

ATTACHMENT 3

**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 221-111-027; 4840 Doody Ridge Road, Ettersburg area
County of Humboldt**

**Prepared By
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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 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 9,850 square feet (SF) of existing outdoor cannabis cultivation utilizing light deprivation techniques within three (3) greenhouses, including 985 SF of ancillary propagation. Irrigation water is sourced from two (2) points of diversion from a spring and spring-fed pond. Existing available water storage is 83,000 gallons in a 60,000-gallon spring-fed pond and a series of hard-sided tanks. Estimated annual water usage is 53,000 gallons. Processing occurs onsite. A maximum of eight (8) people will be onsite during peak operations. Power is provided by two (2) generators and solar, with long-term plans to add additional solar onsite. Special Permits are also requested for development in the Streamside Management Area (SMA) related to continued use and maintenance of the points of diversion, and for a setback reduction to reduce the 600-foot setback requirement from public lands.

No known significant archaeological resources are in the project area. A Cultural Resources Investigation was conducted by Archaeological Research and Supply Company in August 2019 (on file and confidential). No historical or archaeological resources were identified during the survey. Ongoing conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources, consistent with the Report and comments received from the Bear River Band of the Rohnerville Rancheria in November 2021.

The project site contains riparian habitat associated with four (4) watercourses (one Class II and three Class III), which traverse the southwestern and central portions of the subject property. All cultivation areas are located outside of the required SMA buffers. All approved cannabis cultivation activities would occur on slopes of approximately 2%, as described in the Site Management Plan SMP; WDID 1B16125CHUM) prepared by Green Road Consulting in May 2019. The Nearest Northern Spotted Owl (NSO) positive sighting and activity center are located approximately 0.56 and 0.88 miles from the nearest cultivation area, respectively. Conditions of approval require the applicant use noise and light attenuation to ensure the project has a Less than Significant Impact on NSO, which will specifically 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. Additional conditions of approval will 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. Additionally, the applicant has enrolled with the State Water Resources Control Board Cannabis Cultivation Policy. 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..

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

A review of Appendix G impacts:

Aesthetics: The project is for 9,850 SF of existing outdoor cannabis cultivation within three (3) greenhouses utilizing light deprivation techniques in addition to ancillary propagation and processing activities. The project will not significantly impact scenic vistas or public views as the project will occur within an existing open area that is surrounded by forested land. The project is consistent with the agricultural 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 involves an agricultural activity on a parcel zoned as Timberland Production Zone (TPZ), in which all general agricultural uses are principally permitted. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. The project will not result in the loss of forest land or conversion of forest land to non-forest use, as no timber conversion was found to have occurred onsite per review of Blair Forestry Consulting in August 2019, and no additional timber conversion is authorized under the permit. Less than significant impact.

Air Quality: Minimal construction activities are associated with the project. Construction activities included development of the cultivation and nursery spaces, storage areas, and water storage tanks, which required 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 PM₁₀, for which the North Coast Air Basin is already in non-attainment. However, there will be a maximum of eight (8) people onsite during peak operations. A significant increase in traffic is not expected under the project, as this is an existing operation. As such, the continued use of the gravel road for the project is not a substantial change or additional significant impact not considered under the MND for the CMMLUO. Less than significant impact.

Biological Resources: The project is in the Ettersburg area east of the Mattole River. four (4) watercourses (one Class II and three Class III) traverse the southwestern and central portions of the subject property and are depicted on the Site Plan with respective Streamside Management Area (SMA) buffers. All cultivation areas are located outside of the SMA buffers required under the Streamside Management Area and Wetlands Ordinance (SMAWO).

Surrounding lands include private timberland. As noted in the Site Management Plan (SMP; WDID 1B16125CHUM) prepared for the site by Green Road Consulting in May 2019, slopes of the onsite cultivation and propagation areas are approximately 2%.

Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) in December 2022, there are no mapped sensitive species onsite. The nearest Northern Spotted Owl (NSO) positive sighting and activity center are located approximately 0.56 and 0.88 miles from the nearest cultivation area, respectively. Although NSO Final Critical Habitat is mapped in close proximity to the cultivation area, the greenhouses are located outside of the mapped habitat area. Conditions of approval require the applicant to describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026, implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. It was determined that the project and operations will have less than significant impacts with adherence to the recommended conditions of approval. Less than significant impact.

