



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

3015 H Street Eureka CA 95501
Phone: (707)445-7541 Fax: (707) 268-3792

Hearing Date: August 16, 2018

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: **Robert Trell Messenger, Conditional Use Permit**
Application Number 11906
Case Number CUP-16-441
Assessor's Parcel Number (APN) 221-151-010
8045 Upper Mattole Canyon Road, Etnersburg

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Please contact Keenan Hilton, Planner, at 707-268-3722 or by email at khilton@co.humboldt.ca.us if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
August 16, 2018	Conditional Use Permit	Keenan Hilton

Project Description: Robert Trell Messenger is seeking a Conditional Use Permit for an existing 15,000 square foot outdoor commercial cannabis cultivation operation. Annual irrigation water usage is approximately 148,700 gallons. Water for irrigation is sourced from a 645,000 gallon rainwater catchment pond. Two hard water tanks store an additional 5,700 gallons. Power is sourced from solar panels with battery storage and a portable generator. Plants will be dried and cured in the barn on-site. Additional processing will occur at a licensed off-site facility. Cultivation will be conducted by the owner's family members who live on-site.

Project Location: The project site is located in the Humboldt County in the Ettersburg area, on the east side of Upper Mattole Canyon Road, approximately 1 mile south from the intersection of Upper Mattole Canyon Road and East Fork Road, on the property known as 8045 Upper Mattole Canyon Road.

Present Plan Land Use Designations Residential Agriculture (RA40), Humboldt County General Plan (GP), Density: 40 acres per dwelling unit, Slope Stability: Moderate Instability (2)

Present Zoning: Forestry Recreation with a Special Building Site Combining Zone setting a 40 acre minimum parcel size (FR-B-5(40))

Application Number: 11906

Case Number: CUP-16-441

Assessor Parcel Numbers: 221-151-010

Applicant

Robert Trell Messenger
PO Box 815
Redway, CA 95560

Owner

Messenger, Robert T.
PO Box 815
Redway, CA 95560

Agent

Timberland Resource Consultants
165 S. Fortuna Blvd.
Fortuna, CA 95540

Environmental Review: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Exemption Section: 15301 (Existing Facilities) of the CEQA Guidelines.

State Appeal Status: Project is NOT appealable to the California Coastal Commission

Major Issues: None

ROBERT TRELL MESSENGER
Case Number CUP-16-441
Assessor's Parcel Numbers 221-151-010

Recommended Commission Action

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

Find the project exempt from environmental review pursuant to Sections 15301 of the State CEQA Guidelines, make all of the required findings for approval of the Conditional Use Permit based on evidence in the staff report and any public testimony, and adopt the Resolution approving the proposed Robert Trell Messenger project subject to the recommended conditions.

Executive Summary: Robert Trell Messenger Medical Marijuana Cultivation Project (Project) seeks approval of a Conditional Use Permit in compliance with the County Commercial Medical Marijuana Land Use Ordinance (CMMLUO) and the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). The CUP would allow for the continuation of an existing, outdoor cannabis cultivation operation located on parcel 221-151-010 which is approximately 80 acres in size. The property is zoned Forestry Recreation (FR). The CMMLUO identifies FR-zoned parcels 5 acres or larger as sites where existing cannabis cultivation activities could be allowed. Outdoor cultivation up to 43,560 sf is allowed subject to the issuance of a CUP.

Historic cannabis cultivation has occurred in a natural clearing in the center of the parcel as shown on the plot plan. The 15,000 square feet of cultivation approved by this CUP will be contained within the historic footprint.

The applicant uses hand watering with irrigation water that is collected in a rainwater catchment pond. The pond has a capacity greater than 600,000 gallons and the irrigation needs are approximately 150,000 gallons.

All product grown on-site will be dried and cured in the Barn that is on-site. Additional processing will occur at a licensed third party facility. All cultivation is completed by the owner's family members, there will be no employees. Domestic water is provided by a permitted surface water diversion, and sewage disposal is provided by an on-site sewage disposal system. The barn and residence are in the process of being permitted.

