidents**

- Minor cuts and abrasions must be attended to immediately
- If in doubt, contact a physician or call 911

## **Serious Injury Accidents**

- Call an ambulance immediately (dial 911)
- Seek the assistance of any first responder
- Stabilize the victim
- Advise your manager

## **Property Damage**

- All damage to farm property must be reported to your manager

## **Control of Bleeding**

1. Direct pressure – use your hand(s)
2. Elevate (raise) the limb
3. Apply a pad and firm bandage
4. If necessary, use clean rags or clothing

### ***Remember!!***

- Always check for circulation below the bandage!
- If there is tingling, numbness or blue color, loosen the bandage

## **Management of Burns**

1. Cool the burned area with cool water for 10-15 minutes
2. If necessary, cover the burn with a clean dressing or plastic wrap before moving person

### ***Remember!!***

- Do not burst blisters
- Do not remove clothing that is stuck
- Do not apply creams

## **Management of Eye Injuries**

### **Foreign Bodies In the Eye(s)**

1. Wash the eye(s) with eyewash or clean water
2. If the foreign body is stuck to the eye, DO NOT attempt remove
3. Place covering over the eye and obtain medical attention

### **Chemicals in Eye(s)**

1. Wash the eye(s) with clean cool water for at least 15 minutes
2. Wash from near the nose outward
3. Always wash under the upper eyelid
4. Obtain medical attention

## **Breathing**

If a person is breathing but unconscious, turn them on their side to prevent tongue swelling or vomit from obstructing airway

If person is not breathing:

- Check airway for blockage and clear
- Call 911
- Administer CPR

## **Location of Firefighting, Spill and First Aid Kits**

A fire extinguisher is located in the following places:

- Work vehicles
- Equipment storage area

A first aid kit is located in the following places:

- Work vehicles

- Equipment storage area

A spill kit is located in the following places:

Not applicable (if chemicals are acquired that require special handling, a spill kit will be provided)



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 Northern Region  
 619 Second Street  
 Eureka, California 95501  
 (707) 445-6493  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
 CHARLTON H. BONHAM, Director



12147



February 5, 2021

John Miranda  
 Double J Stables  
 Post Office Box 546  
 Garberville, CA 95542

Subject: **Draft Lake or Streambed Alteration Agreement  
 Notification No. 1600-2019-0323-R1 APN 223-034-005  
 Miranda Double J Stables Diversion and Crossings Project**

Dear John Miranda:

The California Department of Fish and Wildlife (Department) has determined that your project requires a Lake or Streambed Alteration Agreement (Agreement) because it could substantially adversely affect an existing fish or wildlife resource. Enclosed is a draft Agreement that includes measures the Department has determined are necessary to protect existing fish and wildlife resources.

Within 30 days of receipt of this draft Agreement, you must notify the Department in writing whether the measures to protect fish and wildlife resources are acceptable (Fish and Game Code section 1603). If you agree with the measures set forth in the draft Agreement, you or your authorized representative **must return the draft Agreement with original signature to the above address.**

If you disagree with any measures in the draft Agreement, please contact the Department staff identified below. In the event that mutual agreement is not reached, you may follow the dispute resolution process described in Fish and Game Code section 1603(a), Part III of the "Notification Instructions and Process." If you fail to respond in writing within 90 days of receiving the draft Agreement, the Department may withdraw the draft Agreement.

Please be advised the Department may not execute the Agreement until it has complied with the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 *et seq.*) as the lead or a responsible agency. Please note that the draft Agreement may be subject to change upon receipt and review of the environmental document for the overall project and that the Department may have additional comments or concerns during the CEQA review process.

*Conserving California's Wildlife Since 1870*



This Agreement only covers projects subject to Fish and Game Code 1600 et seq., but there may be other aspects of the overall development project that invoke the Department's role as trustee and responsible agency under CEQA. Therefore, the Department may submit additional comments, requests for information, and recommend requirements for mitigation or monitoring in order to avoid significant impacts to fish and wildlife or their habitat. Furthermore, this Agreement does not authorize "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 or candidate threatened or endangered species, the Permittee has the responsibility to obtain an Incidental Take Permit from the Department, as required by the California Endangered Species Act.

After you receive a final Agreement executed by the Department, you may begin the project the Agreement authorizes provided you have obtained all other necessary local, state, and federal permits or other authorizations.

For more information on the process described above, please refer to Part IV in the "Notification Instructions and Process" included with your notification materials, which is also available at [www.wildlife.ca.gov/habcon/1600/notificationpackage.pdf](http://www.wildlife.ca.gov/habcon/1600/notificationpackage.pdf). Additionally, Staff at the State Water Resources Control Board have been included in the EC list for this letter because the water diversion you have notified for likely requires a Cannabis Irrigation Registration and/or small domestic use registration.

If you have any questions regarding this letter, please contact Environmental Scientist Christine Hahn Vertical at [Christine.HahnVertical@wildlife.ca.gov](mailto:Christine.HahnVertical@wildlife.ca.gov).

Sincerely,



Cheri Sanville  
Senior Environmental Scientist Supervisor

Ec : California Department of Fish and Wildlife  
[Greg.Oconnell@wildlife.ca.gov](mailto:Greg.Oconnell@wildlife.ca.gov), [Christine.HahnVertical@wildlife.ca.gov](mailto:Christine.HahnVertical@wildlife.ca.gov)

North Coast Regional Water Quality & State Water Resources Control Board  
[NorthCoast.Cannabis@Waterboards.ca.gov](mailto:NorthCoast.Cannabis@Waterboards.ca.gov), [Jonathan.Pham@Waterboards.ca.gov](mailto:Jonathan.Pham@Waterboards.ca.gov)  
[Stormer.feiler@waterboards.ca.gov](mailto:Stormer.feiler@waterboards.ca.gov), [Phillip.dutton@waterboards.ca.gov](mailto:Phillip.dutton@waterboards.ca.gov),  
[Darin.Clark@waterboards.ca.gov](mailto:Darin.Clark@waterboards.ca.gov), [Sofia.Frasier@waterboards.ca.gov](mailto:Sofia.Frasier@waterboards.ca.gov)

County of Humboldt Planning & Building Department  
[Cliff.Johnson@co.humboldt.ca.us](mailto:Cliff.Johnson@co.humboldt.ca.us)  
[KHilton@co.humboldt.ca.us](mailto:KHilton@co.humboldt.ca.us)

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



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2019-0323-R1

Unnamed Tributary to Horse Pasture Creek, Tributary to East Branch of South Fork Eel River, Tributary to the South Fork Eel River, Tributary to the South Fork Eel River, and the Pacific Ocean

John Miranda  
Double J Stables  
8 Encroachments

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

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on April 25, 2019, with additional information obtained during an October 2, 2019 CDFW site visit, and revised on July 23, 2020 and December 8, 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 is located within the South Fork Eel River watershed, approximately 2.8 miles South East of the town of Garberville, County of Humboldt, State of California; Assessor's Parcel Number 223-053-005; latitude 40.06N and longitude -123.73W at the point of diversion (POD).

**PROJECT DESCRIPTION**

This Agreement relies on the Notification materials and a CDFW site inspection by Environmental Scientist Greg O'connell on October 2, 2019.

The project is limited to 8 encroachments (Table 1). One encroachment is for water diversion from East Branch of the South Fork of the Eel River. Water is diverted for domestic use and irrigation. Work for the water diversion will include use and maintenance of the water diversion infrastructure. The 7 other proposed encroachments are to upgrade failing and undersized stream crossings. Work for these encroachments will include excavation, removal of the failing crossings, replacement with new properly sized crossings, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion.

Table 1. Project Encroachments Covered by this Agreement with Description.

ID	Latitude/Longitude	Description
POD-1 Item 17 spring diversion	40.06, -123.73	Water diversion from East Branch South Fork Eel River for domestic use and irrigation direct for watering of cattle only. Appropriative water right A014691. <b>Cannabis Irrigation</b> SWRCB application ID: none on file, CDFW recommends to file for a SIUR for cannabis irrigation and a SDU for the domestic use. Permittee shall follow SWRCB Cannabis Policy; diversion to storage for cannabis irrigation from November 1 – March 31 when sufficient flows exist. Max diversion rate 5 gpm, 90% bypass at all times. <b>Domestic Use</b> Water diversion for domestic use year-round. Permittee shall implement Seasonal Diversion Minimization: 200 gallons per day from May 15 – October 31, 90% bypass at all times.
Item 5	40.0394, -123.7390	Install a minimum 24" culvert appropriately configured to the crossing to accommodate the 100-year flow and debris. CDFW observed an existing 15" pipe on a stream with a ~24" active channel width. No debris racks permitted under this Agreement.
Item 7	40.0388, -123.7396	Install a minimum 24" culvert appropriately configured to the crossing. CDFW observed an existing 15" pipe with shot-gunned outlet, on a stream with a ~24" active channel width.
Item 8	40.0387, -123.7397	Install a minimum of 18" culvert appropriately configured to the crossing. CDFW observed an existing 10" pipe, shot-gunned at outlet on a stream with a ~18" active channel width. Ensure debris such as Perlite and potting soil casted too close to stream are moved to a stable upland location.

ID	Latitude/Longitude	Description
Item 10	40.0380, -123.7405	Install a minimum 30" culvert appropriately configured to the stream. CDFW observed an existing 15" pipe slightly perched at outlet on a stream with ~30" active channel width.
Item 11	40.0378, -123.7409	Install a minimum 18" culvert appropriately configured to the stream crossing. CDFW observed an existing 12" pipe slightly perched at outlet and on a stream with a ~18" active channel width.
Item 12	40.0368, -123.7391	Upgrade low water crossing to measures outlined in the Agreement use only when dry. Or existing dirt ford needs appropriately sized culvert for year-round use or rocked ford for dry season only use.
Item 13	40.0376, -123.7383	Upgrade low water crossing, such as a rocked ford according to measures outlined in the Agreement use only when dry. Or existing dirt ford needs appropriately sized culvert to accommodate 100-year flow and debris.

