

February 3,2021

Humboldt County Planning Commission

Record Numbers:PLN-11787-CUP and PLN-2020-16849

Good Afternoon,

These are the Public Comments we were planning on sending to the Planning Commission last night, 2-2-21, before we received an email from planner Cliff Johnson, last night at 5:16pm, stating, "As a result of your comments we had the applicant's biologist go out to the site yesterday and they are in agreement that there is an unmapped watercourse on the northwest side of the property. We will be working with the applicant and their biologist, as well as CDFW and the water board to identify the extent of any previously unmapped riparian areas and any wetlands and ensuring that the proposed development is outside the required setback areas and does not impact any sensitive areas. We will also be requesting that the Planning Commission continue the project in order for us to accomplish this and to provide the planning commission enough advance time to review any additional information. I want to thank you for your response to the public notice and stated concerns".

For a little background, we had been reviewing all the public documents for 5 solid days so we could submit detailed comments on the project. We are not anti-cultivation neighbors and we are not trying to stop the project. We just want to make sure ALL information gathered for the project accurately represents what is occurring at the project location, and that all impacts are documented, reviewed and considered, and that appropriate mitigations are in place prior to project approval.

We spoke to DM at CDFW 1-29-21, when it was apparent that this project was slated for the consent agenda 2-4-21, and we needed to relay pertinent information regarding unidentified watercourse issues. We sent photo documentation to DM who agreed that the unidentified watercourses were an issue of concern and he contacted several agency folks and consultants, as well as the planning department. What resulted from his action was a site visit Monday 2/1 by NRM, the applicants' biologist, who concurred with our observations. Thus Cliffs' email above, resulting in the removal of this project from the 2/4 consent agenda, with a continuation until, probably, 3-4-21. We have appreciated Cliff's responsiveness during this process.

We spoke to Cliff this morning to find out more about what we can expect in terms of future timing, review, public comments moving forward, etc. We expressed to him that while some of our public comments of pertinent data omissions are now being addressed, there are still other areas of concern that we believe need to be addressed. It seems like the best approach for us now is to submit these public comments for review, so that our additional concerns can be addressed in the same time frame as the watercourse issues, so that hopefully, when this project comes forward again in a month, ALL issues of concern have been addressed.

In that spirit we are submitting our comments, so that the applicant, the Commission, the planning department and the public will have access to these areas of concern simultaneously. At a minimum, we request that with our detailed documentation of significant potential changes, the MND be re-circulated. Cliff has assured us that we can again submit public comments for this project when the next notice is sent. And he has also assured us that he will relay any new pertinent information, regarding this project between now and the next public meeting.

February 2, 2021

Humboldt County Planning Commission

Re: Consent Agenda Item 1 Simply Humboldt, LLC CUP & ZCC

Record Numbers: PLN-11787-CUP and PLN-2020-16849

Assessor's Parcel Number (APN) 104-321-010 and 104-131-016 (retiring parcel)

Dear Humboldt Co. Planning Commissioners and Director John Ford,

We are writing today to express our concerns about APP# 11787 being proposed to your Commission, for approval, with the County Notice of Intent to Adopt a Mitigated Negative Declaration for this project. At this time we are asking this item be pulled from the consent agenda and moved to the regular agenda, as we have provided written public comments within the timeline and framework required by the Notice of Public Hearing we received January 18, 2021. It is our understanding that this is our one opportunity to bring up plan concerns, and that is why we have submitted our public comments in writing.

We believe the project has significant environmental impacts which are not being mitigated and thus the Mitigated Negative Declaration (MND) for the project is insufficient. The project should be modified to avoid or mitigate for significant impacts, or an Environmental Impact Report (EIR) should be prepared, circulated and considered for the project. The significant environmental impacts that are not addressed in the project or the MND include water quality and hydrologic impacts to down gradient springs and water supply on our property. We believe there needs to be additional environmental review under CEQA, and additional mitigations added prior to approval.

