Project BLM Holdings, LLC; Garberville Area; Record No. PLN-12618-CUP, APN 220-331-001, Comments for July 15 Meeting, Submitted July 11

Contents

Our names are George Truett and Hal Lepoff, and we have been residents of 600 Miller Creek Road for over 30 years.

Our property is adjacent to the project parcel. We share much of our eastern-side border of Miller Creek with the applicant. Our dwelling is located directly west of the applicant's driveway, and we can see part of the cultivated area from our livingroom window. Opening our front door, we can hear even moderate levels of conversation on the property near the cultivation area, so noise easily carries in this situation and has increased markedly over the last year.

While the current owner, Mr. Dan Kulchin, has responded quickly to our two complaints of inappropriate human-made noise (late-night partying and, another time, gunshots), we would like his good actions and intentions to be more clearly spelled out in the Operation Plan and conditions, perhaps as part of employee and caretaker guidelines. *Also see items 9 and 10 below.*

And then there is operation noise, like the endless days of chain sawing, at one point the workers straying onto our property to cut limbs without permission, and the malfunctioning water pump in early June that for three days "screeched" ten hours a day. Mr. Kulchin has moved to correct our concerns, saying he will get his boundary lines surveyed and that he will put pumps into sound-proof structures, but since this project is not approved on the basis that Mr. Kulchin will always be the acting owner of BLM Holdings, we encourage the Commission to add his welcome responsiveness as conditions that any future owner must follow.

Beyond our proximity-based concerns, even with modifications of the project plan, we have serious long-term concerns about:

- Water usage and fish in a drought. The Water Board website says: "Cannabis SIURs cannot be issued on Wild and Scenic rivers and streams, on fully appropriated streams, or within a CDFW Instream Flow Study area." The Eel River and its tributaries, including Miller Creek, fit this FAS condition. Before this project is approved, it should be established that BLM Holdings' Operation Plan can get this water permit because they are currently using diverted surface water for irrigation in a severe drought. *See items 6,7, and 8 below.*
- The dam of Pond 2, the pond for project irrigation, failed around 1991 because of heavy rains and sent a wall of mud and water into one of the Miller Creek salmon spawning areas. We would like to see mitigation of this possibility before your granting of the CUP.
- Road use for an operation of this size, which references plans for a future tourism component, is not adequately addressed. *See item 9 below. Also see items 3, 4, 7, and 8 regarding size of the operation.*
- Contamination of Miller Creek and soil . *See item 11 below.*

A project of this size directly affects all quality of life for neighbors and adds challenges for the natural environment of this small neighborhood of 19 parcels on a narrow, single-lane road.

At this time we cannot support the project and ask that it be pulled so that it can be appropriately scaled and the record in the staff report can be corrected.

Regarding the public record in the staff report, what follows are a few of our observations regarding areas of the project that did not appear to receive the proper scrutiny because of missing information or unknowable misrepresentations by the applicant's consultants.

Respectfully,

George Truett and Hal Lepoff

600 Miller Creek Road

Garberville, CA 95542

List of Errors in the Staff Report and in the Resolution on Which the Commission Will Vote, with Suggested Remedies

• Item No.	Page/Section	Topic	Error	Remedy
1	1 Cover page	Project address	Situs address stated: 01 Miller Creek Road instead of 801	Correct
2	2 Agenda Item Transmittal	Owners' names	According to Todd Lewis, his and Karen's names as owners are a "paperwork snafu" (see attachment of his recent email on page 8 of this document)	Correct; resubmit report at a later date
3	2 Agenda Item Transmittal 3 Exec Summary 6 "Resolution" 1st Whereas 6 Finding #1 8 Finding #6 23 Background 24 Summary re MND 28 Operation Plan	Total cultivation footprint miscalculated	Project description states square footage of cultivation is 37,894 sq ft, failing to include in that "cultivation footprint" an additional 3,489 sq ft for immature plant nurseries	Resubmit report with corrections to appropriate sections and to the MND
4	3 Exec Summary	Mixed-light cultivation footprint miscalculated	Proposed 16,188 sq ft of mixed light cultivation in 6 greenhouses; total sq ft for 6 greenhouses listed is 9,897 sq fit, a discrepancy of 6,291 sq ft.	Clarify and correct
5	3 Exec Summary	No. of employees underestimated as "3"	Not clear that the number 3 includes all employees of BLM Holdings, including the work done by Mr. Dan Kulchin and Ms. Jen Aspuria. Will the total be three, five, or more than five? How was this estimate calculated?	Clarify because no. of employees affects site and road noise, safety, access, road maintenance, and water use.