Table 2. Descriptions of features disclosed in Notification, but not covered under this Agreement. Descriptions represent observations and recommendations made by Greg O'Connell, CDFW Environmental Scientist during the site visit.

ID	Latitude/Longitude	Description
Item 1	40.0406, -123.7399	Existing 15" pipe appears to be a ditch relief culvert (DRC) and not a stream crossing. Consider adding a monitoring point in technical documents pursuant to Waterboard requirements.
Item 2	40.0407, -123.7395	Slopes in vicinity of cultivation area are steep and show signs of erosion. Slopes may be greater than 30%. Consider adding a monitoring point in technical documents pursuant to Waterboard requirements.
Item 4	40.0398, -123.7388	Existing 18" diameter appears to be a DRC but is very close to a stream previously mapped for a timber harvest plan. Consider adding as monitoring point in technical documents pursuant to Waterboard requirements. If in-stream work is needed, include as an LSA notification project.
Item 9	40.0386, -123.7400	Need to notify. Crossing is undersized according to notification and field inspection by CDFW. An existing 18" pipe is plugged at the inlet and occurs on a stream with ~24" active channel width. Recommendation: install a minimum 24" culvert appropriately configures to the crossing.
Item 6	40.0392, -123.7391	An existing 18" pipe is slightly perched at outlet and occurs on a stream with a ~18" active channel

ID	Latitude/Longitude	Description
		width. Addition of small amount of hand placed energy dissipating rock at the outlet. If additional instream work becomes necessary, an amendment or notification is required. Consider adding a monitoring point in technical documents pursuant to Waterboard requirements.
Item 14	40.0396, -123.7392	Area of sediment discharge to nearby stream. Address in Site Management Plan.
Item 15	40.0374, -123.7387	Steep road section erosion needs work. Consider adding a monitoring point in technical documents pursuant to Waterboard requirements.
Item 16	40.0405, -123.7388	Steep ATV trail with erosion should be stabilized and use discontinued. Consider adding as monitoring point in technical documents pursuant to Waterboard requirements.

Existing stream encroachments disclosed in the Notification, but not included as 1602 projects with fees, are not covered under this Agreement. If maintenance (such as armoring) and/or replacement become necessary, that work must be covered by a major amendment or a separate Notification.

No other projects that may be subject to FGC section 1602 were disclosed. This Agreement does not retroactively permit any constructed reservoirs (including "ponds"), stream crossings, water diversions, modifications to riparian buffers, or other encroachments not described in Table 1.

**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;
- increased turbidity;
- increased sedimentation (chronic or episodic);

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

loss or decline of riparian habitat;  
loss or decline of instream channel habitat;  
direct impacts on benthic organisms;  
direct and/or incidental take of aquatic and/or terrestrial organisms;

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

reduced instream flow;  
cumulative effect of diversions in the watershed;  
impediment of up- or down-stream movement;  
water quality degradation; and  
damage to aquatic habitat and function.

**MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES**

**1. Administrative Measures**

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. 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. 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 Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if 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 Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees to allow CDFW employees access to the Project site for the purpose of inspecting and/or monitoring, provided CDFW: a) provides 24 hours advance notice; and b) allows Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW law enforcement personnel.

1.5 Applicable Permits. Land development or alterations may be subject to additional federal, state and local laws, regulations, and permitting requirements, including but not limited to the following:

- The Clean Water Act (CWA) as implemented through permits, enforcement orders, and self-implementing requirements. When needed per the requirements of the CWA, Permittee shall obtain a CWA section 404 (33 U.S.C. § 1344) permit from the United States Army Corps of Engineers (Army Corps) and a CWA section 401 (33 U.S.C. § 1341) water quality certification from the State Water Board or the Regional Water Board with jurisdiction.
- The California Water Code as implemented through applicable water quality control plans (often referred to as Basin Plans), waste discharge requirements (WDRs) or waivers of WDRs, enforcement orders, and self-implementing requirements issued by the State Water Resources Control Board (State Water Board) or Regional Water Quality Control Boards (Regional Water Boards).
- All applicable state, city, county, or local regulations, ordinances, or license requirements including, but not limited to those for grading, construction, and building.
- All applicable requirements of the California Department of Forestry and Fire Protection (CAL FIRE), including the Board of Forestry.

1.6 Cannabis Cultivation Policy. If commercial cannabis cultivation occurs on the project parcel, the State Water Resources Control Board (SWRCB) requires enrollment in the Cannabis Cultivation General Order and compliance with the Cannabis Cultivation Policy - Principles and Guidelines for Cannabis Cultivation, available at:  
[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/cannabis\\_policy.html](https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_policy.html)

1.6.1 Site Management Plan and Related Technical Reports. Permittee shall submit to CDFW the initial preparation and subsequent updates to the project's Site Management Plan and related technical reports prepared in conformance with the SWRCB Cannabis Cultivation Policy.

1.6.2 Compliance Gauges. The authorized surface water diversion period for commercial cannabis cultivation is December 15 through March 31; under certain circumstances, diversion may begin between November 1 to December 14 (SWRCB Cannabis Cultivation Policy, Attachment A, Section 3, Requirement 5). Water diversion for cannabis cultivation may only occur if sufficient flow exists at the Permittee's assigned compliance gauge. The State Water Resources Control Board developed an online mapping tool to assist cannabis cultivators with finding their assigned compliance gauge

used to determine whether diversion may occur:

[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/online\\_mapping\\_tool.html](https://www.waterboards.ca.gov/water_issues/programs/cannabis/online_mapping_tool.html). Permittee must check the compliance gauge daily prior to diverting to ensure sufficient water is available.

- 1.7 Water Rights. This Agreement does not constitute a valid water right. All water diversion facilities that Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights. Water rights are administered by the State Water Resources Control Board as described here: [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/registrations/](https://www.waterboards.ca.gov/waterrights/water_issues/programs/registrations/).
- 1.8 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 fish and wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information 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.
- 1.9 Notification Materials. Permittee's Notification of Lake or Streambed Alteration, together with all maps, plans, photographs, drawings, and all other supporting documents submitted with the Notification received on April 25, 2019, with additional information obtained during an October 2, 2019 CDFW site visit, and revised on July 23, 2020 and December 8, 2020, is hereby incorporated by reference into this Agreement. Permittee shall conduct project activities within the work areas, and using the protective measures, described in the Notification and supporting documents, unless such project activities, work areas or protective measures are modified by the provisions of this Agreement, in which case the activities shall be conducted as described in this Agreement.

## 2. Avoidance and Minimization Measures

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

### Work Periods and Pre-Project Notice

- 2.1 Work Period. All work, not including authorized 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**. Permittee shall monitor precipitation forecasts and potential increases in stream flow 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 the Avoidance of Nesting Birds Measure. A notice of completed work, including



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

- 2.2 CDFW Notification of Work Initiation and Completion. Permittee shall contact CDFW in writing within the 7-day period preceding the beginning of work permitted by this Agreement. Information provided shall include Agreement number, and the anticipated start date. Subsequently, Permittee shall notify CDFW in writing 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.**
- 2.3 Work Period Extension Requests. If Permittee needs more time to complete the project, CDFW may grant a work period extension on a day-to-day basis. Extension requests shall be made in writing before **October 5** of each year and shall: 1) describe the extent of work already completed; 2) detail the uncompleted activities; 3) detail the time required to complete each remaining activity; and 4) provide photographs of the completed work site(s) and remaining work. Requests shall describe the effects of increased stream flows, rain delays, increased erosion control measures, access constraints caused by saturated soils, and anticipated effects of climatic conditions on growth of erosion control grasses. Work period extensions are issued at the discretion of CDFW. CDFW will review the written request and may require additional measures to protect fish and wildlife resources.

### **General Stream Protection Measures**

- 2.4 Prohibition of Live Stream Work. No work is authorized in a live flowing stream. All work shall be conducted when the stream is dry. Permittee shall notify CDFW if it determines that work in a live flowing stream is required to complete a project and will submit a diversion plan.
- 2.5 Fish and Aquatic Species. If surface water is or becomes present during construction, Permittee shall: a) have the Designated Biologist 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 shall be contacted and work shall not commence until authorized by a CDFW representative.
- 2.6 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 (as defined in FGC Section 45 "fish" means a 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.
- 2.7 Decontamination. Permittee shall ensure all project personnel adhere to the Northern Region California Department of Fish and Wildlife Aquatic Invasive

Species Decontamination Protocol for all field gear and equipment that will be in contact with water. Heavy equipment and other motorized or mechanized equipment that contacts water shall adapt watercraft decontamination protocols found in the AIS Decontamination Protocol.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=92821&inline>

- 2.8 Staging and Storage. Staging and storage areas for equipment, materials, fuels, lubricants and solvents shall be located outside of the stream channel and banks, and away from riparian vegetation. 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 at the end of the yearly work period, whichever occurs first.
- 2.9 Equipment and Vehicle Leaks. Equipment or vehicles operated in or near the stream shall be checked and maintained daily to prevent leaks. Stationary equipment (e. g. motors, pumps, generators, welders, etc.) in or near the stream shall be positioned over drip pans. Stationary heavy equipment shall have sufficient containment to manage catastrophic spills or leaks.
- 2.10 Hazardous Substances. Debris, soil, silt, bark, slash, sawdust, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any substance or material deleterious to fish, plant life, mammals, or bird life, or their habitat, shall be prevented from contaminating the soil and/or entering the waters of the State, pursuant to FGC Sections 5650 and 5652. Permittee shall ensure hazardous or toxic materials are stored in watertight containers and promptly removed from the worksite.
- 2.11 Spill Containment and Cleanup. All authorized activities performed in or near a stream shall have on-site cleanup equipment (e. g. boom, skimmers, etc.) and absorbent materials for spill containment and cleanup prior to the start of work and for the duration of the project. In the event of a spill, Permittee shall immediately notify the California Office of Emergency Services State Warning Center at 1-800-852-7550 and initiate clean-up. Permittee shall immediately notify CDFW of any spills and shall follow CDFW cleanup procedures and guidance.
- 2.12 Stockpiled Materials. Materials shall not be stockpiled where they may wash into the stream or cover aquatic or riparian vegetation. Permittee shall monitor the National Weather Service (NWS) 72-hour forecast for the project area and cover stockpiles if NWS predicts precipitation.
- 2.13 Erosion Control. Permittee shall implement erosion control measures throughout all phases of operation where sediment delivery could occur. Silt fences, straw bales, gravel or rock lined ditches, water check bars, broadcasted weed-free straw, or other approved erosion control measures shall be used wherever sediment has the potential to leave the work site and enter the stream.

