

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
(State Clearinghouse # 2015102005), January 2016**

APN 216-135-015; New Harris Area, County of Humboldt

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Background

Modified Project Description and Project History –

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

The project involves a Conditional Use Permit for 24,000 square feet (SF) of existing light deprivation and outdoor cannabis cultivation that includes 20,800 SF of light deprivation cultivation in twenty-four (24) greenhouses and 3,200 SF of outdoor cultivation that occurs in pots. Propagation takes place in one (1) nursery area (2,400 SF). Outdoor cannabis cultivation will occur in light deprivation greenhouses and full sun. There will be one annual cultivation cycle of outdoor cannabis, and a maximum of two light deprivation cultivation cycles occurring annually. Irrigation water is currently sourced from a surface water diversion (Registration # H502326) and a permitted well (No. 20/21-0163). The well has an estimated yield of 10 gallons/minute, and the depth to first water is 160 feet below the surface. Drying and processing occur onsite within an existing metal building (1,500 SF). Further processing such as trimming is prosed offsite at a licensed processing facility. The project requires up to four (4) seasonal employees. Power is provided by one (1) 36-kw Whisper Watt Super Silent mobile generator, that is used to power the metal drying building.

The project is located in the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Northwest Information Center and the Bear River Band. The applicant submitted a Cultural Resource Study prepared by William Rich and Associates dated September 2019. No archaeological, historical, or tribal resources were identified within the proposed cultivation areas or elsewhere on the parcel during the field survey. Standard Inadvertent Discovery Protocol has been included as a recommended condition of approval.

A Restoration and Monitoring Plan was prepared for the project area by NorthPoint Consulting Group for relocating the cultivation activities of the Northern cultivation area and the Western cultivation area to the new Central cultivation area. The Plan includes: 1) removal of all cannabis plants, irrigation systems, fencing, posts, water tanks, waste and all other cultivation-related materials from the Northern and Western cultivation areas; 2) replanting both the Northern and Western areas with appropriate native species (as detailed on pages 5-6 in the Restoration Plan);

and 3) revegetating and restoring the Western cultivation area to pre-cultivation conditions in accordance with the Oak Woodland Restoration and Enhancement plan.

The Oak Woodland Restoration and Enhancement Plan was prepared by Botanist & Wetland Delineator James Regan (August 2019). Mr. Regan conducted two site visits (June 15 and August 17, 2019) to determine onsite conditions and appropriate restoration activities. He concluded that approximately 0.7 acres of Oregon White Oak was removed and converted to agricultural use. The Plan identifies the following actions to be implemented by the landowner to restore the converted oak woodland: 1) Between 225 – 337 Oregon white oak trees shall be planted to create at least 2.8 acres of Oregon white oak woodland; 2) The final planting plan shall be evaluated by a Registered Professional Forester (RPF) prior to implementation; and 3) Monitoring of the restoration areas and planted trees shall occur twice during the first season of restoration activities, and continue for three years for the Northern area and five years for the Western area during late spring or early summer.

The 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 existing outdoor cannabis cultivation in an Agriculture Exclusive (AE) zoned area. The project will not significantly impact scenic vistas or public views. The cultivation will be relocated to an open field on the property. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project will utilize agricultural land for agricultural purposes as contemplated in the MND. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. Cultivation activities in timberland will be removed and remediated. The project will not result in the loss of forest land or conversion of forest land to non-forest use. No impact.

Air Quality: Construction activities associated with the project include development of greenhouses for relocated cannabis, and restoration work. 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. Less than significant impact.

Biological Resources: The project is in the New Harris area. The land is primarily grass and timberland. Most of the site is forested and hilly and there are several drainages that run through the property. A Biological Scoping Report was prepared by Kelsey McDonald of Hohman & Associates, a California Native Plant Society (CNPS) Certified Consulting Botanist. The Report identifies the habitats and potentially occurring special-status wildlife species within the project area, potential impacts of cultivation activities on biological resources, and measures to reduce any potential impacts. Recommended mitigation measures have been included as recommended conditions of approval. The measures include conducting pre-construction raptor & bird surveys, restoring the cultivation areas, and minimizing noise disturbance. The Report also recommends that a site survey be conducted by a qualified biologist to further evaluate potential habitat value to the protected species within the project area and finalize recommended measures.

A NSO habitat assessment was conducted by Kelsey McDonald of Hohman & Associates in 2019, and there were no NSO database activity centers recorded within 1.3 miles of the cultivation area. However, there is potential nesting/roosting and foraging habitat within the 1.3 mile buffer. The US Fish and Wildlife Service Protocol (2021) recommends NSO surveys that may impact owls by modifying their habitat or disrupting breeding activities. However, the cultivation area within the parcel consists of open grasslands classified as 'non-habitat', so construction activities are not expected to modify NSO habitat. Cultivation activities propose no supplemental lighting, so the disturbance from light pollution is expected to be minimal. The

applicant is conditioned to restrict noise between the hours of dusk to dawn and ensure the generator use adheres to Humboldt County Performance Standards. The biologist recommends that additional assessments and/or surveys are conducted for any plans that may modify habitat, remove nest trees, or disturb potential breeding habitat. Therefore, project activities would have less than a significant impact on NSO activities and habitat.

