

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 208-341-015; 14501 Cobb Road, Dinsmore 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 an existing 9,984 square foot (SF) cannabis cultivation, of which 8,584 SF is outdoor (light deprivation and full-sun) and 1,400 SF is mixed light and also utilized for ancillary propagation. Irrigation water is currently sourced from a permitted groundwater well; however, the applicant proposes to switch to rainwater catchment, unless the well is determined to be hydrologically disconnected from surface waters. Existing available water storage is 30,500 gallons in a series of hard-sided tanks and an additional 60,000 gallons will be added, for a total of 90,500 gallons of onsite water storage. Estimated annual water usage at full project build-out is 88,400 gallons. All processing currently occurs offsite at a licensed processing or manufacturing facility, although future onsite processing is anticipated. A maximum of three (3) people will be on-site during peak operations. Power is provided by two (2) generators; however, the applicant has long-term plans to install solar and a battery bank, with the generators to be utilized for back-up only. A Special Permit is also requested to reduce the 600-foot setback requirement to public lands.

No known significant archaeological resources are in the project area. The project was referred to the Northwest Information Center at Sonoma State and the Bear River Band of the Rohnerville Rancheria in July 2017. Ongoing conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources, consistent with comments received from the Bear River Band of the Rohnerville Rancheria in August 2017.

The project site does not contain riparian habitat. No watercourses that traverse the site and the Van Duzen River is the nearest watercourse to the subject site, with the respective Streamside Management Area (SMA) buffer located approximately 855 feet south of the parcel. All approved cannabis cultivation activities would occur outside of the required stream setbacks and on slopes less than 50%. The Nearest Northern Spotted Owl (NSO) positive observation is located approximately 0.55 miles from the nearest cultivation area, with the nearest NSO activity center located approximately 1.15 miles away. Artificial lighting is used to support the mixed-light cultivation and propagation area. While two (2) generators are currently utilized for power, a solar array is proposed, with the generators to be utilized for back-up. Conditions of approval require the applicant use noise attenuation and ensure supplemental lighting associated with the mixed-light cultivation and ancillary propagation is fully contained with black out tarps to ensure the project has a Less than Significant Impact on NSO. Additionally, conditions of

approval require the applicant refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. The applicant has enrolled with the State Water Resources Control Board Cannabis Cultivation Policy.

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 9,984 SF of existing outdoor and mixed light cultivation (limited to a maximum of 1,400 SF of mixed light) within five (5) greenhouses utilizing light deprivation and mixed light techniques. The project will not significantly impact scenic vistas or public views as the project will occur within an 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 Unclassified (U), 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. No timber conversion occurred after the CMMLUO environmental baseline date of January 1, 2016, and no additional timber conversion is proposed or 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, a maximum of three (3) people will be onsite during peak operations and 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 Dinsmore area north of the Van Duzen River. No watercourses traverse the site, and all cultivation outside of all required Streamside Management Area (SMA) buffers.

Surrounding lands include private timberland. Specific information on the slopes where cultivation is located on the subject site was not provided by the applicant. However, natural slopes within the vicinity of where cultivation occurs is mapped between 15% up to more than 50%, as per the County GIS portal.

The onsite cultivation occurs within an existing open area on the subject site. Per review of CDFW's California Natural Diversity Database (CNDDDB) in January 2023, there are no mapped sensitive species onsite and the nearest Northern Spotted Owl (NSO) sighting and activity center are located approximately 0.55 miles and 1.15 miles from the nearest cultivation area, respectively. Conditions of approval require the applicant to prepare an energy use plan that describes 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: No known archaeological or historic resources occur within the project area. However, the project will adhere to the Inadvertent Discovery Protocol in the event of inadvertent discovery of resources, as requested by the Bear River Band of the Rohnerville Rancheria in August 2017. Less than significant impact.

Energy: The project is for existing outdoor (light deprivation and full-sun) and mixed light cannabis cultivation with on-site ancillary propagation, drying, and future anticipated processing activities. Although power is currently provided by two (2) generators, the applicant has long-term plans for installation of a solar array and battery bank. 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, and utilized noise containment structures for the generators. The project

would continue to utilize the generators for 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 parcel is mapped in the County GIS as “high instability” (3). Specific information on the slopes where cultivation is located on the subject site was not provided by the applicant. However, natural slopes within the vicinity of where cultivation occurs is mapped between 15% up to more than 50%, as per the County GIS portal. 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, existing and proposed structures associated with drying, processing, and storage or any activity with a nexus to cannabis, and any noise containment structures as necessary. Additionally, cultivation activities are limited to the immediate area surrounding the greenhouses, and irrigation runoff and erosion control measures are implemented. Less than significant impact.

Greenhouse Gas Emissions: The project currently utilizes two (2) generators; however, the applicant has long-term plans for installation of solar and a battery bank. 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 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 very 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 9,984 square feet of outdoor (light deprivation and full-sun) and mixed light cannabis cultivation with ancillary propagation, drying, and future anticipated 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 Unclassified (U), 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 in an existing open area, 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 generators; however, the applicant has long-term plans to install solar onsite for the project, and noise attenuation measures will be implemented as conditions of approval. Less than significant impact.