- 2.14 Silt Laden Runoff. At no time shall silt laden runoff enter the stream or be directed to where it may enter the stream. Silt control structures shall be monitored for effectiveness and shall be repaired or replaced as needed.
- 2.15 Disposal and Removal of Material. Permittee shall remove from the work area, and relocate outside of the stream and riparian area, all spoils and construction debris prior to inundation. All removed material and debris shall be disposed of according to State and local laws and ordinances.
- 2.16 Waste Containment and Disposal. Permittee shall contain all 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.
- 2.17 Wash Water. Water containing mud, silt, or other pollutants from equipment washing or other activities, shall not be allowed to enter a lake or flowing stream or placed in locations that may be subjected to high storm flows.
- 2.18 Allow Wildlife to Leave Unharmd. Permittee shall allow any wildlife encountered to leave the project area unharmed. This Agreement does not allow for the trapping, capture, or relocation of any state or federally listed species.
- 2.19 Escape Ramp in Trench. At the end of each workday, Permittee shall place an escape ramp at each end of any open trench deeper than six inches with walls greater than 30 degrees to allow entrapped animals to escape. The ramp may be constructed of either dirt fill, non-treated wood, or other suitable material placed at an angle no greater than 30 degrees.
- 2.20 Prohibition Against Use of Plastic Netting in Erosion Control Measures. Permittee shall not use erosion control devices containing plastic, including photo- or bio-degradable plastic netting. Erosion control mats, blankets, and straw or fiber wattles shall consist entirely of natural fiber.
- 2.21 Remove Temporary Flagging, Fencing, and Barriers. Permittee shall remove all temporary flagging, fencing, and/or barriers from the project site and vicinity of the stream upon completion of project activities.

### **Designated Biologist**

- 2.22 Designated Biologist. At least thirty (30) days before project activities requiring biological surveys begin, the Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information for a Designated Biologist. Permittee shall obtain CDFW's written acceptance of the Designated

Biologist before initiating project activities. The Designated Biologist shall be knowledgeable and experienced in the biology and natural history of local fish and wildlife resources potentially present at the project site. The Designated Biologist shall be responsible for monitoring all project activities and avoidance measures, including any ground-disturbing activities.

- 2.23 Designated Biologist Authority. The Designated Biologist shall have authority to immediately stop any activity that is not in compliance with this Agreement, and/or to order any reasonable measure to avoid the unauthorized take of Special Status Species. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with the Measures in this Agreement, including cease-work orders issued by CDFW.

### **Special Status Species Avoidance and Minimization**

- 2.24 Prohibition on Take of Listed Species. This agreement does not authorize the take or incidental take of any State or Federal listed threatened or endangered listed species. State Listed or Fully Protected Species include any native plant species listed as rare under the Native Plant Protection Act (FGC, § 1900 et seq.; Cal. Code Regs., tit. 14, § 670.2), any species that is listed or is a candidate for listing under the California Endangered Species Act (FGC Code, § 2080 et seq.; Cal. Code Regs., tit. 14, §§ 670.2, 670.5), or any fully protected species (FGC, §§ 3511, 4700, 5050, 5515). Permittee shall consult with the appropriate agency prior to commencing the project.
- 2.25 Avoidance of Nesting Birds. Permittee shall avoid nests occurring within and near the project site pursuant to the Migratory Bird Treaty Act of 1918 and FGC section 3503. Vegetation maintenance/removal shall be confined to the period **September 1 to January 31** of any year in which this Agreement is valid, provided the work area is outside the stream. Vegetation maintenance/removal may continue during precipitation events provided stream flows have not risen into work areas and sediment delivery will not result.
- 2.26 Nesting Bird Surveys. If vegetation removal or other project-related activities that could impact nesting birds are scheduled during the nesting season (typically **February 1 to August 31**), the Designated Biologist shall survey for active bird nests within seven (7) days prior to the beginning of project-related activities. Surveys shall begin prior to sunrise and continue until vegetation and nests have been sufficiently observed. A report of the surveys shall be submitted to CDFW by email within three (3) business days of completion. The report shall include a description of the area surveyed, time and date of surveys, ambient conditions, species observed, active nests observed, evidence of breeding behaviors (e.g., courtship, carrying nesting material or food, etc.), and a description of any outstanding conditions that may have impacted survey results (e. g. weather conditions, excess noise, predators present, etc.). If an active nest is found,

Permittee shall implement avoidance measures and consult with CDFW. If a lapse in project-related work of seven (7) days or longer occurs, the Designated Biologist shall repeat surveys before project work can resume.

2.27 Special-Status Plants. If Special-Status plants (State listed and taxa that meet the definition of Rare or Endangered under CEQA Guidelines 15380) may occur on the project site, the Designated Biologist shall conduct seasonally appropriate surveys of the area to document potential effects prior to the implementation of Project-related activities. If populations of any of these species are found:

2.27.1 Exclusion fencing shall be installed a minimum of 100 feet from the location of special-status plants, and no Project activity shall occur within the area occupied by special-status plants or the 100-foot buffer area around these plants.

2.27.2 If special-status plant populations are found on the Project site and it is not feasible to avoid them during Project-related activities, the Project applicant shall consult with CDFW to determine if the project may be covered under this Agreement. Separate notification pursuant to FGC section 1602 may be required in some instances.

## **Vegetation Management**

2.28 Riparian Buffers. Riparian buffers shall not be modified, unless authorized by CDFW in writing.

2.29 Minimum Vegetation Removal. No native riparian vegetation shall be removed, 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.

2.30 Vegetation Maintenance. Permittee shall limit vegetation management (e.g., trimming, pruning, or limbing) and removal for the purpose of the authorized activity to the use of hand tools. Vegetation management shall not include treatment with herbicides.

2.31 Invasive Plant Species. Permittee shall not plant, seed or otherwise introduce invasive plant species within the Project area. Invasive plant species include those identified in the California Invasive Plant Council's inventory database, which is accessible at: <https://www.cal-ipc.org/plants/inventory/>.

## **Water Diversion**

2.32 Maximum Diversion Rate. The maximum instantaneous diversion rate from the water intake shall not exceed **five (5) gallons per minute** at any time.

- 2.33 Bypass Flow. Permittee shall pass **90% of the flow** at all times to keep all aquatic species including fish and other aquatic life in good condition below the POD.
- 2.34 Seasonal Diversion Minimization. For POD-1, Permittee shall follow SWRCB Cannabis Policy; season of diversion is **November 1 – March 31**, only when flows are sufficient at the appropriate compliance gauge. No more than 200 gallons in any one day shall be diverted (intended for household domestic use only) during the low flow season from **May 15 to October 31** of each year. Water shall be diverted only if Permittee can adhere to the maximum diversion rate and bypass flow conditions of this Agreement.
- 2.35 Measurement of Diverted Flow. Permittee shall install and maintain an adequate measuring device for measuring the instantaneous (gallons per minute) and cumulative (gallons per day) rates of diversion. Measurement shall begin as soon as this Agreement is signed by Permittee. The device shall be installed within the flow of diverted water. Permittee shall maintain records of diversion, and provide information including, but not limited to the following:
- 2.35.1 A log including the date, time and quantity of water diverted from the POD.
- 2.35.2 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).
- 2.35.3 Permittee shall make available for review at the request of CDFW the diversion records required by the SWRCB Cannabis Cultivation Policy.

### **Water Diversion Infrastructure**

- 2.36 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.
- 2.37 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 12 inches below the streambed.
- 2.38 Intake Screening Maintenance. Permittee shall regularly inspect, clean, and maintain screens in good condition.
- 2.39 Intake Screens on Fish Bearing Streams. All intakes shall be screened with at least 2.5 square feet of wetted, unobstructed screen, have at least 2.5 square feet of wetted, unobstructed screen. Screens shall be constructed of wire mesh, perforated plate, or pipe with at least 27 percent open area. Round openings in the screen shall not exceed 3/32 inch (2.38 millimeters) in diameter. Slotted

openings shall not exceed 1/16 inch (1.75 mm) horizontally (providing a maximum diagonal opening of 3/32 inch).

- 2.40 Intake Screens on Non-Fish Bearing Streams. All intakes shall be screened and openings in the screen shall not exceed 1/8-inch diameter (horizontal for slotted or square openings) or 3/32 inch for round openings.
- 2.41 Intake Shall Not Impede Aquatic Species Passage. 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.
- 2.42 Exclusionary Devices. Permittee shall keep diversion-related structures covered at all times to prevent the entrance and entrapment of amphibians and other wildlife.
- 2.43 Diversion Intake Removal. Permittee shall plug, cap, block (e.g., with a shut-off valve located near the source) or remove all intakes when no water diversion is planned for a period of one week or longer.
- 2.44 Heavy Equipment Use. No heavy equipment shall be used in the excavation or replacement of the existing water diversion structure. 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.