Our primary issue surrounding this project proposal is water quality and water quantity. As you can see by reviewing the Property & Premises diagram and the WRPP, there is all manner of water on this property. We recognize that this project location resides in a mini watershed that does not stop where the property lines end. At the top of the watershed to the east, water flows downhill to the west. Our spring is located immediately downhill, downstream and west of the project location. At 1.3 acres, this is an industrial sized operation with significant impacts. We are not anti cultivation neighbors, we are only trying to review the documents provided to ascertain the environmental impacts that will occur with this project.

The CEQA addendum to the Mitigated Negative declaration, Page 23 of the staff report states, 4<sup>th</sup> paragraph down, "Historic cultivation occurred in two locations that are proposed to be decommissioned and consolidated into a single environmentally superior area in the center of the parcel.....Approximately 20,000 sq.ft. of cultivation occurred on the west side of the property". (Property & Premises Diagram shows 18,200 sq.ft). "Motorized access to this area will be reduced, and the potential for sediment delivery from frequent use of the rutted road will be minimized. Cultivation occurred in pots above ground. All cultivation material, including soil has been removed, and the site has been naturally re-vegetated...." Fifth paragraph, "The project proposes to decommission and restore the historic western cultivation area. Restoration is necessary to return the disturbed area to its natural condition. As a condition of approval, the applicant is required to submit and implement a restoration plan that includes the removal of all cultivation infrastructure, replanting native vegetation and measures to protect riparian habitat."

Please see the attached photos, taken over the past 10 years. These photos show the historic 18,200 sq.ft. western cultivation area and the surrounding areas underwater. We are calling this the water saturation area. While we applaud and wholeheartedly support the decommissioning of this site, and while the explanation for doing so is true, the water saturation conditions of this site and potential hydrologic connectivity to the applicants well and our spring, were omitted, thereby requiring more thorough environmental review.

We believe that the spring on our property, which is our household water supply, and has been in use since 1885-ish, is hydrologically connected to the water saturation area mentioned, and as such, we are concerned that the project will impact our water quality and supply. CEQA addendum ~continued~ Page 24 staff report, item 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...” We believe the new and significant unidentified environmental effects are:

- Decommissioning the historic western cultivation site does not address the water saturation conditions existing at the site. We can't find any specific measures addressing this complex, mini watershed draining issue.
- Due to the omission of the water saturation area, the mapping is incorrect.
- The well proposed for cultivation, nearest the historic western site, may be hydrologically connected to the surface water at the historic western site. The well was deemed NOT hydrologically connected to surface water.
- Our spring is located downhill and in close proximity to the above mentioned water saturation area. We are concerned that the well the applicant proposes to use for cultivation, is not only hydrologically connected to the water saturation area, but also hydrologically connected to the headwaters of our spring. We haven't seen any documentation that our drinking water supply won't be negatively impacted by the projects well use.
- There are 3 existing wells on the applicant's property. The well closest to the residence on the east side of the property is required to be destroyed or legalized, neither of which has been done, as of 2/1/21. One well on the north westernmost side of the property is designated for cultivation, the other well appears on the Property & Premises map with no designation. Page 3 of CDFW Lake and Streambed Alteration Agreement states: “The Notification discloses the use of **two wells** for irrigation, and the wells are presented as the sole source of water for all irrigation needs on the property. CDFW did not fully evaluate hydrological connection of the wells to surface water, nor was a hydro geologic evaluation prepared by a licensed geologist provided for CDFW review. Based on the available resources and the site inspection, the wells may be hydrologically connected to streams or springs and **shall be** evaluated for potential impacts from commercial cannabis irrigation use through the Humboldt county cannabis cultivation permits”. We believe this has not occurred as the County has no record of the water saturation area we are bringing to your attention today. Again, the mapping is incorrect. We are requesting groundwater management for this project by the County.
- The CDFW document does not appear to mention use of the proposed rainwater catchment pond
- CDFW mentions the use of 2 wells, even though all the County documents refer to one well being used for irrigation. The WRPP also cites just one well.
- Applicant's road issues must be addressed to factor in these water saturation conditions. Currently their road access is underwater and draining onto our property.
- The historic western site is fenced and not restored to its natural condition
- A water balance analysis must be conducted to determine and ensure project well use does not impact our water supply
- We believe an EIR may be better suited for this project, rather than a MND