6	4 Biological Resources 6 Resolution Whereas #2 6 Finding #2 CEQA	Endangered species and other wildlife	CEQA issues. Failure to note that project parcel shares nearly a half-mile wandering border that is appurtenant to a known coho spawning ground, as witnessed by Bill Eastwood, a fisheries expert who has worked with CDFW; such knowledge, easily available, may necessitate major revisions to the Previous Mitigated Negative Declaration (other information is available in the CDFW Stream Inventory Report of Miller Creek, an inventory conducted in 2017 and reported in April, 2018) Available evidence from CDFW was ignored. Both the marbled murrelet and spotted owl have wings and much greater range than sitings imply.	A full CEQA is necessary to confirm the speculation under "Biological Resources" on page 4.
7	7 Finding # 2, Evidence (c)	Water rights—no water permit for increasing size of grow from 2016—no permits from Water Board	Right to Divert Water Certificate H100391 was issued to Eric Moore 1/02/**2019** and no evidence of the right is in the staff report or that it was transferred to the current applicant. Right to divert was based on stated area of irrigation of 22,221.5 sq ft., the same figure the previous owners filed in a petition in 2017 to the Water Board to indicate the area of cultivation. Petitioner is currently irrigating 41,383 sq ft.	Revise report to include this certificate and clarify its role in the current project.

8	7 Finding #4, Evidence (c) Pages 32-61	Size of preexisting grow in 2016 incorrectly reported as 37,894 sq ft	According to page 32, water diversion began in 2016 for 20,682 sq (.4748 acres) of "greenhouse and outdoor cultivation" for one pond. On page 38, a second diversion started in 2016 was for 1,315.5 sq ft (.0302 acres) and a 2-person household. Total is 21,997, near the 22,000 sq ft stated in H100391 in item no. 6 in the list. BLM Holdings, in conversation with a neighbor, said the current figure of 37,894 sq ft for existing and preexisting cultivation includes grows that were were hidden in the woods. While during previous decades this was true for that property, I maintain that the 2016 footprint was no more than what the Diverter of Record, Todd Lewis, reported in his application to the Water Board, under penalty if statements were false, and what the subsequent diverter of record Eric Moore also stated. There have been no supplemental water diversion statements by Lewis for the years 2018, 2019, and 2020, or their assignees, as required by the Water Board, which if not done is a violation of California Water Code sections 5100-5107. Eric Moore has filed no supplemental statement regarding H100391 nor, as best can be determined, reassigned his rights. Information about the 2016 Water Board Violations (pages 46-61) suggests the current applicant has exaggerated the previous grow size; as a result, the area of proposed cultivation (and current this growing season) is nearly double.	Size of grow needs to be reduced to accord with county code and state requirements for use of diverted water. Revise the cultivation area verification prepared by the County to match the verifiable and known facts in the State record. Have a reputable agency confirm that Pond 2 indeed has a capacity for 3,000,000 gallons (page 4 of staff report), and make the calculations easily accessible in the report. Given the history of this parcel and previous owners, certain conditions should be met before this CUP is granted. The CDFW violations occurred in 2016, and 5 years later, an LSA agreement has yet to be finalized.