There are no schools, school bus stops, places of worship, public parks or Tribal Cultural Resources within 600 feet of the cultivation or processing areas. The project was referred to the Bear River Band Tribal Historic Preservation Officer, who determined that this site does not require preparation of a cultural resources survey.

The Public Works Department is requiring driveway and private road intersection improvements as noted in the Conditions of Approval and the Public Works Memo.

Environmental review for this Project was conducted and based on the results of that analysis, staff believes the existing cultivation operation can be considered to be "Existing Facilities" as defined by Section 15301 of the California Environmental Quality Act (CEQA) Guidelines because it consists of "the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 18-**

**Case Number CUP-16-441
Assessor Parcel Numbers: 221-151-010**

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approves the Robert Trell Messenger Conditional Use Permit request.

WHEREAS, Robert Trell Messenger submitted an application and evidence in support of approving a Conditional Use Permit to cultivate and process 15,000 square feet (SF) of outdoor cannabis located on APN 221-151-010.

WHEREAS, the County Planning Division has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the project is exempt from environmental review per Sections 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving the proposed Conditional Use Permit (Case Number CUP16-441); and

WHEREAS, a public hearing was held on the matter before the Humboldt County Planning Commission on August 16, 2018.

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Planning Commission that:

1. The proposed project is exempt from environmental review pursuant to Sections 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines; and
2. The findings in Attachment 2 of the Planning Commission staff report support approval of Case Number CUP16-441 based on the submitted substantial evidence; and
3. Conditional Use Permit CUP-16-441 is approved as recommended and conditioned in Attachment 1 for Case Number CUP-16-441.

Adopted after review and consideration of all the evidence on August 16, 2018.

The motion was made by Commissioner ____ and seconded by Commissioner ____.

AYES: Commissioners:

NOES: Commissioners:

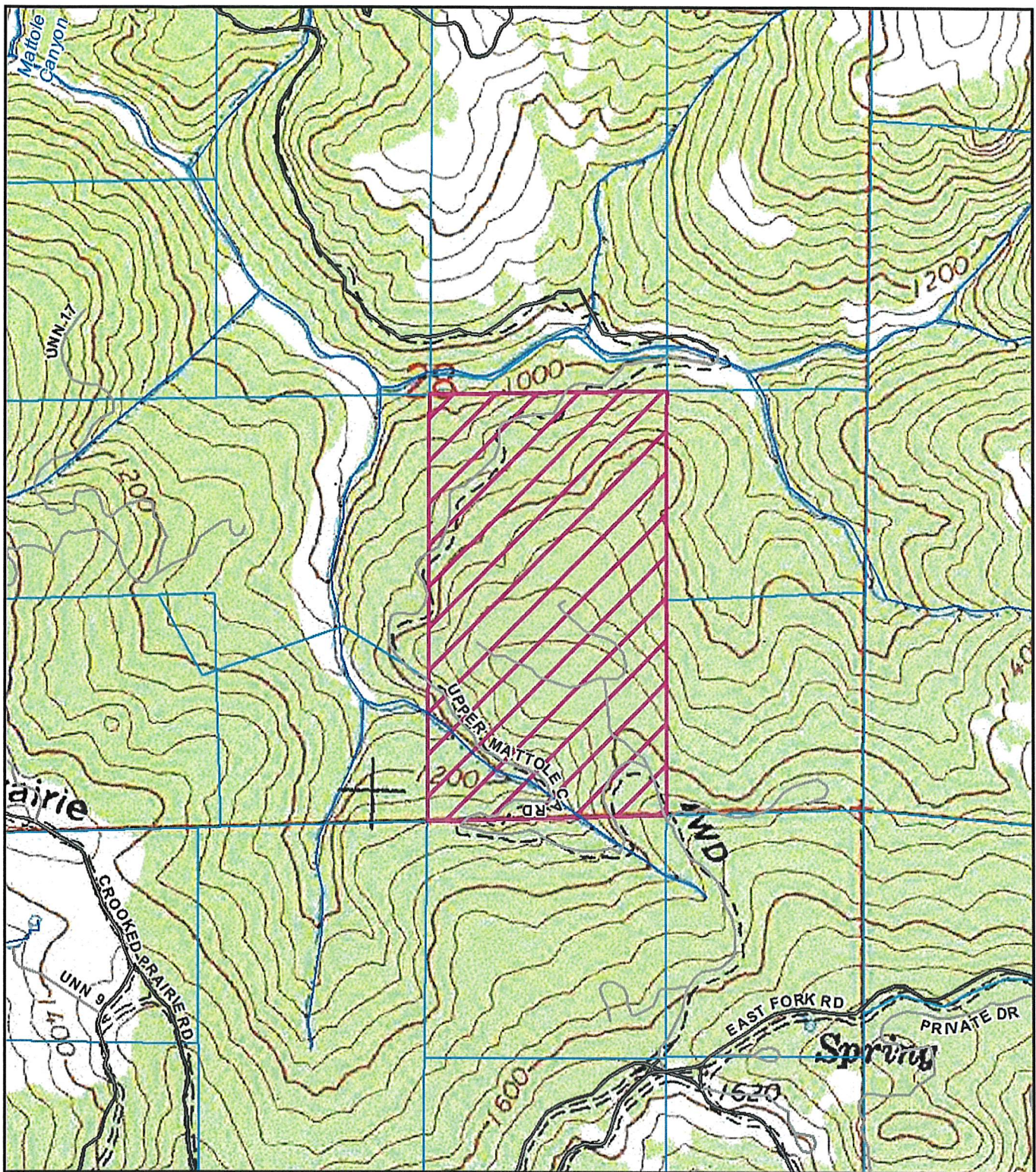
ABSTAIN: Commissioners:

ABSENT: Commissioners:

DECISION: Motion carries

I, John H. Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

John H. Ford, Director
Planning and Building Department



TOPO MAP

Project Area = 

**PROPOSED ROBERT TRELL MESSENGER
ETTERSBURG AREA
CUP-16-441**

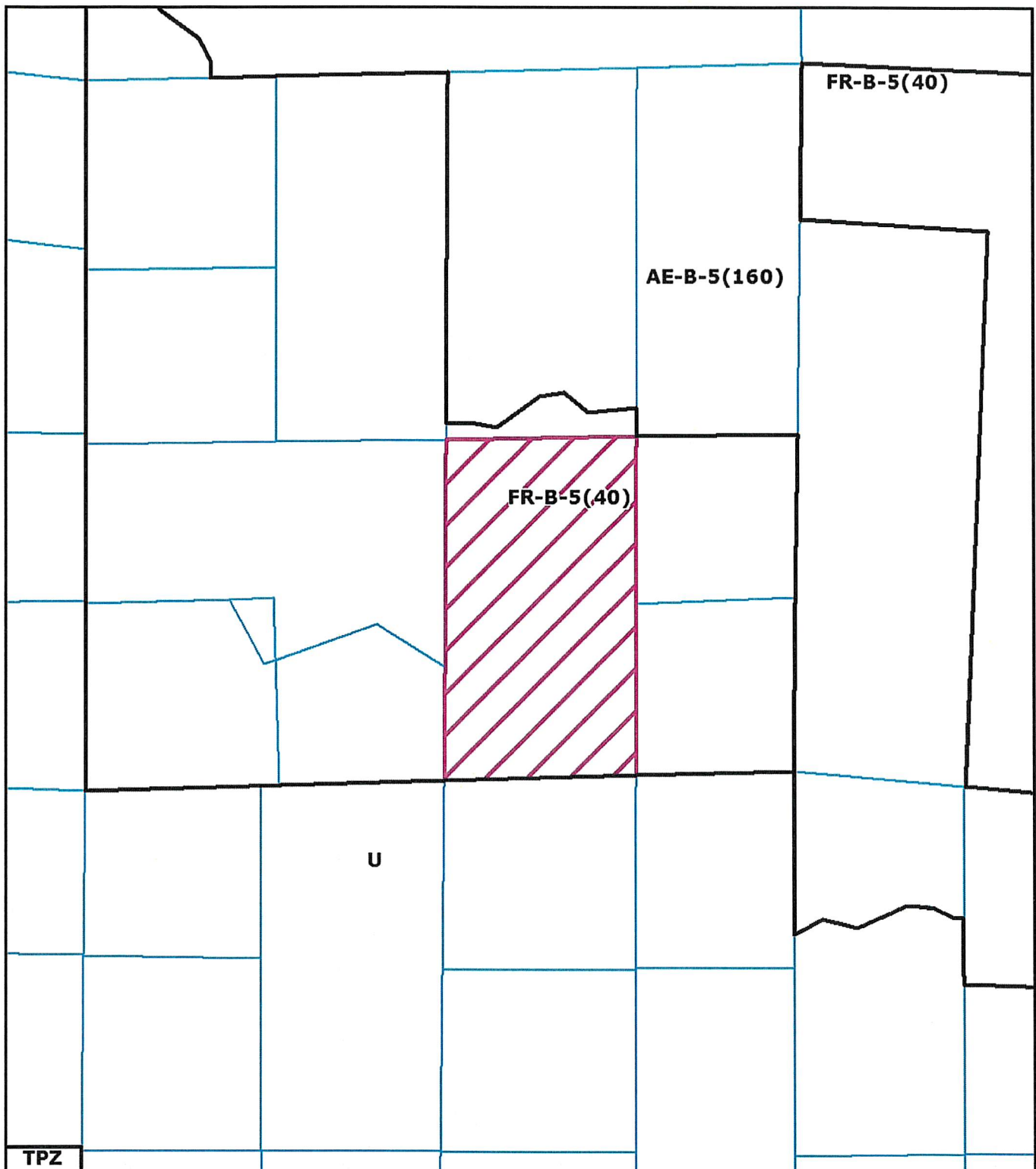
APN: 221-151-010

T03S R02E S28 HB&M (ETTERSBURG)

