

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

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

APN 108-026-006; Ettersburg Area, County of Humboldt

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

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Background

Modified Project Description and Project History –

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

The modified project involves a Special Permit for the continued operation of an existing cannabis cultivation site consisting of 9,500 square feet of outdoor cannabis cultivation in greenhouses and 950 square feet of ancillary nursery space, a Special Permit to reduce the setback to BLM public land, and a Special Permit for reduction of the Streamside Management Area setback to allow for a hydroelectric facility on the onsite stream and for the point of diversion. Irrigation water is sourced from a point of diversion and is subject to forbearance. There will be 171,000 gallons of water storage on the parcel designated for cannabis irrigation and 6,500 gallons reserved for fire suppression. The applicant’s estimated annual water use is approximately 88,700 gallons. Drying will occur onsite and other processing will occur offsite at a licensed third-party facility. Power is provided by a solar array with a generator used to supply supplemental power. There will be two employees on site at peak.

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO which were intended to mitigate impacts of existing cultivation. These include ensuring onsite lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources because of light and noise.

Purpose - Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (MND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

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

Summary of Significant Project Effects and Mitigation Recommended

A review of Appendix G impacts:

Aesthetics: The project is for outdoor cannabis cultivation in 9,500 square feet of light-deprivation greenhouses on a cleared flat in a heavily forested location. The project will not significantly impact scenic vistas or public views as the trees onsite and near potential points of interest are likely to obscure most sightlines to the cultivation. The site is near North Fork Bear Creek, however Kings Peak Road is located in between the river and the

site, and there are trees between the road frontage and cultivation that will block nearby public views of the cultivation site. The site will remain consistent with the forested visual character of the area. The project will not create a source of light or glare. Less than significant impact.

Agriculture and Forestry Resources: The project will utilize agricultural land for agricultural purposes as contemplated in the EIR. The project will not convert prime farmland or conflict with existing zoning for agricultural use. The project will not result in the loss of forest land or conversion of forest land to non-forest use. No impact.

Air Quality: Minimal construction activities are associated with the project. All construction activities are associated with the relocation of greenhouses, development of greenhouses for 950 square feet of immature plant area, and additional water tanks, all of which will require minimal grading for placement. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project would not result in significant sources of greenhouse gas emissions. The project does utilize a gravel road, and traffic on gravel roads contribute to PM-10, for which the North Coast Air Basin is already in non-attainment. The two proposed employees are unlikely to contribute to a significant increase in traffic on the gravel road. Less than significant impact.

Biological Resources: The nearest Northern Spotted Owl (*Strix occidentalis caurina*) activity center is approximately 0.8 miles from the cultivation sites. Marbled murrelet habitat is approximately 88 feet from the nearest cultivation area. A foothill yellow-legged-frog (*Rana boylei*) specimen was collected in 1956, and the location is mapped as being somewhere within an area approximately 1.2 miles in diameter. Portions of the property, including the cultivation areas, fall within this 1.2 mile diameter area.

Olofson Environmental, Inc. and Emerald Hills Environmental, LLC prepared a Preliminary Biological Resource Report to evaluate the site for the presence of sensitive plant and wildlife species. The report found that twelve sensitive species had the potential to occur in the study area, however only two of the twelve had the potential to be impacted by the cannabis operation, namely the Northern Spotted Owl (NSO) and Marbled Murrelet. The Biological Report indicated that provided the project is compliant with noise standards and dark sky standards and rodenticides are prohibited, potential negative impacts to NSO and Marbled Murrelet are low, and no further action should be required.

The study further found that seven sensitive plant species had the potential to occur in the study area, however project activities would not occur within potential sensitive

habitat. The study recommended that if new development were proposed in wooded areas on the parcel or within riparian habitat, protocol level botanical surveys should be completed. Ongoing requirements/development restrictions require the applicant to adhere to all recommendations included in the Biological Report. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact Northern Spotted Owl or other sensitive species.

The findings and conclusions of the Biological Report are consistent with the findings and conclusions of the MND for the CMMLUO. Less than significant impact.

Cultural Resources: The project was referred to the Bear River Band of the Rohnerville Rancheria and to the Intertribal Sinkyone Wilderness Council. The Bear River Band recommended a condition of approval that the project adhere to inadvertent discovery protocol to protect cultural resources. No Impact.

Energy: The project is for outdoor cannabis cultivation with on-site drying and off-site processing. The project's energy source is solar with a backup generator. The project also proposes a hydroelectric system, but that system will not be permitted without CDFW permitting. The project is conditioned to transition entirely to renewable energy by January 1, 2026. The requirement for renewable power does not conflict with or obstruct any state or local plan for renewable energy or energy efficiency. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. The project occurs on land that has historically been used for cannabis cultivation. No significant grading will occur.