CEQA addendum ~continued~ Page 25 staff report, Findings, item 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”. We disagree with this finding, and wish that ideally, we had had access to information much sooner in the process than the 14 day Notice of Public Hearing. That being said, we believe we have provided new information of substantial importance, and that it is imperative that the project not omit conditions requiring diligent review (and hopefully mitigation). We believe that further investigation into the local hydrologic conditions including the impacts of increased use of existing wells must be performed. We believe that the County must appropriately manage and protect groundwater resources.

CEQA addendum ~continued~Page 26, Attachment 3 Applicants Evidence in Support of the Required Findings, item 3: Site plan showing the entire parcel, including easements, streams, springs, ponds and other surface water features.....” This water feature (water saturation area), is on the property at the historic western cultivation site and does not appear on the applicants Property & Premises Diagram, nor is it mentioned anywhere in the documents we reviewed. Again, the mapping is incorrect.

We contacted CDFW 1/29 to express our concerns regarding the historic western cultivation site and the saturated water areas within it. We sent photos to CDFW. Once those photos were reviewed, CDFW indicated that they had concerns regarding this sensitive area and would contact the county, NRM, other CDFW personnel and Adona at the water board. We understand that a representative of Natural Resources Management (NRM), a consultant working for the applicant, made a site visit 2/1/21 to evaluate the conditions. We’re not sure what the NRM findings were and would like their findings to be considered part of the public record, as we are submitting our comments 2/2, without knowing their findings.

### **Water Resources Protection Plan (WRPP)**

PWA prepared the WRPP following one site visit 11-10-16. The report was completed 8-18-18 and submitted to the County 1-3-20. During the period of 8-18-18 thru 12-31-20, the applicant is required to renew the WRPP annually. We assume this did not occur as the original plan is the only WRPP annual plan submitted for public review for this project.

PWA did a thorough job detailing the 12 standard conditions requirements. Addressing these 12 standard conditions we point your attention to the following:

STANDARD CONDITION 1. Site Maintenance, Erosion Control and Drainage Features: 4.1a, 4.1b, 4.1d & 4.1e Where the road and the saturated water area meet, these conditions are not being met. Currently the road is underwater.

STANDARD CONDITION 5. Water Storage and Use: 4.5a-Size and scope of an operation shall be such that the amount of water used shall not adversely impact water quality and/or beneficial uses, including and in consideration with other water use operations, instream flow requirements and/or needs in the watershed, defined at the scale of a HUC 12 watershed or at a smaller hydrologic watershed as determined as necessary by the Regional Water Board. We would advocate that our sole source of drinking water on our 135 yr. old homestead is a water use operation requiring protection of both quantity and quality. Off site impacts to our water quality and quantity are part of the above mentioned water use operations and needs in the watershed. Page 16 of the WRPP notes that PWA highly recommends and state agencies may require that the applicant install flow meters on well(s), spring and distribution lines to accurately document water use volumes and rates. The WRPP makes a very important point that for the well(s) to be considered independent and not to be

connected to surface waters the well drilling log would need to be evaluated and groundwater confirmed to be unconnected to surface waters (streams, springs & wetlands). This determination would need to be confirmed by CDFW. If the well is found to be hydrologically connected to surface water, there will need to be further conditions placed on the use of the well or well(s), potentially including limiting use of these water sources during the forbearance period. Perhaps the groundwater well can be used as needed to supplement storage, but it is also preferred that groundwater pumping be minimized or avoided during the driest times of the year to assure that the project is not impacting groundwater levels or streamflow in downstream areas. **We believe that that confirmation of the protection of downstream water users as per the WRPP is lacking.** While PWA indicates that protections are met, the information on the site plan and in the operations plan is so inaccurate that it invalidates this WRPP finding. **We believe the WRPP needs to be updated using corrected site information and accurate, complete mapping.**

WRPP Appendix B Monitoring Plan and Photo Log Page 3 Please note site 14 has no monitoring designation. This is because the water saturation area within the historic western cultivation site was never observed during the one site visit by PWA 11-10-16.