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



0 375 750
Feet



ZONING MAP

Project Area = 

**PROPOSED ROBERT TRELL MESSENGER
ETTERSBURG AREA
CUP-16-441**

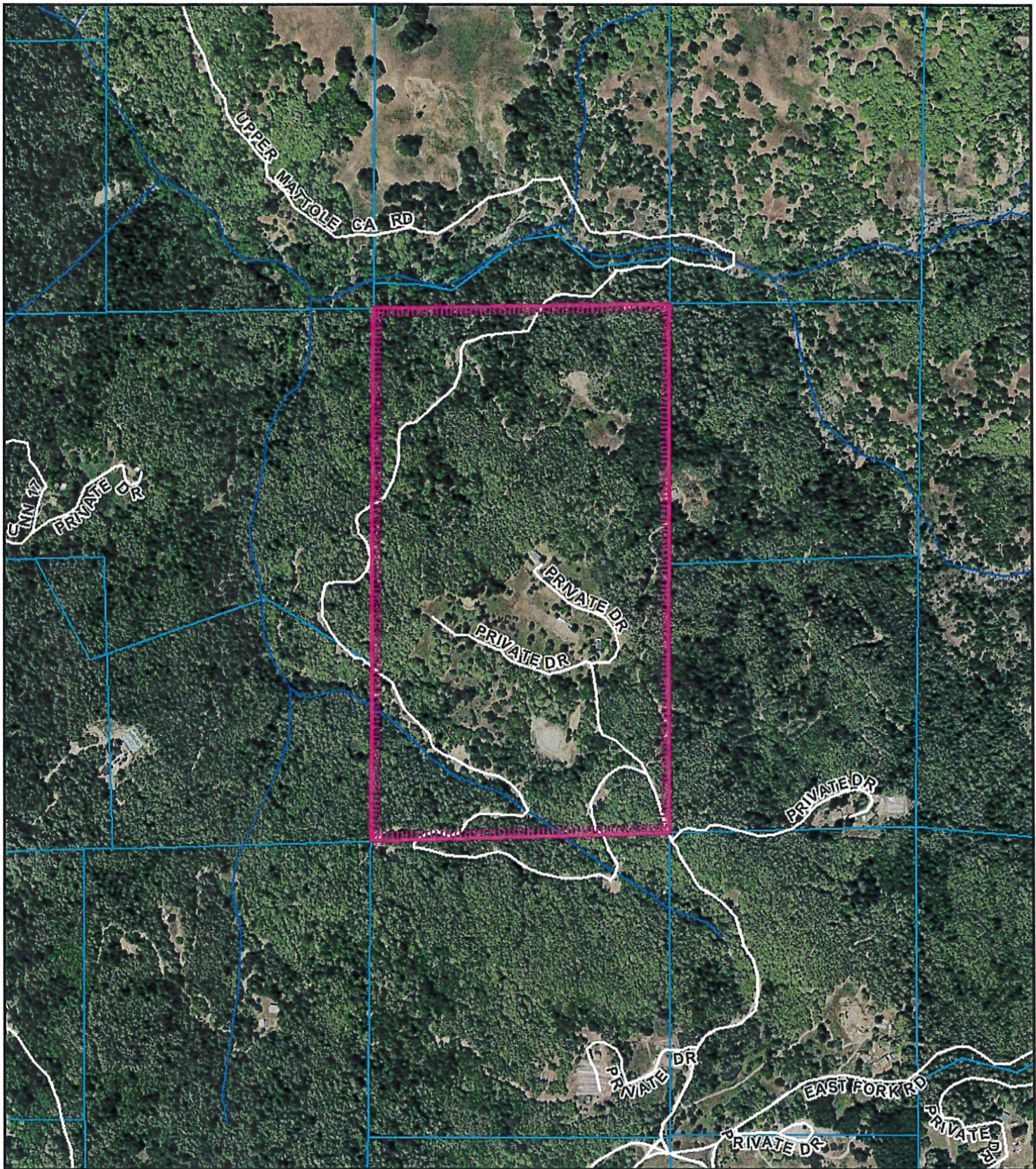
APN: 221-151-010

T03S R02E S28 HB&M (ETTERSBURG)