### **Diversion to Storage**

- 2.45 Water Storage. All water storage facilities (WSFs) (e.g., reservoirs, storage tanks, mix tanks, and bladders tanks), shall be located outside the active 100-year floodplain. Covers/lids shall be securely affixed to water tanks to prevent entry by wildlife. Permittee shall cease all water diversion at the POD when WSFs are full.
- 2.46 Water Storage Maintenance. WSFs shall have float valves to prevent overfilling. Water shall not leak, overflow, or overtop WSFs at any time. Permittee shall regularly inspect all WSFs and water diversion infrastructure, and immediately repair leaks.
- 2.47 Water Conservation. Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.48 Limitations on Impoundment and Use of Diverted Water. 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.

### **Stream Crossings**

- 2.49 Road Approaches. Permittee shall treat road approaches to new or re-constructed crossings to minimize erosion and sediment delivery to the stream. Permittee shall ensure road approaches are hydrologically disconnected to the maximum extent feasible to prevent sediment from entering the crossing site, including during the construction or reconstruction of a stream crossing. 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.
- 2.50 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 stream, 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.
- 2.51 Runoff from Steep Areas. 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.
- 2.52 No Equipment in Wetted Areas. No heavy equipment shall enter the wetted stream channel.
- 2.53 Fill Materials. No fill material, other than clean rock, shall be placed in the stream channel.
- 2.54 Material Sizing. Rock shall be sized to withstand washout from high stream flows and extend above the ordinary high-water level.
- 2.55 Crossing Maintenance. 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. Permanent culverts shall be maintained and kept open year-round. Permittee is responsible for such maintenance as long as the culvert remains in the stream.
- 2.56 Armoring. The placement of armoring shall be confined to the work period when the stream is dry or at its lowest flow.
- 2.57 Armor Placement. 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.



2.58 Crossing Decommissioning. When stream crossings and fills are removed, all fill shall be excavated down to the original stream channel and outwards, horizontally, as wide as or wider than the natural channel to form a channel as close as feasible to the natural stream grade and alignment. The restored stream bank slopes shall be no steeper than a 2:1 slope (horizontal: vertical) or natural slope. Restored slopes shall be stabilized to prevent slumping and to minimize soil erosion that could lead to sediment deposition into Waters of the State.

## **Culvert Installation**

- 2.59 Permanent Culvert Sizing. Permanent culverts shall be sized to accommodate the estimated 100-year flood flow [i. e.  $\geq 1.0$  times the width of the bankfull channel width or the 100-year flood size, whichever is greater], including debris, culvert embedding, and sediment loads (Cafferata et al. 2017, Designing Watercourse Crossings for Passage of 100-Year Flood Flows, Wood, and Sediment). <http://timbertraining.resources.ca.gov/mod/resource/view.php?id=378>
- 2.60 Critical Dips. 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.
- 2.61 Culvert Materials in High Fire Zones. 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. Use of High-Density Polyethylene pipe is discouraged. <https://osfm.fire.ca.gov/divisions/wildfire-prevention-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>
- 2.62 Fill Material. 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.
- 2.63 Culvert Grade. 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 placed in the lower third of the fill face, and a downspout or energy dissipator (such as boulders, riprap, 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). Permittee shall ensure basins are not constructed and channels are not widened at culvert inlets.

- 2.64 Culvert Bed. 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. No geotextile fabric shall be placed in the culvert bed, streambed, bank or channel.
- 2.65 Culvert Armoring. 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.
- 2.66 Project Inspection. The Project shall be inspected by a qualified professional to ensure that the stream crossings were installed, and functions as designed and in accordance with this Agreement. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

#### **Fords, Armored, and Vented Crossings**

- 2.67 Design Capacity. Fords, armored, and vented crossings are considered permanent watercourse encroachments and shall be designed and sized to accommodate the 100-year flood flow plus associated sediment and debris.
- 2.68 Crossing Maintenance. Fords, armored, and vented crossings and hydrologically connected road approaches shall be maintained as necessary to avoid delivery of fine sediment to the watercourse below.
- 2.69 Outslope Crossings. Fords, armored, and vented crossings shall be sufficiently outsloped to minimize aggradation of suspended sediments at the crossing.
- 2.70 Crossing Alignment. The lowest point of fords, armored, and vented crossings shall be constructed within or directly over the original stream channel, to the extent feasible, in order to contain high flows up to twice bankfull and to avoid diversion potential.
- 2.71 Crossing Materials. Armor material shall be comprised of durable angular screened quarry rock of sufficient size and placement to minimize mobilization during a 100-year storm event. Wood may be used for armoring if sound, tight-grained, redwood is applied and sufficiently keyed into the fillslope to resist movement during a 100-year storm event.
- 2.71.1 If maximum fill heights exceed 15 feet or fill volumes exceed 500 cubic yards, rock sizing, armoring thickness, chute width and chute depth shall be calculated and sized using the nomograph provided in Figure 23 (Simplified

Design of Rock-armored Crossings) of Cafferata et al. (2017).

- 2.72 Scour Prevention. Stream crossing spillway fill slopes shall be armored from roadbed to the natural channel in a manner sufficient to prevent scour or removal of armor during high flows. Scour is expected through road surface rock cap.
- 2.73 No Geotextiles in Stream. No geotextile fabric shall be placed in the streambed, bank or channel.
- 2.74 Ford Use. Fords shall only be used when the fording surface is dry.
- 2.75 Project Inspection. The Project shall be inspected by a qualified professional to ensure that the stream crossings were installed and function as designed and in accordance with this Agreement. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

### 3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 CDFW Notification of Work Initiation. 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 Work Completion. The proposed work shall be completed by no later than October 15, 2022. Notification of completion will include dates work occurred, photographs of work stages and 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 Project Inspection. The Project shall be inspected a by qualified professional to ensure that the stream crossings were installed, and function as designed and in accordance with this Agreement and the diversion infrastructure complies with the terms of this Agreement. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of each separate project. Permittee shall submit the **Project Inspection Report** to CDFW LSA Program at 619 Second Street, Eureka, CA 95501.
- 3.4 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**, to report the preceding year's diversion.

- 3.5 Site Management Plan and Related Technical Reports. Permittee shall submit to CDFW the project's current draft of the Site Management Plan and related technical reports if it was not included in the Notification. If the Site Management Plan and/or related technical reports are still in preparation, Permittee shall submit it and all subsequent revisions and updates within **30 days** of submittal to the SWRCB.
- 3.6 Notification to the California Natural Diversity Database. If any special status species are observed at any time during the project, the Designated 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>.

## 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:

John Miranda  
Double J Stables  
Post Office Box 546  
Garberville, CA 95542  
707.382.2274

### 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 #1600-2019-0323-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 JOHN MIRANDA**

\_\_\_\_\_  
John Miranda

\_\_\_\_\_  
Date

**FOR DEPARTMENT OF FISH AND WILDLIFE**

\_\_\_\_\_  
Cheri Sanville  
Senior Environmental Scientist Supervisor

\_\_\_\_\_  
Date

Prepared by: Christine Hahn Vertical Environmental Scientist, February 4, 2021





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

**DIVISION OF WATER RIGHTS**

**RIGHT TO DIVERT AND USE WATER**

REGISTRATION *H509635*

CERTIFICATE *H100735*

Right Holder: *Humboldt 420 LLC  
PO Box 546  
Garberville, CA 95542*

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 *08/10/2020*. 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)
Primary POD	Unnamed Spring	Unnamed Stream	Horse Creek	40.034907	-123.739272	Humboldt	223-034-005

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	Humboldt	223-034-005-000	0.23

Note: Assessor's Parcel Numbers provided are based on the user's entries in this portal on *07/29/2020*.  
The place of use is shown on the map filed on *07/29/2020* 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 0.475 **acre-feet per year** to be collected from 11/01 to 03/31 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 0.48 acre-feet. Together, the rate of direct diversion and 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:

Diversion and use of water under this right may deviate from applicable conditions and requirements of the State Water Board's Cannabis Policy to the extent such diversion and use is in compliance with a local cooperative solution that supersedes specified general conditions of this right and which the Deputy Director for Water Rights has approved. To the extent of any conflict, the local cooperative solution shall supersede the general conditions of the Cannabis Policy as of the date the Deputy Director for Water Rights approves the local cooperative solution, unless the Deputy Director specifies a later effective date. The applicable conditions and requirements of this right shall revert to the general conditions of the Cannabis Policy if the local cooperative solution is withdrawn or canceled. Diversion or uses of water in violation of a local cooperative solution or agreement approved by the Deputy Director for Water Rights is subject to enforcement as a violation of the Cannabis Policy and the conditions of this right.

A local cooperative solution or agreement has not been approved by the Deputy Director for Water Rights.

