

From: [Bill Eastwood](#)
To: [Planning Clerk](#)
Subject: Public comments for Project BLM Holdings, LLC: Garberville Area; Record No. PLN-12618-CUP; APN 220-331-001
Date: Wednesday, July 14, 2021 9:14:29 PM

14 July 2021

To the Planning Clerk of Humboldt County

I am submitting public comments for Project BLM Holdings, LLC: Garberville Area; Record No. PLN-12618-CUP; APN [220-331-001](#)

My name is Bill Eastwood and I live in the headwaters of Miller Creek Watershed. I am the Co-director of the Eel River Salmon Restoration Project (ERSRP) which has completed 8+ Miller Creek restoration projects focused on erosion control and fish habitat improvement. We have worked under the supervision of the California Department of Fish and Wildlife, including electro-fishing and moving salmonids in project construction areas of Miller Creek. Endangered Coho salmon young-of-the-year were encountered three or four times during this process. CDFW should be able to find these and other records of Coho salmon in the Miller Creek Watershed. In addition, during winter stream walks it was common to see spawning Coho adults. In fact, a favorite place to observe spawning Coho was in the riffle at the downstream end of the pool just downstream of the second Miller Creek bridge. This section of Miller Creek is within the parcel in question.

So, there are documented sightings of an endangered species on the MRC property. This calls into question the Mitigated Negative Declaration concerning rare and endangered species that was issued for this project. A full EIR analysis is in order.

Sincerely,

Bill Eastwood

Co-director ERSRP

707-923-9109

bille@asis.com

From: George Truett <george.truett@gmail.com>
Sent: Tuesday, July 13, 2021 2:23 PM
To: dankulchin@icloud.com; Jen Aspuria
Cc: Alberts, Chris; Harold Lepoff
Subject: Getting together to discuss your project

Dear Dan and Jen,

I was just talking with Chris Alberts, the planning clerk handling your CUP, about our opposition to your CUP. I suggested that Hal and I should meet with you with the expectation of getting a written agreement that addresses and solves our differences. This agreement would allow Hal and me to say that we no longer oppose the BLM Holdings permit. What all this would mean is:

- You would contact Chris (;4; -&: <17; ;5) as soon as possible and ask that your CUP be continued to the meeting of August 5. That means, its presentation to the commission would be delayed by one meeting.
- Between now and then, as soon as possible, we would meet with good will to resolve our differences. Hal and I, and BLM Holdings as represented by you, would hope to agree to a written letter of intent that contains the conditions for which we would drop our opposition.
- All of us would sign and send this agreement to Chris.
- My understanding from Chris, and please check with him, is that he would present this letter of agreement as part of his presentation and its terms would be included in the actionable item submitted to the commission on August 5.

I hope you find this is a suitable way to try to resolve our differences regarding your project.

Best,

George and Hal

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

Contents

- **Letter from Adjacent Landowners at 600 Miller Creek**
- **List of Errors and Concerns Derived from the Staff Report and the Resolution on Which the Commission Will Vote, with Suggested Remedies**

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" 1 st 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 ft, 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	<p>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.</p> <p>Both the marbled murrelet and spotted owl have wings and much greater range than sitings imply.</p>	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	<p>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.</p>	Revise report to include this certificate and clarify its role in the current project.

8	<p>7 Finding #4, Evidence (c)</p> <p>Pages 32-61</p>	<p>Size of preexisting grow in 2016 incorrectly reported as 37,894 sq ft</p>	<p>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.</p> <p>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.</p> <p>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.</p>	<p>Size of grow needs to be reduced to accord with county code and state requirements for use of diverted water.</p> <p>Revise the cultivation area verification prepared by the County to match the verifiable and known facts in the State record.</p> <p>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.</p> <p>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.</p>
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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	<p>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.</p> <p>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.</p>	<p>Correctly identify the category of Miller Creek Road by getting a new Road Evaluation from a reliable consulting firm.</p> <p>Recognize that a cannabis grow of this proposed size will increase traffic, noise, and pollution.</p> <p>Require as a condition a plan to minimize impact from increased road use of this narrow one-lane road.</p> <p>Require as a condition the education of all employees in proper environmental practices and road courtesy.</p> <p>Require as a condition the proof of payment of the road bill.</p>
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.	<p>Require a condition that specifically addresses clean-up of previous violations that are not yet resolved.</p> <p>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.</p>

11	29 Water Use and Land Management	Water use calculations, and soil and stream pollution as related to Hügelkultur	<p>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-reviewed 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-reviewed, scientific studies on Hügelkultur."</p> <p>The use of Hügelkultur may be an unacceptable risk to soil and Miller Creek.</p> <p>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."</p>	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.
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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.