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



0 375 750
Feet



AERIAL MAP

Project Area =



**PROPOSED ROBERT TRELL MESSENGER
ETTERSBURG AREA
CUP-16-441**

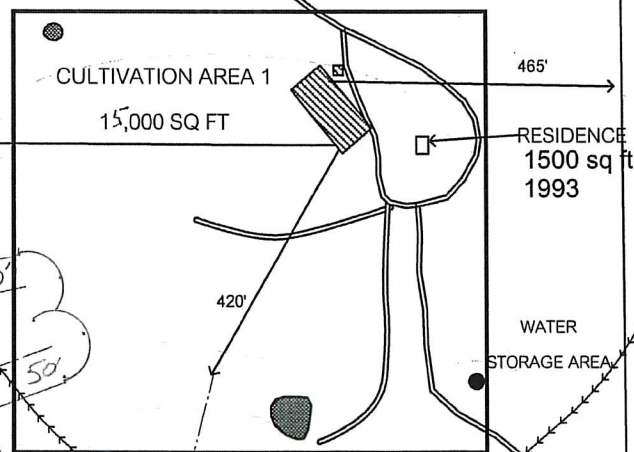
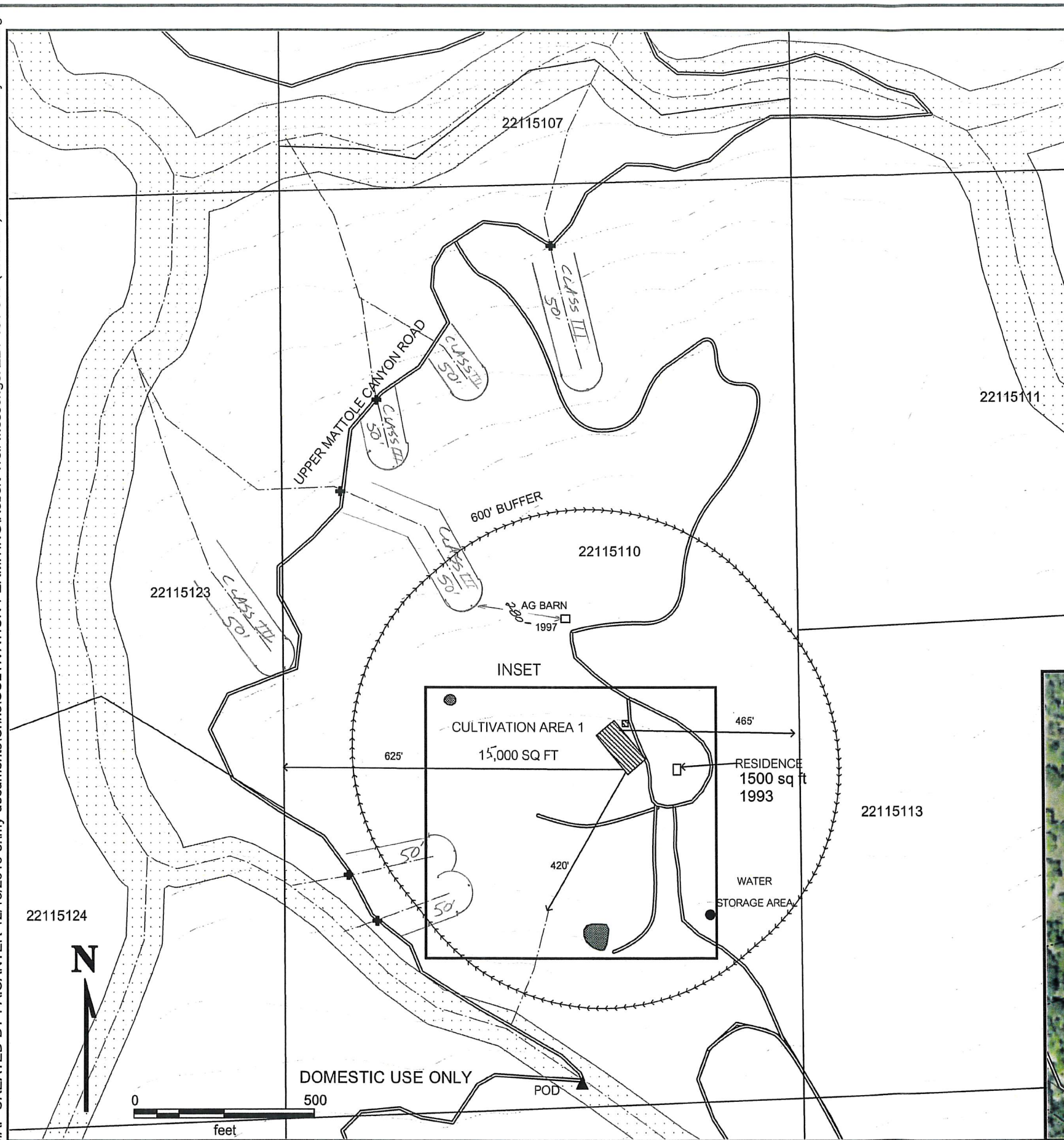
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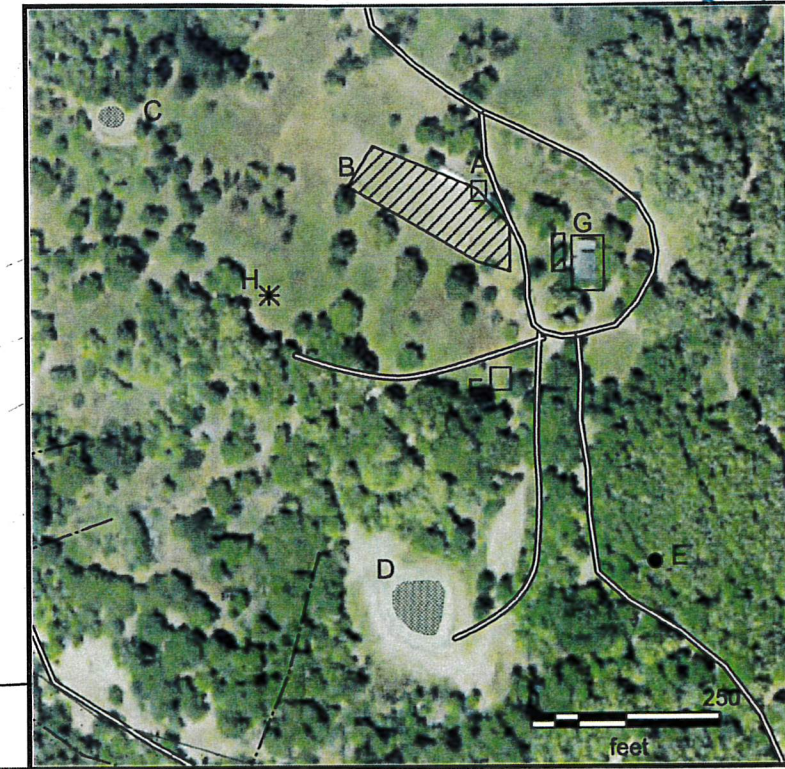


