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September 14, 2021

Via Email and Regular Post:

John Ford, Director
Humboldt County Planning & Building Department
3015 H Street
Eureka, California 95501
JFord@co.humboldt.ca.us

Re: **Steven Luu Special Permit**
Record Number: PLN-2020-17313
Assessor's Parcel Number: 314-311-037
400 Cross Creek Road, Kneeland Area

Dear Mr. Ford:

I have been asked to provide a written response to your office from some of the neighbors opposing the above project on the grounds that there is no environmental analysis of potential significant impacts regarding water. In fact, there is no EIR at all. The Project relies on the generalized 2018 FEIR to the CCLUO ordinance, which is utterly silent as to site-specific impacts. Water is a scarcity in the Kneeland area. The ground is rocky making wells difficult to drill and to produce. Many residents run out of water annually, whether from their wells or from their springs which requires them to have to truck water in for domestic use. Residents that own properties which abound the proposed grow site already have to truck water in annually. There are significant environmental impacts due to water scarcity that must be addressed via either an EIR or a supplemental EIR to the 2018 FEIR to the CCLUO ordinance.

1. Project Area.

The project is located in Humboldt County, in the Kneeland area, on the East and West side of Cross Creek Road, approximately 0.2 miles from the intersection of Paddock Road and Cross Creek Road, on the property known as 400 Cross Creek Road.

Kneeland is an agricultural zoned area. It is predominantly pasture/grazing as the soils and water are insufficient for crops. The substrata is known for being rocky, and

Harland Law Firm LLP

John Ford, Director
September 14, 2021
Page 2

there are water problems due to this rocky substrata. Trucking water into sites for domestic use is not uncommon in this area of Kneeland.

The project site has one existing water source, which is a well shared with three other parcels and for which the three other domestic users report that annually they have to have water trucked in due to well water insufficiency.

The project site shares a boundary with another domestic water user who relies solely upon an adjacent spring. This domestic user of the spring reports having to truck water in annually due to water shortage from the spring. The spring is reportedly supplemented by rain run off from the Project site.

2. The Project.

This is for a Special Permit for 40,000 square-feet of commercial cannabis cultivation and 4,000 square feet of ancillary propagation space. The project will consist of 10,000 square feet of full-sun outdoor cultivation, and 30,000 square feet of light-deprivation cultivation. The Planning Department has not disclosed the Subject Application, so it is unknown if the 30,000 square feet of light deprivation will be by traditional greenhouses or hoop houses. The applicant seeks to achieve two (2) harvests annually. It is reported that water will be sourced via rain-catchment, and a proposed on-site well is proposed as a supplemental water source to the rain-catchment. However, the shared well will be the only source of water for irrigation purposes until the applicant is able to obtain enough rain catchment in the proposed tanks. After that, well water will be used to supplement rain catchment water over the estimated self-reported water use for the project.

It is doubtful that drilling on the property for the purposes of trying to find supplemental well water on the property can produce water on the property. The applicant has indicated that he proposes that he wants to have a well drilled to supplement his proposed rain catchment system; however, it is unknown where that will be dug, and the proposed well will likely draw from the same aquifer as the adjacent existing domestic wells and spring. Moreover, it is reported that the Subject Property was unsellable for approximately 40 years due to water scarcity at the project site. As you are likely aware, HCC 55.4.12.2.5 provides that "Trucked water shall not be allowed, except for emergencies. For purposes of this provision, "emergency" is defined as: "a sudden, unexpected occurrence demanding immediate action."

The applicant self-reports his own self-estimate of annual water for irrigation for both season grows as 286,000 gallons or "7.15 gal/sq.ft./yr." It is unknown what "7.15

Harland Law Firm LLP

John Ford, Director
September 14, 2021
Page 3

gal/sq.ft./yr.” means since 286,000 gallons converts to 38,232 cubic feet per year; there is no explanation as to what “7.15” stands for. The applicant states he plans to install fifty-nine (59) 5,000-gallon tanks for irrigation, and one 5,000-gallon tank for fire suppression.

3. Water Problems in Kneeland.

About five years ago, the California Department of Fish and Wildlife published a report on cannabis growing in Mendocino and Humboldt counties, highlighting three typical valleys. The conclusion, based on the biologists reasonable assumption of six gallons of water per day per plant, was that cannabis was drying up the creeks. While the issue here is a spring and shared well, the numbers with respect to cannabis water usage is instructive.

Using Fish and Wildlife numbers, 6 gallons a day for the peak growing season of 150 days of summer means 900 gallons per plant. If one were allowed to grow 400 plants per acre using 900 gallons per plant, it would need 360,000 gallons per acre per season. That is considering only one harvest annually. The project site proposes two harvests annually.

Since two crops probably result in twice the gallon requirements as above that is 720,000 gallons for two seasons. So the self-reported estimate of 286,000 gallons for annual irrigation is significantly deficient and making trucking water to the site is likely. Being a likely event, it is not “a sudden, unexpected occurrence demanding immediate action.”

a. Insufficiency of Water with Shared Domestic Supply.

i. Shared Well.

The Project cannot look to the shared domestic well as the sole source of irrigation as the proposed rain catchment holding tanks fill up. Nor can the Project use the shared domestic wells as a backup for anything over 286,000 gallons annual irrigation from the tanks, because it is *shared* with three homes which run dry annually and have to have water brought in. Approval of the Project as it has been described will likely force the domestic users to court over this issue. Domestic use of water takes *precedence* to any commercial use. Additionally, the Staff Report says the Project will have to solely use well water at first because the proposed holding tanks need at least a season to fill up. That cannot happen because it will interfere with the domestic use and the residences already have to truck in water and there is no supplemental well water which has been located on the Subject Property.