Cultural Resources: A Cultural Resources Investigation was performed by Archaeological Research and Supply Company in August 2019 (on file and confidential). No archaeological or historic resources were identified. However, the project will adhere to the Inadvertent Discovery Protocol in the event of inadvertent discovery of resources, as recommended in the Report and the Bear River Band of the Rohnerville Rancheria in November 2021. Less than significant impact.

Energy: The project is for outdoor cultivation with on-site processing. Although power is currently provided by two (2) generators and solar, the applicant has long-term plans for installation of additional

solar to lessen generator usage. Conditions of approval require the applicant to describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026. The project would continue to utilize the generators for back-up and emergency purposes, which is not uncommon for agricultural operations in rural areas. 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 relatively flat land with natural slopes of approximately 2%, and cultivation activities are limited to the immediate area surrounding the greenhouses. The project parcel is mapped in the County GIS as “moderate instability” (2) and “high instability” (3); however, the applicant will be required to secure permits for all structures and grading related to the cannabis cultivation and other commercial cannabis activity, including but not limited to, existing and proposed greenhouses, water tanks over 5,000 gallons, on-stream pond, existing and proposed structures associated with processing, storage, or any activity with a nexus to cannabis, and any noise containment structures as necessary. Additionally, irrigation runoff and erosion control measures are implemented. Less than significant impact.

Greenhouse Gas Emissions: The project currently utilizes two (2) generators and solar; however, the applicant has long-term plans for installation of additional solar to lessen generator usage. Conditions of approval require the applicant to describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026. The project would continue to utilize the generators for back-up and 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 in existing storage structures. All hazardous materials are stored in a locked area with secondary containment in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as a high fire risk area; however, no significant wood framed structures will be constructed as part of this project. Additionally, conditions require fire-resistant materials be utilized for construction of the generator containment structures. 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 9,850 square feet of outdoor cannabis cultivation with ancillary propagation and processing activities. The project will not degrade any water sources or contribute to sedimentation, as irrigation runoff, erosion control, and watershed protection measures are implemented by the project, as described in the Cultivation and Operations Plan. Less than significant impact.

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

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

Noise: The project is located in a rural portion of the County, surrounded by forested land. The project will not result in the generation of excessive groundborne vibration or noise levels. Noise sources from the operation will include those of typical agricultural operations, and the use of the two (2) generators;

however, the applicant has long-term plans to add additional solar to lessen generator usage. Processing occurs onsite within two (2) existing structures. Less than significant impact.

Population and Housing: The project is for outdoor cannabis cultivation with ancillary propagation and processing. No housing is proposed nor is any removal of housing proposed. Up to eight (8) people may be onsite during peak operations. 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 9.850 square feet of cannabis cultivation with ancillary propagation and processing activities on a site where agriculture is a permitted use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a school. However, the onsite cultivation is located approximately 585 feet northeast from the adjacent public lands under BLM ownership at the nearest point, as measured on Humboldt County WebGIS. No developed or designated recreational facilities are within 600 feet of the cultivation and propagation areas. Less than significant impact.

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

Transportation: Up to eight (8) people may be onsite during peak operations. Access to the site is via a driveway off Dutyville Road (a private road, which traverses the site) via Ettersburg-Honeydew Road. Ettersburg-Honeydew Road is a County-maintained road that has been approved by the Department of Public Works for use by commercial cannabis operations. A Road Evaluation Report for a 4.6-mile segment of Dutyville Road from Ettersburg-Honeydew Road to the subject property was prepared by the applicant in September 2019, which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. The project site will also have adequate emergency access. Conditions of approval require the applicant to improve the access road (Dutyville Road) to commercial driveway standards, maintain driveways and private road intersections onto the County road in accordance with County Code Section 341-1 (Sight Visibility Ordinance), maintain enrollment in the "Dutyville Friends of the Road" Road Maintenance Association, and pay fair-share cost for maintenance of the road. Less than significant impact.

Tribal Cultural Resources: No cultural resources were identified on the site according to a Cultural Resources Investigation was performed by Archaeological Research and Supply Company in August 2019 (on file and confidential). The lead agency consulted with local tribes through the project referral process. The project will adhere to the Inadvertent Discovery Protocol in the event of inadvertent discovery of resources, as recommended in the Report and the Bear River Band of the Rohnerville Rancheria in November 2021. Less than significant impact.