**0 250 500
Feet**



8000 Upper Mattole Canyon Road

20 min
4.7 miles



THOMAS RD.
(COUNTY MAINTAINED)

Perry Meadow Road

Perry Meadow

EAST Fork

SEE GOOGLE MAP

COUNTY MAINTAINED

LEGEND:

- CULTIVATION AREA
- PROPERTY BOUNDARY
- STRUCTURES
- STREAMSIDE MANAGEMENT AREA
- POND
- POINT OF DIVERSION
- WATER STORAGE
- ACCESS ROAD
- CULVERT

APPLICANT: ROBERT TRELL MESSENGER
APN: 221-151-010 CUP16-441 APPS# 11906
LOT SIZE: 80.79 ACRES
ZONING: FR-FORESTRY RECREATION
CULTIVATION AREA: UP TO 16,000 SQ FT OUTDOOR

DIRECTIONS TO SITE:
DRIVING SOUTH ON US HWY 101
TAKE EXIT 653 FOR SALMON CREEK RD
IN 0.8 MI TURN RIGHT ONTO SALMON CREEK ROAD
IN 2.0 MI TURN LEFT ONTO THOMAS RD
IN 4.6 MI THOMAS RD TURNS RIGHT AND BECOMES UPPER THOMAS RD
IN 0.8 MI TURN LEFT TO STAY ON THOMAS RD
IN 1.0 MI TURN LEFT ONTO PERRY MEADOW RD
IN 0.3 MI TURN RIGHT ONTO E FORK
IN 2 MI TURN RIGHT ONTO UPPER MATTOLE CANYON RD
IN 1.3MI ARRIVE AT SITE
THE SITE IS LOCATED ST:
8045 UPPER MATTOLE CANYON ROAD, GARBERVILLE

THERE ARE NO SCHOOLS, PLACES OF WORSHIP, OR PUBLIC PARKS WITHIN 600 FT OF THE CULTIVATION AREAS. THERE ARE NO OFF SITE RESIDENCES LOCATED WITHIN 300 FEET OF THE CULTIVATION AREA.

SITE PLAN
PAGE 1 OF 1
06/08/2017

Timberland Resource Consultants

ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

APPROVAL OF THE CONDITIONAL USE PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE PROVISIONAL CANNABIS CULTIVATION PERMIT CAN BE FINALIZED.

1. Within 60 days of the effective date of project approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #2 –14. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
2. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity. The plans submitted for building permit approval shall be consistent with the project description and approved project site plan. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition. Existing structures used in the cannabis operation shall not be used/occupied until all required permits have been obtained.
3. The approved building plans shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project by the Building Inspection Division. Sign off on the Occupancy Permit by the Building Division shall satisfy this requirement.
4. Prior to renewal of permit the operator is required to submit to Department of Environmental Health receipts or copy of contract confirming sufficient use of portable toilets to serve staff for duration of first year or provide written assessment from a qualified septic consultant confirming a Tier 0 status for the existing onsite waste treatment system serving the dwelling.
5. Prior to issuance of any building or construction permits a grading, erosion and sediment control plan shall be prepared by a qualified engineer. The plan shall identify the cubic yards of all grading that has been done and any proposed grading.
6. The applicant shall implement all corrective actions detailed within the Water Resource Protection Plan developed for the parcel, prepared pursuant to Tier 2 enrollment under the North Coast Regional Water Quality Control Board Cannabis Waste Discharge Regulatory Program. A letter or similar communication from the RWQCB verifying that all their requirements have been met will satisfy this condition.
7. The applicant shall abide by the Conditions of the Lake and Streambed Alteration Agreement (Agreement) approved by the California Department of Fish and Wildlife and comply with all applicable terms. The applicant has failed to meet the reporting requirements of the Agreement. Approval of this permit will depend on the applicant providing all requested reporting information to CDFW.
8. A bullfrog management plan will be prepared for the existing rainwater catchment pond and submitted to California Department of Fish and Wildlife (CDFW) for approval. The Plan shall be implemented for the life of the project. Contact CDFW for minimum requirements.