*Please note there are over 300 pages of documents to review for this project. Time constraints allowed us to read some but not all of the documents. Noted below are the inconsistencies we discovered that points to a Planning Commission decision being made based on conflicting and/or erroneous information.*

### **Inaccuracies/Inconsistencies in the Notice of Public Hearing**

1. That water storage capacity in tanks totals 9,050 gallons.
  - The premises diagram doesn't show this anywhere. The WRPP state the same 9,050 gallons but there is no mention of where these are located and in what sizing
2. That applicant is proposing to construct a 7,200 sq.ft. processing/drying building.
  - The premises diagram shows it as 9,600 sq. ft. the COP, pg 36, states it will be 4,000 sq. ft.
3. An existing 100,000 gallon pond is for aesthetic purposes only.
  - The COP plan pg.44 lists a 100,000 gallon rainwater pond for cultivation and emergency purposes only.
4. Water is sourced from a permitted groundwater well.
  - Page 3 of the Lake and Streambed Alteration Agreement mentions **2 wells** as the sole source of water for all irrigation needs on the property. The CDFW document is the only document we could find, besides the Property & Premises Diagram, that identifies 2 wells.

### **Concerns with the Property and Premises Diagram**

The premises diagram does not show the 9,050 gallons of storage tanks mentioned in the plan. Nor does it include the proposed pond size or the saturated wet area mentioned above. Additionally, 3 wells appear on the diagram, two are permitted. See DEH heading below for well #1. There is one permitted well allocated for cultivation, well #2, while a second permitted well appears on the diagram, well #3. What use or limitations are placed on this second well, well #3? The diagram shows the proposed processing facility to be 9,600 sq.ft., the COP plan states 4,000 sq.ft., and the public notice states 7,200 sq.ft. The Property & Premises diagram states adequate water storage and delivery as outlined by **State Responsibility Area** ordinance and Cal Fire requirements. There are no dedicated fire water storage tanks or fire water storage outlined on the diagram. We could not find fire dedicated water in any of the documents we reviewed, nor have we seen any mention of compliance with SRA regulations in the COP. Other than the residence septic system, no septic system appears on the diagram. The COP plan (pages 43-44) states employees would utilize the secondary septic system for regular uses, but we do not see this secondary septic system on the plan and we cannot determine

what the two leach fields on the diagram pertain to. Lastly we do not see a noise measurement site on the Property and Premises diagram.

### **County Department of Environmental Health (DEH)**

The DEH conditionally approved the project with the following conditions: No processing can be approved until an acceptable site suitability report can establish potential for onsite waste treatment system. The approval of an unpermitted OWTS described in the provided COP plan is dependent upon demonstration of site suitability from a Qualified Professional. We cannot find a document that points to an acceptable site being approved. From the staff report docs, August 2018 Planning Dept document states: one well is shown on the provided site plan. Legalize or destroy the well. Provide documentation to verify legal non conforming status, retroactively permit the well or complete a destruction permit for the well. We spoke to someone at the County Department of Environmental Health this morning, and as of today the well closest to the residence still has not been destroyed or legalized.