Population and Housing: The project is for outdoor and mixed-light cannabis cultivation. No housing is proposed nor is any removal of housing proposed. A maximum of three (3) people may be onsite during peak operations; however, the project is family owned and operated, and no employees are required. 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 9,984 square feet of cannabis cultivation with ancillary propagation, drying, and future anticipated processing activities on a parcel where agricultural activities are principally permitted. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a school. However, a Special Permit is requested in order to reduce the 600-foot setback required from public lands. Existing cultivation is located approximately 500 feet southeast from public land owned by the Six Rivers National Forest (SRNF), operated by the Lower Trinity Ranger District. No developed or designated recreational facilities are within 600 feet of the existing cultivation, although a SRNF-maintained gravel road is in close proximity to the site. 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 three (3) people may be onsite during peak operations. Access to the site is via private driveway off Cobb Road via an approximately 500-foot length of Rattlesnake Bridge Road to State Highway 36. Highway 36 is a State-maintained highway and Cobb Road and Rattlesnake Bridge Road are privately maintained. A Road Evaluation Report for a 1-mile segment of Cobb Road from Highway 36 was prepared by the applicant in September 2017, which indicates that the roadway is developed to the equivalent of a Category 4 road standard and is adequate for the proposed use. Additionally, a Cobb Road Road Assessment was prepared for the Cobb Road Association in April 2020 by Timberland Resource Consultants, which assessed approximately 1.1 miles of Cobb Road and 500 feet of Rattlesnake Bridge Road that crosses or border 13 separate, privately-owned parcels (including the subject site) that are members of the Cobb Road Association. Under the Road Assessment, most of the road surface was found to be approximately 12 to 14 feet wide with numerous wider turnouts to allow for parking or passing of oncoming vehicles. While the road receives moderate traffic use, it appears to be maintained by landowners through surface rocking and grading. The majority of the road is insloped to crowned; however, the road was found to lack adequate cross-draining of the inside ditch to allow excessive concentration of runoff and hydrologic connectivity at watercourse crossings. The Road Assessment included sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight. The project is conditioned to require the applicant to remain a member of the Cobb Road Association, and pay fair-share costs associated with implementation of the corrective actions identified in Timberland Resource Consultants' Road Assessment and maintenance of Cobb Road. Less than significant impact.

Tribal Cultural Resources: No known cultural resources are located within the project area. 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 requested by the Bear River Band of the Rohnerville Rancheria in August 2017. Less than significant impact.

Utilities and Service Systems: Green waste material is composted onsite within a small area equipped with perimeter and top containment. 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 a permitted groundwater well (until use must cease prior to the 2025 cultivation season), rainwater catchment, and associated 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 9,984 square feet of cultivation with ancillary propagation, drying, and future anticipated 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 4 for a complete listing of documents):

- Site Plans (Phases 1 & 2, Phase 3, and Rainwater Catchment) prepared by Margro Advisors, received 1/17/23.
- Cultivation and Operations Plan prepared by Margro Advisors, received 1/17/23.
- Water Resource Protection Plan (WRPP; not dated) prepared for the North Coast Regional Water Quality Control Order No. R1-2015-0023.
- Well Completion Report (WCR2017-000830) for Permit No. 16/17-0542, received 6/12/17.
- Notice of Applicability (WDID: 1_12CC419350) issued by the North Coast Regional Water Quality Control Board, dated 9/24/19.
- Notification of Lake or Streambed Alteration – Cultivation Notification/Waiver Request prepared by the applicant, dated 12/10/18.
- Notification of Lake or Streambed Alteration No. 1600-2019-0076-R1, from the California Department of Fish and Wildlife, dated 6/11/19.
- Road Evaluation Report for Cobb Road prepared by the applicant, dated 9/30/17.
- Cobb Road Road Assessment prepared for Cobb Road Association, prepared by Timberland Resource Consultants, dated 4/30/20.
- Cultivation Site Relocation Assessment prepared by Kyle S. Wear (Botanical Consultant), received 12/10/19.

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. The project was referred to the Northwest Information Center at Sonoma State and the Bear River Band of the Rohnerville Rancheria in July 2017. 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 requested by the Bear River Band of the Rohnerville Rancheria in August 2017.

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. No watercourses traverse the site and all cultivation areas occur outside of all required SMA buffers.

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

- The project is for 9,984 square feet of existing mixed light and outdoor cultivation in a 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 the Unclassified (U). No new increased cultivation will occur. Review of historic aerial imagery dating back to 2004 indicates the site contained a large open area within the northern portion of the site and that no timber conversion has occurred onsite in order to accommodate the cultivation and ancillary propagation areas. As such, no restocking is required under the project. No 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 a non-diversionary water source for irrigation. Water for irrigation is sourced from a permitted groundwater well (which shall cease prior to the 2025 cultivation season) and rainwater catchment.

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

- Power is currently provided by two (2) generators, and there are long-term plans to add a solar array and a battery bank, with the generators for emergency backup only. 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 drying and future anticipated 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 includes mixed light cultivation with ancillary propagation, both of which artificial lighting. Conditions of approval require the applicant to implement light attenuation measures. Such measures include required compliance with International Dark Sky Association standards Lighting Zone 0 and Lighting Zone 1, and requiring the project be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare (BUG). No use of artificial lighting is authorized by this permit until the applicant can demonstrate compliance with these 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 December 19, 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.