9	8 Finding #6, Evidence (a)	ACCESS Road unsafe as listed; photos do not show factual condition of Miller Creek Road, a narrow, single-lane dirt road	On page 4, "a Road Evaluation form dated April 10, 2018, indicating the entire road segment is developed to the equivalent of a road category 4 standard," is patently false and an unsafe standard. As defined in County Code, Miller Creek Road has elements of Category 2 and 3, with the stretch near a former slide less than 13 feet wide, and many other "tight spots," with two blind curves where PG&E poles are sited next to the roadway and a first bridge whose wood deck is rotting and partially broken. There is no remediation mentioned in the report that would bring this road up to category 4 for the one mile to the applicant's driveway. The road association (Friends of Miller Creek Road) advises a 15 MPH maximum speed because of danger of accidents. Problems with dust and dirt and run-off for portions of nearby Miller Creek also are of concern. One of the members of BLM Holdings has an outstanding bill of $280.	Correctly identify the category of Miller Creek Road by getting a new Road Evaluation from a reliable consulting firm. Recognize that a cannabis grow of this proposed size will increase traffic, noise, and pollution. Require as a condition a plan to minimize impact from increased road use of this narrow one-lane road. Require as a condition the education of all employees in proper environmental practices and road courtesy. Require as a condition the proof of payment of the road bill.
10	9	Clean-up of trash and unpermitted structures along Miller Creek	Two or three trailers sit next to the creek, hidden in the woods, perhaps abandoned, perhaps not. At some point in the last two years they were utilized with gasoline-powered generators, suspected by neighbors to be drying and processing facilities.	Require a condition that specifically addresses clean-up of previous violations that are not yet resolved. Require as a condition the education of employees regarding the inappropriate action of throwing beer bottles into the woods as they drive along the road and violate the open container law as well as the woods along Miller Creek.

11	29 Water Use and Land Management	Water use calculations, and soil and stream pollution as related to Hügelkultur	In recently granted CUPs, water use has been estimated from 8 to 15 gallons per sq ft of cultivation area. Applicant's proposal is to use less than 4.5 gallons per sq ft of cultivation area. Perhaps the applicant is factoring in a claim of water reduction through Hügelkultur, a reduction which is not likely to occur for two or three years. A peer-reveiwed publication of Washington State University (https://pubs.extension.wsu.edu/hugelkultur-what-is-it-and-should-it-be-used-in-home-gardens) notes that "there are no peer-reviewd, scientific studies on Hügelkultur." The use of Hügelkultur may be an unacceptable risk to soil and Miller Creek. The same publication suggests that users of Hügelkultur may be "unaware that nutrient-rich organic matter can be overused. Directions for building Hügelkultur mounds include the addition of a foot of dead leaves, a few inches of composted manure, and three to four inches of compost (Beba and Andränd.). Decomposing organic material can release excessive nutrients, contaminating soil and water habitats."	Require a report from a knowledgeable consultant about water usage and the use of Hügelkultur on the current slope above Miller Creek. Add conditions of both soil and water monitoring.

BLM Holding LLC.

Inbox

Todd Lewis 11:48 AM (1 hour ago)

to me

Hi Hal And George. It has come to my attention that you have some questions about ownership of BLM Holdings and the property at 801 Miller Creek Road. While I can not see the relevance to the issues of obtaining and maintaining legal status I will be glad to answer all your questions.

As stated in the report Dan Kulchin and his partner Jen are the 95% owners of BLM Holdings LLC which includes all of my land and the rights to the farming permits. 5% is held by me in perpetuity for legacy, historical, and visitation rights. I have no say it what goes on. I have no say in how the business is conducted. I can not tell you why Karen and I have our names listed as owners still but it is only a paperwork snafu. I was under the impression that was handled long ago.

I can assure you that Dan and Jen are dedicated to sustainable, earth conscious, organic farming practices and will do everything in their power to work with you and the other neighbors. Feel free to forward this email to the rest of the neighbors and also to contact me if you have anymore questions.