Harland Law Firm LLP

John Ford, Director
September 14, 2021
Page 4

ii. Rain Catchment.

As for the holding tanks, based upon rain collection for the proposed 4000 sq. ft. barn/propagation space, the catchment of 289,000 gallons of water is not going to happen in one year nor even two.¹ From 2010 to present, Kneeland has averaged an annual rainfall of 29.53 inches per year. Even at 30 inches per year, using the 4000 sq. ft. collection area, this amounts to only 60,000 gallons collected per year. To reach the 289,000 holding mark will take between 4-5 years without the applicant touching using any of the tanked water at all. This is assuming that the 289,000 gallon self-reported estimate is even correct and that the 720,000 gallon estimate from CDFW analysis is inaccurate. It is safe to use CDFW's estimate here and not the applicant's self-reported under-estimate as CDFW used extensive research to come up with this average, and it has no self-interest to underestimate projected usage.

As for rain catchment - as discussed above, the self-reported estimate (not expert opinion) is 286,000 gallons. The Planning Department does not require validation of the self reported amount claimed by the applicant. However as discussed above, it is highly likely that much more than 286,000 gallons of water is needed, which could be up to 720,000 gallons per year or more. Even if the Project were to go forward with only rain catchment and no well water use at all, (neither from the shared well or the proposed new well) the impacts on the adjacent domestically used spring and the existing domestically used well, the proposed rain catchment system requires environmental analysis.

The spring is located about 200 yards from the grow site. The shared well is even closer. This spring and shared well are the *sole* domestic water supply to four residences. The Subject Project property drains into the neighboring property's spring watershed and also into the shared well aquifer. It is a *reasonable* conclusion that removing 289,000 gallons annually, which would feed this spring and shared well aquifer, will result in a catastrophic impact to both the spring and existing wells. This fact (removal of 289,000 gallons) and the reasonable conclusion from this fact (adverse environmental impact from the removal on the spring and shared well) provides a fair argument that there are potential environmental impacts from this project that have not been studied and that require either an EIR or a supplemental EIR if one to rely on the 2018 FEIR to the CCLUO ordinance.

¹ This calculation is not including the 30,000 sq. ft. light-deprivation cultivation area as it is assumed that this will likely be hoop houses, and there is no information as to how there could be rain catchment from the hoop houses. The calculation therefore is limited to the roof area of the barn where there will be gutters to catch and divert the rain to holding tanks.

Harland Law Firm LLP

John Ford, Director
September 14, 2021
Page 5

b. An EIR Should Be Required for This Site.

This is not a ministerial project. The project requires the approval of a Special Permit, and it therefore subject to CEQA. There are no applicable Categorical Exemptions pursuant to Article 19, sections 15300 to 15332 of the CEQA Guidelines. The use of wells that are shared, or the installation of a new well as discussed above, results in the existence of facts that support the proposition that there is a fair argument that there are potential significant environmental impacts from the proposed new well and rain catchment. There is an overwhelming probability that any proposed new supplemental well is likely hydrologically connected to the existing shared domestic well and/or adjacent domestic spring. This mandates environmental analysis.

In fact, I have been informed by the cannabis planner assigned to this project that there is no EIR at all for the requested discretionary Special Permit. Instead, the Project (and planning) is relying on the generalized 2018 FEIR for the CCLUO to avoid a site-specific EIR. The 2018 CCLUO is NOT site-specific at all, but generalized. At best, it only “guesstimates” regarding cumulative impacts county-wide and is of marginal use for this site-specific problem site with respect to water. A site-specific EIR/SEIR must be prepared with respect to the potential impacts regarding water stated above if this project continues to go forward.

As long as there exists a potential environmental impact, the project cannot even proceed with an MND, but must proceed via an EIR/SEIR unless an MND erases *all* potential impacts regarding water. If mitigation measures are proposed which do not alleviate all potential impacts or rather, if a fair argument that potential impacts remain even after proposed mitigation measures, the the EIR/SEIR *must be prepared*. While the initial shared-well problem may be eliminated by a total ban on using the shared well, this does not eliminate the potential significant impacts from the installation of the proposed new separate/supplemental well to the existing shared domestic well and domestic spring. Moreover, potential significant impacts of removing 289,000 gallons per year from the drainage into the spring watershed on the adjoining property, which already faces water shortages, remain and need to be studied. As stated above, this water problem is not speculative. In fact, water is so sparse in this area that the Subject Property was unable to be sold for approximately 40 years. Both the domestic well and spring users require annual water deliveries. With the last several years of drought, there is little doubt that the Project proponent will likely run out of water and claim an “emergency” to be allowed to have water trucked which will be in violation of HCC 55.4.12 because running out of water is expected and not an “emergency” situation.

Harland Law Firm LLP

John Ford, Director
September 14, 2021
Page 6

The Project *must* not go forward without the required environmental analysis concerning the likely impact to the existing domestic wells and spring watershed. There can be no sole reliance on the 2018 FEIR to the CCLUO ordinance to substitute for the necessary site specific supplemental environmental analysis regarding water issues discussed above. Why the applicant purchased this grazing property which has a long history of water scarcity for a commercial cannabis is puzzling, but the Project as described in the staff report seems very inappropriate for its location. In any event, if the applicant still wishes to proceed, an EIR/SEIR is legally required.

Sincerely,



Allison G. Jackson

cc: Megan Acevedo (Email Only)
Client