My name is Joey Burger and I'm a lifelong resident of Southern Humboldt, a Permaculture Educator and a Regenerative Cannabis Consultant with over 27 years of experience in the cannabis industry. I was contacted by Dan Kulchin in January of 2021 to assist him with developing his newly acquired Miller Creek property. It had fallen into major disrepair prior to his acquisition and Dan had a vision to make this property a shining example of Regenerative Farming and showcase the best practices Humboldt is known for. Our industry has largely been dominated by extractive practices that rely heavily on fossil fuels and reduce our natural resources. Thankfully knowledge of Natural and Regenerative Farming practices is starting to take hold in our region and Dan wanted the Miller Creek project to help push that mission forward.

We had several main goals in mind with this project:

1. Clean up the property and make it a suitable destination for cannabis tourism, to showcase the natural beauty of Humboldt and to promote and educate visitors on Regenerative and Natural Farming practices.
2. Create Defensible Space around buildings, ingress and egress to property and to use the resources generated from clearing of fire ladders in building soil fertility.
3. Convert existing outdoor cultivation site from heavy water use smart pots to water conscious Hugelkultur beds that slow, spread and sink water back into the water table.
4. Limit land disturbance and neighborhood impacts.
5. Identify key animal corridors and increase animal and pollinator habitats through planting of a market garden, and a diverse planting of fruit trees, berries, herbs and pollinator plants.
6. Train staff on Natural Farming best practices including making of homemade fertilizers, pesticides, fungicides and microbial solutions made from sources grown and wildcrafted from the land.

Over the months I've been involved in the project I've watched several dead cars and many tons of garbage be removed from the property and it has started to again show its natural beauty. The easy access afforded to this property from Briceland Rd will make it an easy destination for tourists to reach and enjoy the sights and sounds of nature and all our beautiful region is known for.

Not only did we make this property much safer through the clearing of fire ladders but we worked with several landowners in the Miller Creek watershed to create defensible space on their properties as well. While the sounds of chainsaws and chippers can be a nuisance this is valuable work that all CA landowners should be undertaking during the wet winter and spring months to reduce fire fuel loads on their properties. While this project was heavy on the construction side in its infancy the beds built from these resources will be fertile for up to 50 years and require little to no additional inputs or maintenance.

All of the wood resources generated from our forest thinning effort was used in the construction of our Hugelkultur beds. Normally these thinnings are burned releasing carbon into the atmosphere. Hugelkultur beds built of buried wood sequester carbon and are considered the

best practice in farming for building soil fertility that can last for decades, reduce water usage and extend the growing season leading to increased yields of all crops. These beds built on contour (perfectly level on the landscape) slow rainfall, spread it out over the beds and slowly sink it deep into their carbon layer that acts like a sponge holding the moisture and releasing it to plants roots during the driest months.

No native soil was graded or moved in the construction of these beds and Dan has worked diligently to work with neighbors to answer questions or remedy concerns they might have with any part of this project.

The design of these beds also reduce the chance of any runoff into the watershed as several market garden and pollinator beds were designed to sit below the cannabis beds to act as a bio filter catching any potential fertilizer runoff and using it as the valuable resource it is.

By building up the soil biology thru the use of applications of homemade microbial solutions we are able to reduce water and fertilizer usage. Pest and pathogen pressures are reduced through the use of companion plants that feed natural pest predators, trap plants that draw pests away from valuable crops and safe homemade pesticides and fungicides from plants harvested from the land. Fertilizers are made from crops grown on the land and broken down into available plant nutrients through the use of microbes harvested from the forest are safer for our watershed than anything you can purchase at a store and help reduce farm expenses.

This project should be approved for its efforts to be a good steward of the land, a shining example of the best practices Humboldt has to offer and exactly the type of conscious farm we want representing our local industry and product.

Thank you for your time

-Joey Burger
Permaculture Director
Heartwood Mountain Sanctuary
220 Harmony Lane
Garberville, CA 95542

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