The current version of the State Water Board's *Cannabis Policy* and the approval status of any proposed local cooperative solutions or agreements are available online at: <https://www.waterboards.ca.gov/cannabis> (<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 5 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: 08/10/2020

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© 2021 - State Water Resources Control Board

1. Please confirm if the following project description is accurate (and help fill in the holes):  
A Special Permit for an existing 10,000 square foot (SF) mixed light cannabis cultivation. Ancillary propagation, totaling 600 SF, occurs within an existing 1,200 SF building used for processing, storage, and propagation. Irrigation water is sourced from an onsite spring. Existing available water storage is 216,000 gallons in three (4) water storage bladders and a series of hard-sided tanks. Estimated annual water usage is 360,000 gallons. Onsite processing, including drying, curing, and trimming, occurs onsite within the existing 1,200 SF building. A maximum of 4 people will be on-site during peak operations. Power is provided by generators; however, the applicant has long-term plans to switch to alternative power sources.
2. What is the maximum number of people that will be on-site at any given time? **4**
3. I read in the Cultivation and Operations Plan that generators are utilized for the project, but also saw mention of solar batteries.
  - a. Is there another current power source other than generators? Generators are used for the cultivation/greenhouse fans/drying. **Aside from task lights, the remainder of the solar is currently used for domestic. As the client adds more solar, he will be switching and using the solar for the cultivation and generators for the home. The generators currently power the greenhouse fans and drying room as needed.**
  - b. How many generators are there? About how long are they utilized each day? **7000w, 45kw, 60kw-on site all times. 1000w and 2000w are brought in when needed. Generators are used 1 at a time as needed for fans and drying.**
4. Regarding long-term plans to switch to an alternative power source, which source is projected to be utilized? What is the anticipated timeline to switch to this alternative power source? **Client plans to add more solar within the next 2 years as it is financially feasible.**

## 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.

<b>Referral Agency</b>	<b>Response</b>	<b>Recommendation</b>	<b>Location</b>
Building Inspection Division	✓	Conditional Approval	<b>Attached</b>
Division Environmental Health	✓	Conditional Approval	<b>Attached</b>
Public Works, Land Use Division	✓	Conditional Approval	<b>Attached</b>
CAL FIRE	✓	Approval	<b>Attached</b>
California Department of Fish & Wildlife		No Response	<b>Attached</b> – Planning staff request for comments
Northwest Information Center	✓	Further Study	On file and confidential
Intertribal Sinkyone Wilderness Council		No Response	
So. Humboldt Joint Unified School District		No Response	
Garberville Fire Protection District		No Response	
Humboldt County Sheriff	✓	Denial	On file
Humboldt County Agricultural Commissioner		No Response	
Humboldt County District Attorney		No Response	
North Coast Unified Air Quality Management District		No Response	
North Coast Regional Water Quality Control Board		No Response	
State Water Resources Control Board – Division of Water Rights		No Response	

M/W/F/ROSS

3/22



COUNTY OF HUMBOLDT  
PLANNING AND BUILDING DEPARTMENT  
CURRENT PLANNING  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7245



2/8/2021

**Project Referred To The Following Agencies:**

AG Commissioner, County Counsel, District Attorney, Environmental Health, Sheriff, PW Land Use, Building Inspections, FPD: Garberville, RWQCB, NCUAQMD, School District: Southern Humboldt JUSD, Cal Fish & Wildlife, CalFire, CA Division of Water Rights, Intertribal Sinkyone Wilderness Council, NWIC

**Applicant Name** John Miranda **Key Parcel Number** 223-034-005-000

**Application (APPS#)** PLN-12147-SP **Assigned Planner** Rodney Yandell 707-268-3732

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:** 2/23/2021

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

**We have reviewed the above application and recommend the following (please check one):**

- Recommend Approval. The department has no comment at this time.
- Recommend Conditional Approval. Suggested conditions attached.
- Applicant needs to submit additional information. List of items attached.
- Recommend Denial. Attach reasons for recommended denial.

Other Comments: \_\_\_\_\_

DATE: 4-13-21 PRINT NAME: Ross Eskra



COUNTY OF HUMBOLDT  
PLANNING AND BUILDING DEPARTMENT  
BUILDING DIVISION

3015 H STREET EUREKA CA 95501  
PHONE: (707) 445-7245 FAX: (707) 445-7446

Building Division's Referral Comments for Cannabis Operations:

Accela Record No: PLN-12147 APN: 223-034-005

The following comments apply to the proposed project, (check all that apply).

Site plan appears to be accurate.

Site plan is not accurate, submit revised site plan showing the following items:

All grading including ponds and roads,

Location of any water course including springs,

All structures including size and use and all setbacks from each other, above stated items, and property lines.

Existing operation appears to have expanded as follows: \_\_\_\_\_

Proposed new operation has already started.

Development is near a wet area. If yes, distance from development: \_\_\_\_\_

Development is near a Steam side Management Area (SMA). If yes, distance from development: < 50'

Recommend approval based on the condition that all required grading, building, plumbing, electrical, and mechanical permits and or Agricultural Exemptions are obtained.

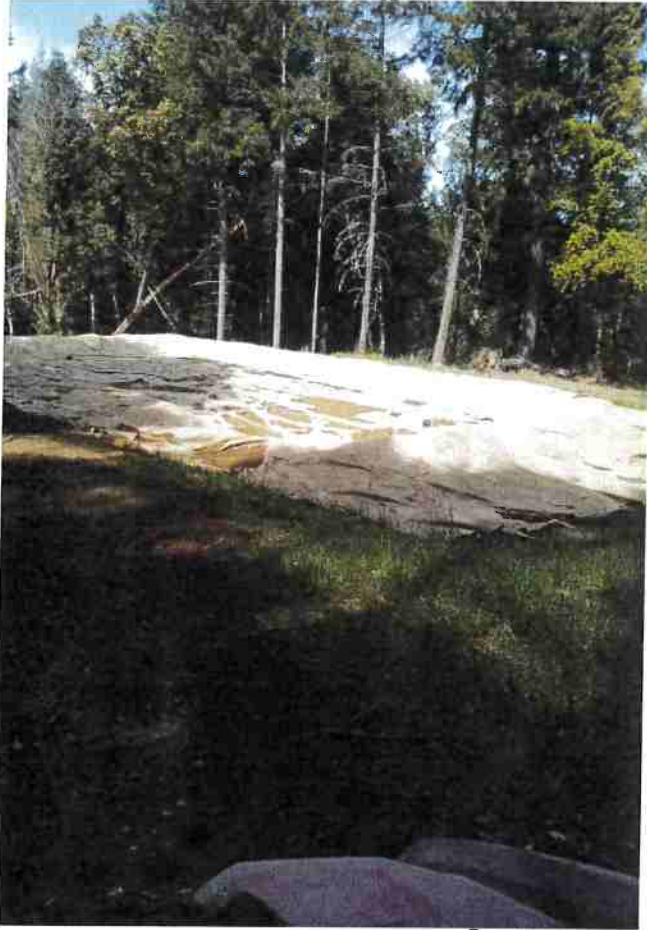
Other Comments: Missing structures & labels on map, Green metal building SMA < 50' on each side of it.

Name: Ross Eske

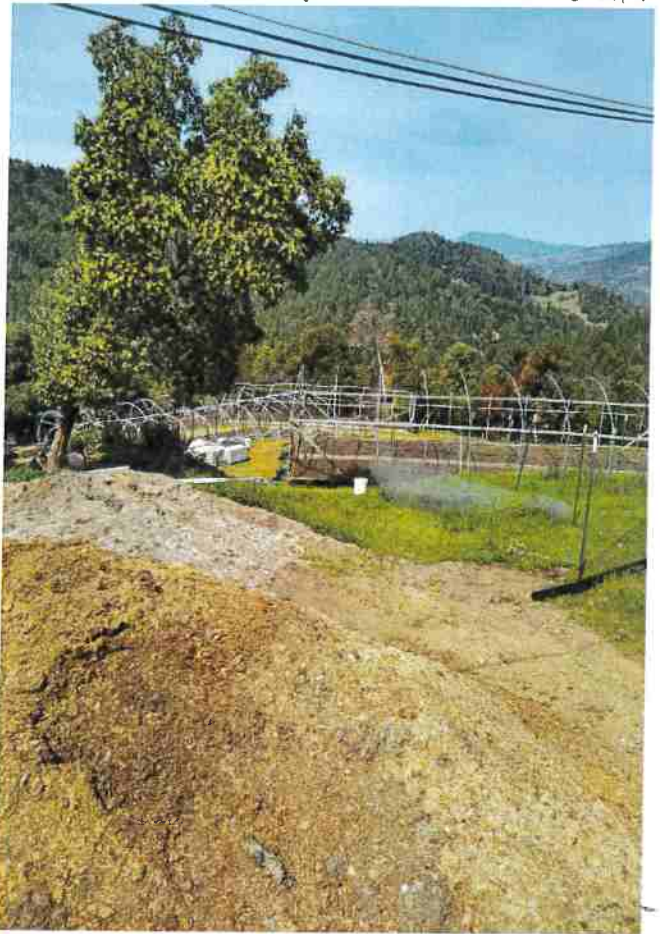
Date: 4-13-21

Note: Please take photographs and save them to the Planning Accela record number. Updated 1/21