Cultural Resources: The project is located in the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Northwest Information Center and the Bear River Band. The applicant submitted a Cultural Resource Study prepared by William Rich and Associates dated September 2019. No archaeological, historical, or tribal resources were identified within the proposed cultivation areas or elsewhere on the parcel during the field survey. Standard Inadvertent Discovery Protocol has been included as a recommended condition of approval. No Impact.

Energy: The project is for outdoor cannabis cultivation with on-site drying and off-site processing. The site proposes the use of a solar array and a generator to supply energy for the project, which is not uncommon for agricultural operations in rural areas. A recommended condition of approval includes transitioning to 80% renewable energy to serve project needs by January 1, 2026. 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 flat land that has historically been used for agriculture. Project activities will include restoration work, and development of a field for cannabis cultivation. The applicant has submitted a Geology and Soils Report indicating the existing infrastructure and proposed work are unlikely to have a deleterious impact on the surrounding geologic environment. Less than significant impact.

Greenhouse Gas Emissions: The project is for outdoor cannabis cultivation with on-site drying and off-site processing. The site proposes the use of a solar array and a generator to supply energy for the project, which is not uncommon for agricultural operations in rural areas. A recommended condition of approval includes transitioning to 80% renewable energy to serve project needs by January 1, 2026. 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 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. The project would not impair emergency response or create a significant risk from wildfire. All processing operations will occur off site at a licensed third-party processing facility. Less than significant impact.

Hydrology and Water Quality: The project is for a total of 24,000 square feet of cannabis cultivation. The project will not degrade any water sources or contribute to sedimentation. The proposed relocation area of cultivation is over 100 feet from the nearest watercourse. To further prevent runoff to water courses, water conservation and containment measures will be

implemented. The applicant has prepared and submitted a Site Management Plan to address erosion and sediment control. Corrective actions include road maintenance, replacing culverts, and revegetating areas of disturbance. Less than significant impact.

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 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 land planned for agricultural use. Noise sources from the operation will include typical farm equipment. The construction and dismantling of temporary hoop houses would create minimal noise. The applicant is proposing to dry on-site in an existing structure. The temporary noise impacts from these activities would not create a substantial increase in noise levels. Power is provided via a solar array and a generator. Project conditions include a noise limit of 50 decibels 100 feet from the noise source, or at the edge of the tree line, whichever is closer. 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 24,000 square feet of cannabis cultivation on a site planned and zoned for agricultural 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 and up to two seasonal workers will be on-site. The parcel is accessed from Harris Road, which has been evaluated by a licensed engineer. The engineer report verifies the road is able to accommodate the expected increase in traffic. The project site will have adequate emergency access. Less than significant impact.

Tribal Cultural Resources: The project is located in the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Northwest Information Center and the Bear River Band. The applicant submitted a Cultural Resource Study prepared by William Rich and Associates dated September 2019. No archaeological, historical, or tribal resources were identified within the proposed cultivation areas or elsewhere on the parcel during the field

survey. Standard Inadvertent Discovery Protocol has been included as a recommended condition of approval. No impact.

Utilities and Service Systems: Solid waste is taken to the Eel River Transfer Station in an amount the service station is capable of handling. The project will provide portable toilets and handwashing stations for cultivation staff. Water for propagation and cultivation will be sourced from an onstream pond. If the pond is unable to be approved by relevant agencies, irrigation water will be sourced from a surface water diversion and rainwater catchment. 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. 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
- Water Right
- LSAA
- Cultural Resources Investigation
- Biological Scoping Survey
- Botanical Survey
- Geologic and Soils Report
- Restoration Plan
- Woodland Restoration Plan

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 Rancheria Aboriginal Ancestral Territory. The project was referred to the Northwest Information Center and the Bear River Band. The applicant submitted a Cultural Resource Study prepared by William Rich and Associates dated September 2019. No archaeological, historical, or tribal resources were identified within the proposed cultivation areas or elsewhere on the parcel during the field survey. Standard Inadvertent Discovery Protocol has been included as a recommended 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 with the proposed relocation 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 24,000 square feet of existing cultivation in a Timberland Production (TPZ) zone and Agriculture Exclusive (AE) zone, which requires a Conditional Use Permit. The project complies with the requirements described in 55.4.8.2 et seq.

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

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

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for existing cultivation consistent with baseline conditions which is eligible in a Timberland Production (TPZ) zone. No project activities occur in the TPZ areas on the parcel. No new increased cultivation will occur. The project was referred to CalFire, no recommendations or concerns were received.

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 will utilize an on stream reservoir on a nearby parcel to supply irrigation water. The applicant has been conditioned to record contingent easements for the ongoing use and maintenance of the pond and associated infrastructure, and to bypass all inflow to the pond during the forbearance period. If the pond cannot be permitted by the relevant agencies, the applicant will utilize rainwater catchment and a point of diversion to supply water for irrigation needs. The project is further conditioned disallowing the use of trucked water except in an emergency. No increased traffic is associated with the use of the pond or the point of diversion and rainwater catchment.

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

- The project uses a mixture of solar panels and a generator to supply power needs to the project. The project is conditioned to transition to 80% renewable energy by January 1, 2026. Combined noise levels are limited to 50 decibels 100 feet from the noise source or at the edge of habitat, 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 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).
- Drying is proposed on site, with all further processing conducted off site at a licensed third-party processing facility.

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.