### **Concerns with the Cultivation/Operations Plan (COP)**

Page 29 of the COP discusses performance standards including nuisance mitigation for noise, light, odors. We are concerned about the impacts of these factors and in regards to noise, and other industrial marijuana operations we are familiar with include noise measurement stations to monitor compliance with permit conditions. **For this project we do not see mention of a noise measurement site.** Page 30 of the COP notes that water for the project currently would be sourced from two (2) onsite tanks that are fed by an onsite well and a 100,000 gallon pond. **Again this is contradicted in the Notice of Public Hearing and the County's Executive Summary.** Page 30-31 states that water from the proposed cultivation project would be sourced from an adjacent deeded spring to support domestic uses, one 1,550 gallon and one 1,300 gallon water storage tanks. An onsite well and a 100,000 gallon rainwater pond feed the cultivation site. **The spring has been determined to be for domestic use only, with usage limitations, the pond is for aesthetic purposes only and it is not clear if the two tanks mentioned are for domestic water only, as they are very near the residence.** Page 31 notes that in the event of a water emergency, the proposed project currently features adequate water storage to supply the cultivation activities from an onsite well and a 100,000 gallon rainwater pond. **This pond is for aesthetic purposes only. And is this the second well, well #3, that would be used for a water emergency? This second well is mentioned in our above CEQA significant environmental impacts bullet points.** The COP states that existing and future water storage is noted on the site plan, but that information is **not on the site plan.** Page 31 states "For most of the season, crop production would be directly irrigated from 2 onsite tanks and two rainwater ponds, one existing pond and the other being proposed by the applicant". **The only two onsite tanks appearing on the Property & Premises map are on the eastern side of the property near the residence. The existing 100,000 pond is for aesthetic purposes only.** We remain confused regarding the specifics of water supply for the project. If approved, the project has plans for water reduction irrigation systems. Page 30 estimates annual water use at **1,044,550 gals which is a significant volume of water with potential to impact nearby water users like us.** Page 31 notes that "A WRRP has been filed by PWA. There will be adequate tank storage to support the cultivation activities for forbearance periods from May through October". **Does this mean that the well will not be used during this period? It does not appear that adequate storage exists to support the annual estimated water use and forbear surface or groundwater diversion.**

Page 33 notes that products packaged in larger volumes would be distributed directly to consumers and retail outlets. **Does this applicant propose onsite sales?** Page 36 notes that the applicant proposes a 4,000 sq. ft. processing facility to support the site activities. **The Notice of Public Hearing states 7,200 sq. ft. and the Property & Premises diagram states 9,600 sq.ft.** Page 42 discusses onsite potable water but does not mention **the source or location of potable water.** Page 43 notes that the proposed processing facility will also be

supported by a septic system. Employees would utilize the secondary septic system for regular uses. **This is the only place we see mention of a new septic system, and the Property & Premises diagram doesn't show any onsite septic system.** Page 44 states that the **100,000 gallon rainwater catchment pond is for cultivation and emergency purposes only but this contradicts the designation from Notice of Public Hearing as for aesthetic purposes only.** Page 48 mentions measures of security including fencing. We request input on project privacy fencing to shield our view from the project operations.

To reiterate, we are not anti cultivation neighbors. If we had been brought into this process earlier we would have been happy to work with the County, the agencies and the consultants, to help support the project achieve its goals while also protecting the environment we share. It is our understanding that the applicants interim permit has expired. Now that we are here, it is incumbent on the Commission to require the applicant to have complete, clear and accurate information on the project, and to address the concerns we have spelled out in these comments. This is the only way to allow for appropriate mitigations and solutions that would allow this project to proceed. In order to be in support of the project we request mitigation for impacts, improvements in the project documents, (currently there is not an accurate, concise project description contained in one document), and responses to the questions we have posed in this letter. All responses must take into account the entirety of the project, including off-site as well as on-site impacts, cumulative as well as project-level impacts, indirect as well as direct impacts, and construction as well as operational impacts. In addition we would like to be copied on the monthly reports required in the WRPP.

Thank you for considering these comments. If you have any questions regarding this letter please do not hesitate to contact us.

Sincerely,  
Linda and Joe Yonts



**Historic Western Cultivation Site & Project Site Access Road Underwater**



**Historic Western Cultivation Site & Project Site Access Road Underwater**



**Applicants Access Road at Historic Western Cultivation Site**



**Historic Western Cultivation Site~ fencing ~**



**Down Gradient on Our Property ~apple tree corresponds to above Historic Western Cultivation Site~  
Water flowing from east to west towards our spring to the west. Also, a good representation of the mini watershed in the background looking east**



**Looking west as water flows to our spring~sorry about orientation, not sure why this happened~**