Utilities and Service Systems: Green waste material is composted onsite within a small area equipped with perimeter fencing and covered with tarps. Other materials, unsuitable for composting, are stored in conventional lid trash containers along with domestic waste, and hauled to an approved transfer station/disposal facility, as needed, as described in the Cultivation and Operations Plan. The project will provide portable toilets and handwashing stations for cultivation staff until permanent ADA accessible facilities are developed. Water for propagation and cultivation is sourced from two existing diversions (spring and spring-fed pond) and associated water storage tanks. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. The project will not develop any significant new structures that will increase the risk of wildfire. 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 9,850 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):

- Property and premises maps prepared by Flowra, received 2/7/22.
- Cultivation and Operations Plan prepared by Green Road Consulting, received 1/22/20, with additional project information provided by Flowra on 12/16/21.
- Site Management Plan (WDID 1B16125CHUM) prepared by Green Road Consulting, dated 5/24/19, 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 Report for Dutyville Road prepared by the applicant and Green Road Consulting, dated 9/26/19.
- Final Streambed Alteration Agreement (Notification No. 1600-2017-0420-R1), issued by the California Department of Fish and Wildlife (CDFW), dated 8/27/19.
- Right to Divert and Use Water (Registration No. H500860, Certificate No. H100115, issued by the State Water Resources Control Board (SWRCB), dated 7/2/18.
- Water Right Change of Ownership Form submitted to the SWRCB Division of Water Rights, dated 12/5/19.
- Notice of Applicability (WDID: 1_12CC404316), issued by the SWRCB, dated 4/7/21.
- Timber Conversion Evaluation prepared by Blair Forestry Consulting, dated 8/16/19.
- A Cultural Resources Investigation of the Ettersburg Harte Property Final Report, Ettersburg, Humboldt County, California, Ettersburg 7.5' USGS Quadrangle, Assessor's Parcel Number: 221-111-027, 85 acres, prepared by Nick Angeloff, MA, Abby Barrios-Gonzales, BA, with contributions by Jerry Rohde, MA, Archaeological Research and Supply Company, Rio Dell, CA, dated August 2019.

Other CEQA Considerations

Staff suggests no changes for the revised project.

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

See **Purpose** statement above.

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

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 within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council. The project was referred to the Northwest Information Center at Sonoma State, the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council in November 2017. A Cultural Resources Investigation was performed by Archaeological Research and Supply Company in August 2019 (on file and confidential), in which no cultural resources were identified and recommended the standard inadvertent discovery protocol. The Report was reviewed by the Bear River Tribal Historic Preservation Officer in November 2021, who recommended inclusion of the standard inadvertent discovery protocol, which has been incorporated into the project as an informational note (Informational Note C.3).

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. Four (4) watercourses (one Class II and three Class III) traverse the southwestern and central portions of the subject property. All cultivation areas meet or exceed the setbacks to the SMAs.

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

- The project is for 9,850 square feet of existing outdoor cultivation on a parcel zoned as Timberland Production Zone (TPZ), 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 the Timberland Production Zone (TPZ). No new increased cultivation will occur. A letter was prepared by Blair Forestry Consulting in August 2019, in which it was noted that historic imagery dating back to 1963 was reviewed, which indicated the “site is situated in a historic meadow on a ridgeline and that the timberline footprint has not changed in relation to cannabis cultivation.” It is further noted that it is the opinion of the Registered Professional Forester (RPF) that no

timberland conversion has occurred on the parcel. As a result, no further evaluation or restocking is required. No additional tree removal is proposed or authorized by this permit.

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 utilizes two (2) diversions (spring and spring-fed pond) for irrigation. A Special Permit is requested under the project for development in the Streamside Management Area (SMA) related to continued use and maintenance of the existing points of diversion. To ensure sufficient water supplies are available to serve the project, conditions of approval require the applicant to monitor use from the points of diversion and storage tanks annually.

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

- The project currently utilizes two (2) generators and solar; however, the applicant has long-term plans for installation of additional solar to lessen generator usage. The project is conditioned to require the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026. Additional conditions require that noise from the generator will not exceed 50 decibels at 100 feet or edge of clearing whichever is closer.

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 provided a statement declaring they are an agricultural employer as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code).
- The project includes onsite ancillary propagation and processing activities, and the operations plan describes operational practices and employee safety standards.

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

- The project is for 9,850 SF of existing outdoor cannabis cultivation. However, artificial lighting is utilized for the ancillary propagation. Conditions of approval require the applicant to implement light attenuation measures, including compliance with International Dark Sky Association standards.

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 November 15, 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.