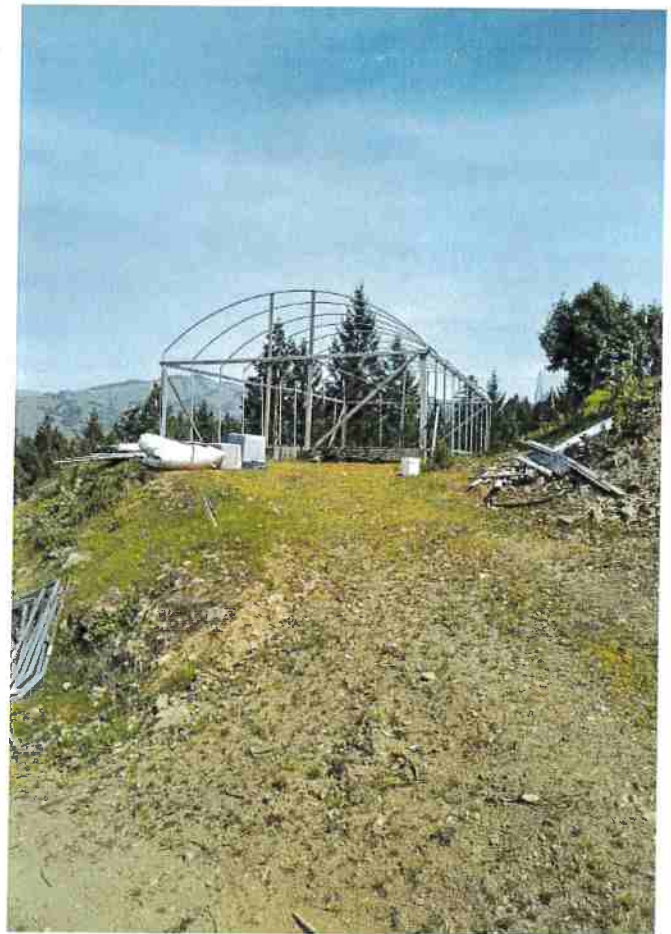
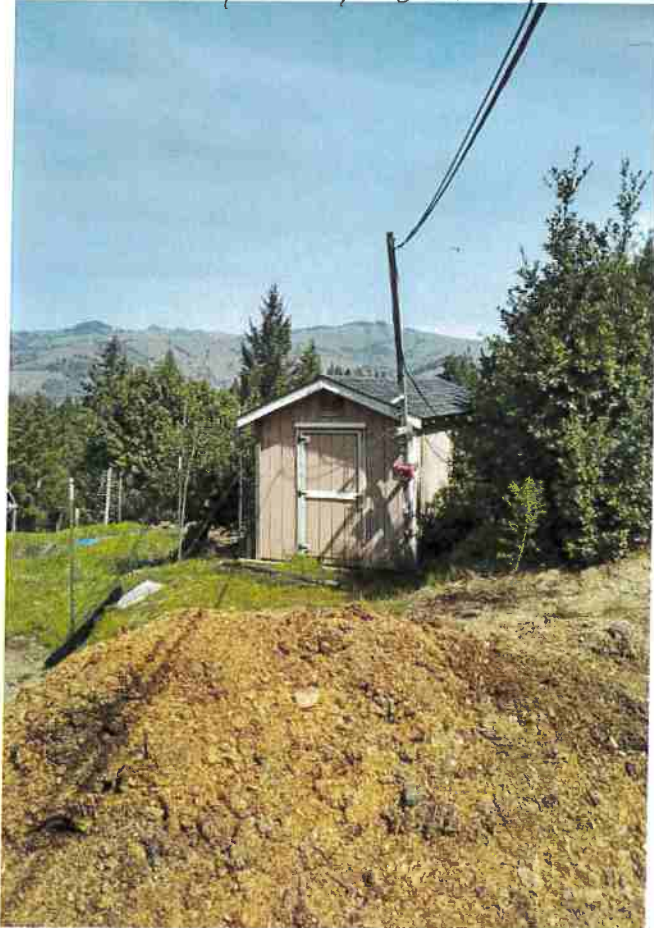
NW Parcel water bladder



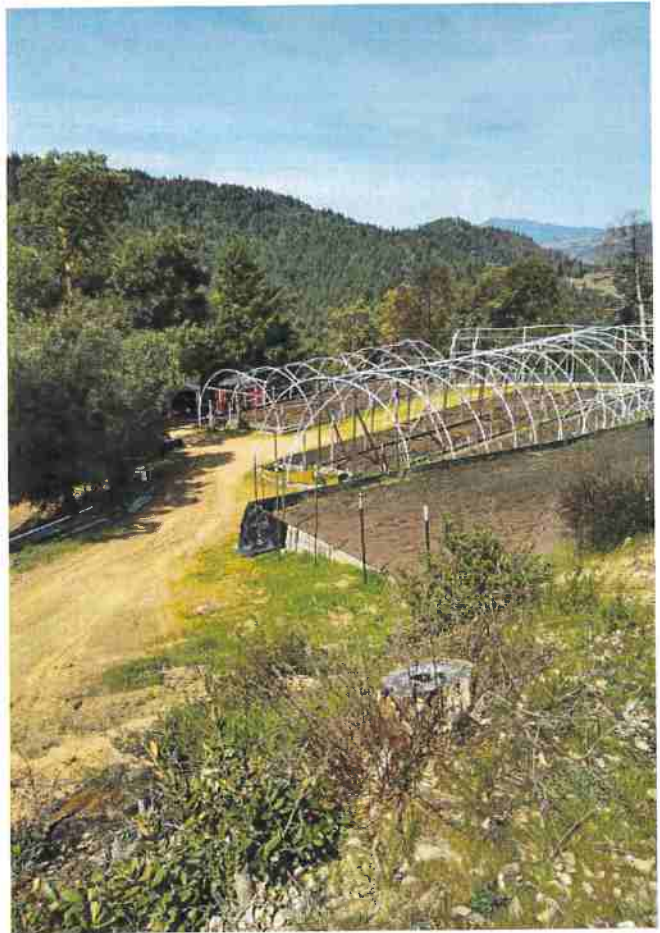
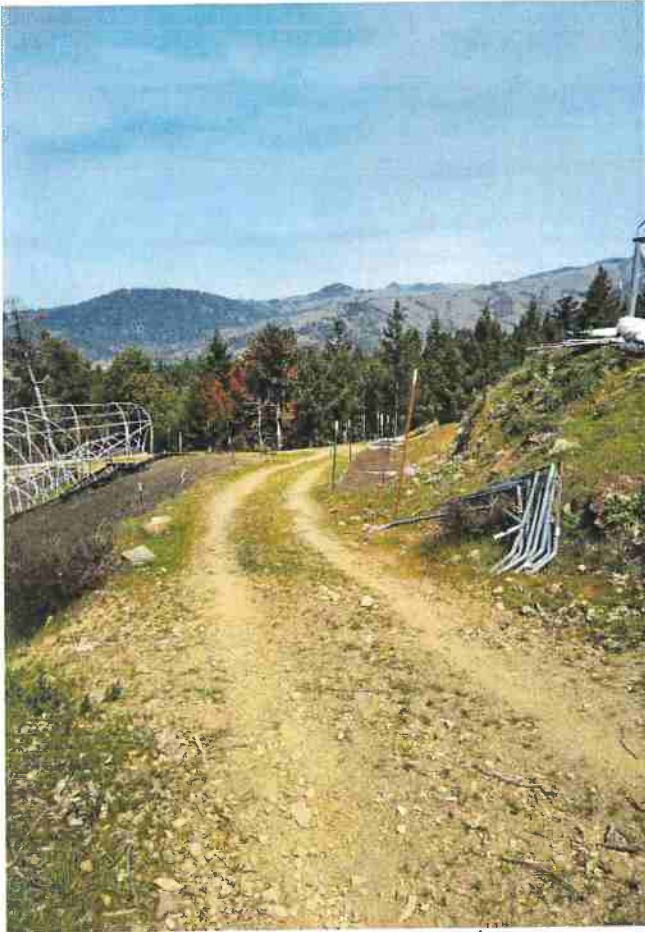
Greenhouses on main flat & identified