Greenhouse Gas Emissions: The site uses solar energy and is proposed to install a hydroelectric system, neither of which directly result in greenhouse gas emissions. The project includes a generator for emergency purposes which is not uncommon for agricultural operations in rural areas. Less than significant impact.

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

Hydrology and Water Quality: The project is for a total of 9,500 square feet of cannabis

cultivation in existing clearings. The project is unlikely to degrade any water sources or contribute to sedimentation.

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

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

Noise: The project is located in actively managed agricultural land. The area has been in agricultural production for more than 10 years. Noise sources from the operation will include typical farm equipment such as fans. The construction and dismantling of temporary hoop houses would create minimal noise. The applicant is proposing to dry on-site in an existing shed structure. Drying may involve the use of dehumidifiers. The temporary noise impacts from these activities would not create a substantial increase in noise levels. There is no reason to believe the noise source will be increased substantially onsite. The project will not result in the generation of excessive groundborne vibration or noise levels. No impact.

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

Public Services: The project is for 9,500 square feet of cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

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

Transportation: Two full-time workers will be on-site; the project does not propose any seasonal employees. The parcel is accessed from a private driveway off of Kings Peak Road, which was determined in DTN Engineering's Road Evaluation to be, in part, equivalent to a category 4 road, but requires improvements for a 3.15 mile distance

between the private driveway and the remainder of the road in order to be fully equivalent to a category 4 road. The project is conditioned to improve that portion of the road according to the recommendations in the Road Evaluation Report prepared by DTN Engineering, which concluded that the access would be sufficient for the commercial traffic once the improvements are completed. Less than significant impact.

Tribal Cultural Resources: The project is located in the Bear River Band of the Rohnerville Rancheria and Intertribal Sinkyone Wilderness Council Aboriginal Ancestral Territories. The Bear River Band referral response recommended a condition of approval the project adhere to inadvertent discovery protocol to protect cultural resources. This recommendation has been included as a condition of approval. Less than significant impact.

Utilities and Service Systems: Solid waste will be taken to one of the nearby transfer stations in an amount each service station is capable of handling. The property is supported by a septic system serving the onsite residence and an additional septic system will be installed near the cultivation area. Water for propagation and cultivation is sourced from an onstream diversion with a water right, only pumped outside of the forbearance period. The project will improve all infrastructure connected to the onsite streams according to CDFW's requests and requirements. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. There will be no significant new structures that will increase the risk of wildfire. All cannabis related infrastructure will comply with all building and fire codes. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 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:

- Operations Plan and Plot Plan
- Site Management Plan

- Road Evaluation
- County GIS

Other CEQA Considerations

Staff suggests no changes for the revised project.

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

See **Purpose** statement above.

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

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

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.10(o) and 55.4.10(c)).

- The project is located in the Bear River Band of the Rohnerville Rancheria and Intertribal Sinkyone Wilderness Council Aboriginal Ancestral Territories. The Bear River Band referral response recommended a condition of approval the project adhere to inadvertent discovery protocol to protect cultural resources. This recommendation has been included as a condition of approval.

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

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

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

- The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel contains several intermittent streams, and the project site meets or exceeds the setbacks to streamside management areas.

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

- The project is for 9,500 square feet of existing cultivation in an Unclassified (U) zone which requires a Special Permit. The project complies with the requirements described in 55.4.8.2 et seq.

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

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

Mitigation Measure 6: Cannabis Cultivation on Forest Lands.

- This project is for existing cultivation consistent with baseline conditions which is eligible in an Unclassified (U) zone. No new increased cultivation will occur. There was tree removal conducted previously which will require a Less than Three Acre Conversion Evaluation prepared by a Registered Professional Forester (RPF) for compliance with CalFire regulation. CalFire will be provided a copy of the assessment and provided the opportunity to amend the recommendations of the Forester.

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

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

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

- The project uses a diversionary water source for irrigation and is therefore conditioned to forebear from April 1st to October 31st of each year. The project is further conditioned disallowing the use of trucked water except in an emergency.

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

- The project uses a generator for supplemental power and has been conditioned to transition to generator use for emergency backup only by January 1, 2026. The project is conditioned requiring that noise from the generator will not exceed 50 decibels at 100 feet from the edge of the noise source, or the edge of the tree line, whichever is more restrictive.

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

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

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

- Applicant has been conditioned to provide a statement declaring they are an agricultural employer as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code).
- The project includes drying and curing only, and only two employees are proposed for the project.

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

- The project is for outdoor cultivation and does not use artificial light.

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

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

Mitigation Measure 14: Sunset Clause for applications

- The application was received on December 20, 2016, prior to the sunset of the ordinance.

Based upon this review, the following findings are supported:

FINDINGS

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

adopted as complete.

CONCLUSION

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