shed by 6th & identified



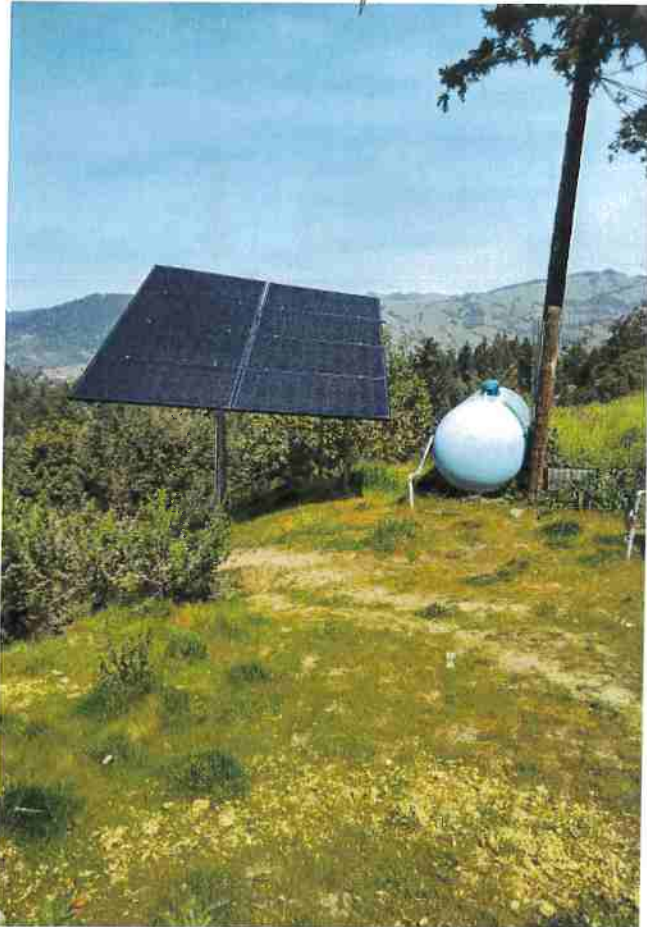




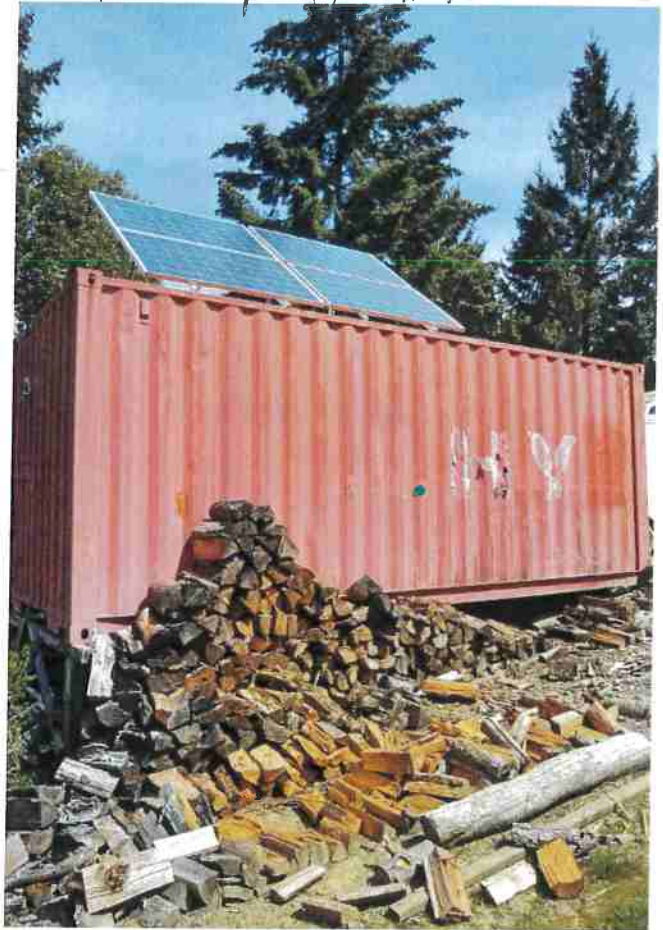
*Terraced cultivation adjacent to Gtts*



Ø on map



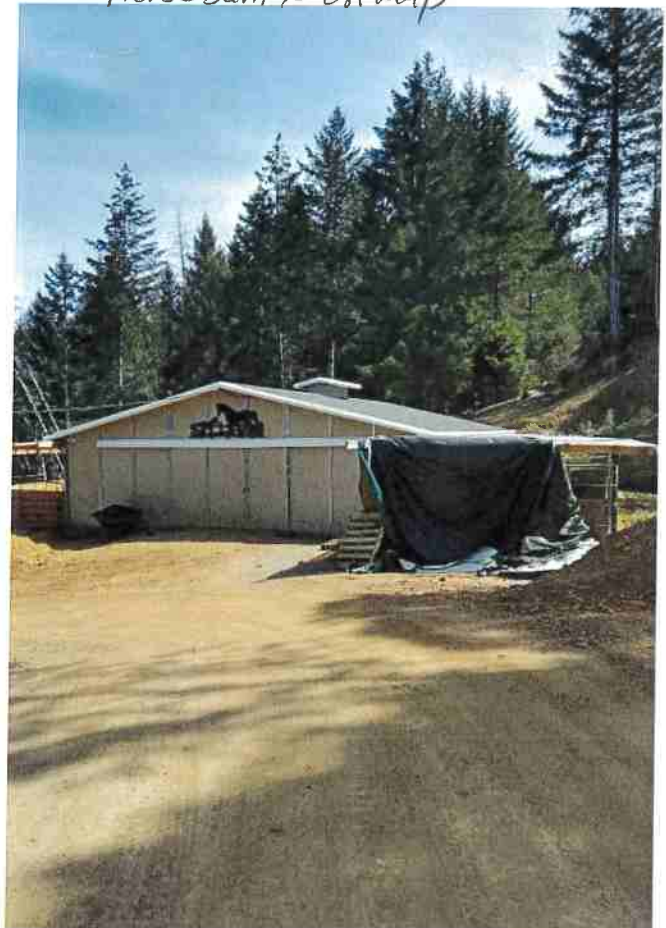
Ø on map adjacent to residence



pole barn Ø on map



horse barn Ø on map



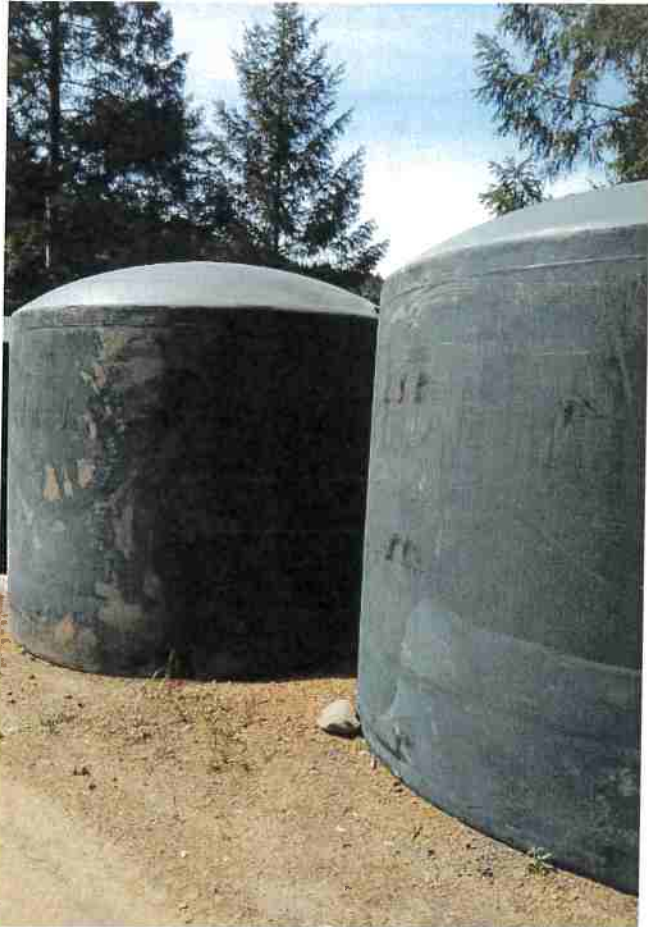
*Outdoor cultivation sites adjacent to GLTs*



*Sheds identified*



Fuel storage on map



Identified, < 50' from SMT on both sides

single 66A



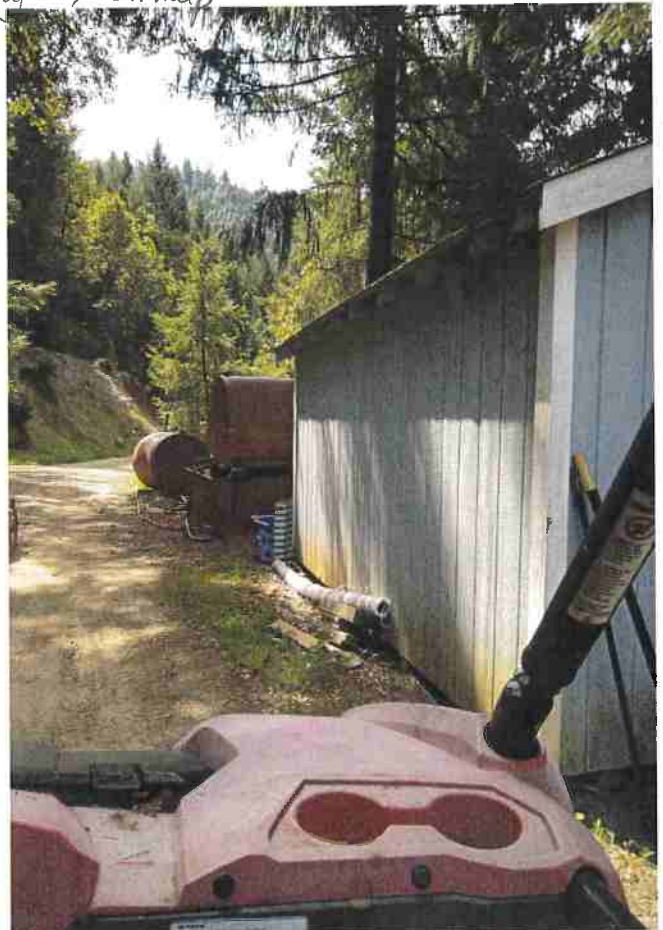
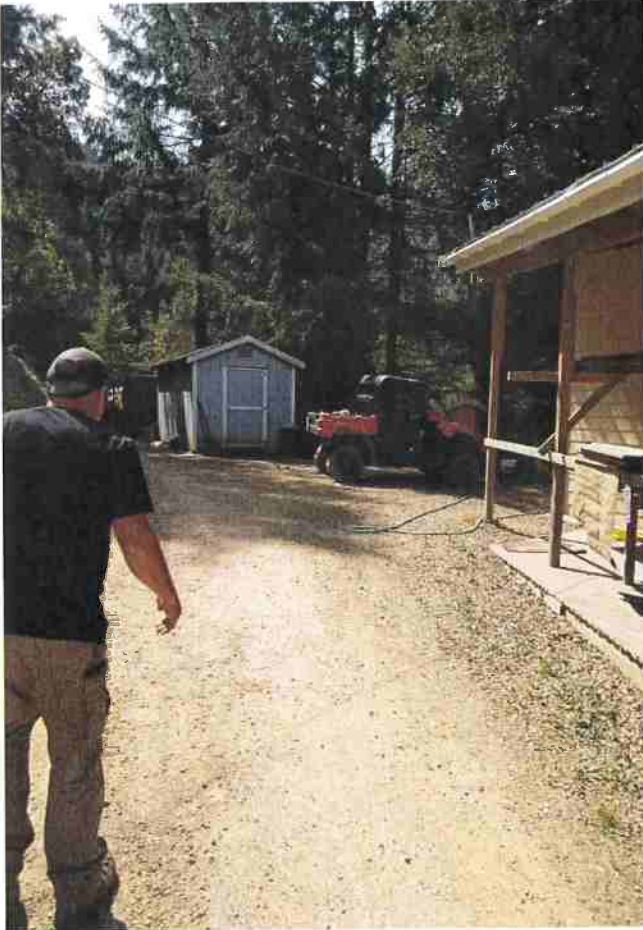
*Kenel Ø on map*



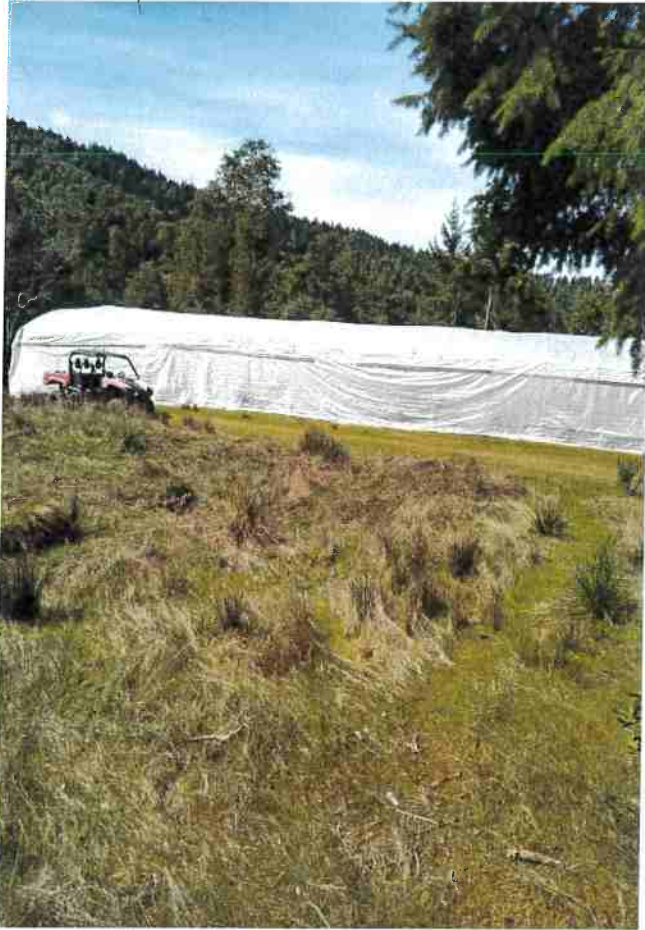
*residence*



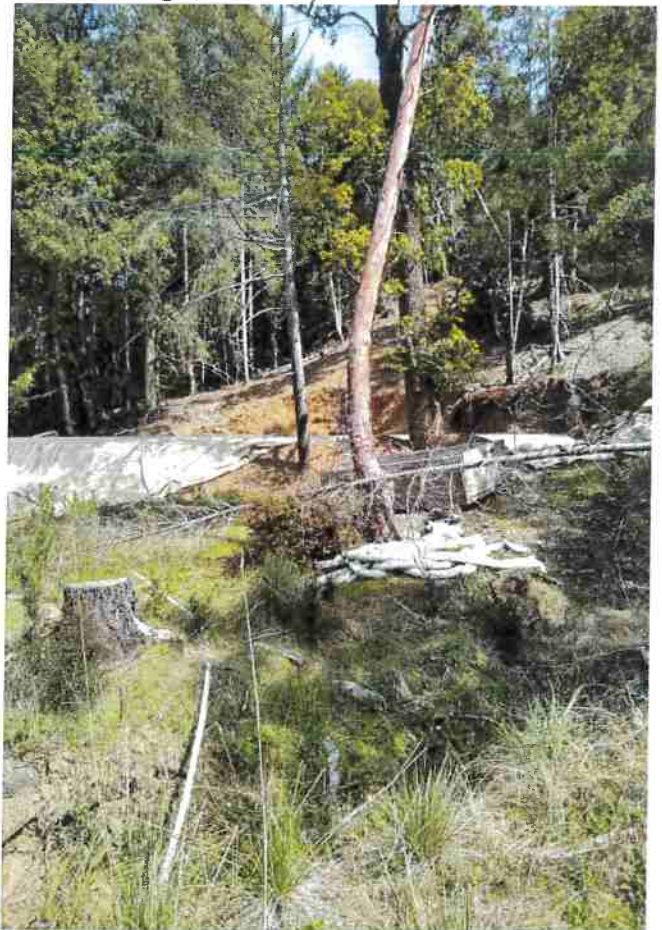
*shed/ fuel storage Ø on map*



S parcel 6H



bladder by S parcel 6H on map



bladder by S parcel 6H on map



bladder "# 9" on map





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


ON-LINE  
 WEB: CO.HUMBOLDT.CA.US

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

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

CLARK COMPLEX  
 HARRIS & H ST., EUREKA  
 FAX 445-7388  
 LAND USE 445-7205

**LAND USE DIVISION INTEROFFICE MEMORANDUM**

TO: Rodney Yandell, Planner, Planning & Building Department  
 FROM: Kenneth M. Freed, Assistant Engineer   
 DATE: 03/11/2021

<b>RE:</b>	<b>Applicant Name</b>	<b>JOHN MIRANDA</b>
	<b>APN</b>	<b>223-034-005</b>
	<b>APPS#</b>	<b>PLN-12147-SP</b>

The Department has reviewed the above project and has the following comments:

- The Department's recommended conditions of approval are attached as **Exhibit "A"**.
- Additional information identified on **Exhibit "B"** is required before the Department can review the project. **Please re-refer the project to the Department when all of the requested information has been provided.**
- Additional review is required by Planning & Building staff for the items on **Exhibit "C"**. **No re-refer is required.**
- Road Evaluation Reports(s)* are required; See **Exhibit "D"**

**Note:** Prior to requesting an applicant to submit a road evaluation report, verify if the project is exempt from meeting road system performance standards under CCLUO v2.0 sections 313-55.4.6.5.1 and 314-55.4.6.5.1, even if this box is checked.

**No re-refer is required.**

\*Note: Exhibits are attached as necessary.

Additional comments/notes:

Applicant has submitted a road evaluation report dated March 16, 2020, stamp received 8/13/2020 by the Humboldt County Cannabis Services, with Part A –Box 3 and Part B #3 checked, certifying that the roadway can accommodate the cumulative increased traffic from this project and all known cannabis projects identified above, if the recommendations on the submitted report are completed.

The Department requires all recommendations by engineer to be completed.

In addition, the Engineer has stated that portions of the access road exceed 16% grade. Per County Code Section 3112-5, "No roadway grade in excess of 16 percent shall be permitted unless it has been demonstrated to be in conformance with the County Roadway Design Manual." In addition, the Engineer is recommending that the excessive road grade sections not be surfaced with asphalt concrete. The Department recommends that the applicant apply for an exception request pursuant to County Code. The Department can support grades in excess of 16%; however, the Department cannot support unpaved road surfaces on grades in excess of 16%. [reference: County Code sections 3111-9 and 3112-5]

// END //

Public Works Recommended Conditions of Approval

(All checked boxes apply)

APPS # 12147

COUNTY ROADS- PROXIMITY OF FARMS:

Applicant is advised that County maintained roads may generate dust and other impacts to farm(s). Applicant shall locate their farm(s) in areas not subject to these impacts. Applicant shall be responsible for protecting their farm(s) against these impacts. Applicant shall hold the County harmless from these impacts. Applicant is advised that a paved road may not always remain paved and Applicant shall locate their farms appropriately. Applicant is advised that the amount of traffic on a road will vary over time which may increase or decrease the impacts.

COUNTY ROADS- FENCES & ENCROACHMENTS:

All fences and gates shall be relocated out of the County right of way. All gates shall be setback sufficiently from the County road so that vehicles will not block traffic when staging to open/close the gate. In addition, no materials shall be stored or placed in the County right of way.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

COUNTY ROADS- DRIVEWAY (PART 1):

The submitted site plan is unclear and/or shows improvements that are inconsistent with County Code and/or Department of Public Works policies. The applicant is advised that these discrepancies will be addressed at the time that the applicant applies to the Department of Public Works for an Encroachment Permit. If the applicant wishes to resolve these issues prior to approval of the Planning & Building permit for this project, the applicant should contact the Department to discuss how to modify the site plan for conformance with County Code and or Department of Public Works policies. Notes:

COUNTY ROADS- DRIVEWAY (PART 2):

Any existing or proposed driveways that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. This also includes installing or replacing driveway culverts; minimum size is typically 18 inches.

- If the County road has a paved surface at the location of the driveway, the driveway apron shall be paved for a minimum width of 18 feet and a length of 50 feet.
- If the County road has a gravel surface at the location of the driveway, the driveway apron shall be rocked for a minimum width of 18 feet and a length of 50 feet.
- If the County road is an urban road, frontage improvements (curb, gutter, and sidewalk) shall also be constructed to the satisfaction of the Department. Any existing curb, gutter or sidewalk that is damaged shall be replaced.

The exact location and quantity of driveways shall be approved by the Department at the time the applicant applies to the Department of Public Works for an Encroachment Permit.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

COUNTY ROADS- DRIVEWAY (PART 3):

The existing driveway will require substantial modification in order to comply with County Code. The applicant may wish to consider relocating the driveway apron if a more suitable location is available.

COUNTY ROADS-PARKING LOT- STORM WATER RUNOFF:

Surfaced parking lots shall have an oil-water filtration system prior to discharge into any County maintained facility.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

COUNTY ROADS- DRIVEWAY & PRIVATE ROAD INTERSECTION VISIBILITY:

All driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

COUNTY ROADS- PRIVATE ROAD INTERSECTION: (AT COUNTY MAINTAINED RD)

Any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.

- If the County road has a paved surface at the location of the access road, the access road shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.
- If the County road has a gravel surface at the location of the access road, the access road shall be rocked for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

COUNTY ROADS- ROAD EVALUATION REPORT(S):

All recommendations in the Road Evaluation Report(s) for County maintained road(s) shall be constructed/implemented to the satisfaction of the Public Works Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.

// END //



**We have reviewed the above application and recommend the following (please check one):**

The Department has no comment at this time.

Suggested conditions attached.

Applicant needs to submit additional information. List of Items attached.

Recommend denial.

Other comments.

Date:

Name:

**Forester Comments:**

Date:

Name:

**Battalion Chief Comments:**

**Summary:**