9. Prior to any ground disturbance or the issuance of any permits, a qualified biologist shall survey the project site and identify the locations of all wetlands, springs, seeps, and riparian areas; plants with a State Rare Plant Rank of 1 or 2; and any sensitive natural communities, including wildlife species identified as potentially present by the CDFW. A 150-foot buffer around all identified habitats shall be flagged for avoidance in the field and shown on the revised site plan. No improvements or other activities are allowed within the 150-foot setback area. This shall be reflected in the operations plan.
10. The applicant will complete the intersection improvements requested by Public Works in Exhibit A to Attachment 1 within one (1) year of permit issuance. A letter from DPW stating that this has been completed will be sufficient to satisfy this condition.
11. Review of aerial imagery suggests that tree removal may have occurred between 2005 and 2009. The site shall be evaluated by a Registered Professional Forester, and if timberland conversion occurred, a timber conversion report must be prepared and accepted by the County. The Planning Division shall provide CAL-FIRE written Notice of Availability of the RPF's report. If CAL-FIRE takes no action within ten (10) days of the notice of availability, the report recommendations shall become final and shall be implemented by the applicant. If CAL-FIRE makes additional recommendations, these shall also be completed to the satisfaction of CAL-FIRE. A letter from the RPF, and written confirmation from CAL-FIRE (if additional requirements are imposed), verifying that all their requirements have been met will satisfy this condition.
12. The property owner shall execute and file with the Planning Division the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.
13. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all of the requirements as set forth by other regulatory agencies.
14. The mixed light ancillary on-site nursery shall comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). International Dark Sky Association standards exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare. All lighting shall be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries. No light from the ancillary nursery shall escape from dusk to dawn.
15. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project:

1. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan.

2. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
3. Offsite processing has been chosen to be the preferred method of processing. The applicant shall identify the offsite licensed facility, and update this notification to the Planning Division if there is a change. No on-site processing is authorized (i.e., trim and packaging). A modification to this permit shall be required if on-site processing is proposed in the future.
4. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort towards compliance can be shown within the two years following the issuance of the provisional clearance or permit, The Planning Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow for additional time to meet the outstanding requirements.
5. Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.
6. Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
7. Confinement of the area of cannabis cultivation, processing, manufacture or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any School, School Bus Stop, Church or other Place of Religious Worship, or Tribal Cultural Resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
8. Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
9. Comply with the terms of any applicable Streambed Alteration (1600) Permit obtained from the Department of Fish & Wildlife.
10. Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE), if applicable.
11. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).

12. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
13. Pay all applicable application, review for conformance with conditions and annual inspection fees.
14. The noise produced by a generator used on an emergency-only basis for cannabis drying, curing, and processing shall not be audible by humans from neighboring residences. The decibel level for generators measured at the property line shall be no more than 60 decibels. Further, noise generated from the backup generator shall comply with the standards set forth in Section 55.4.11(o) of the CMMLUO and Department Policy Statement #DPS-16-005.
15. Storage of Fuel - Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's CUPA program, and in such a way that no spillage occurs.
16. The Master Log Books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
17. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).
18. Participate in and bear costs for permittee's participation in the Medical Cannabis Track and Trace Program administered by the Humboldt County Agricultural Commissioner.
19. The use of monofilament netting for all uses, including but not limited for erosion control, shall be prohibited. Geotextiles, fiber rolls, and other erosion control measure materials shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves to minimize the risk of ensnaring and strangling wildlife.
20. Should any wildlife be encountered during to work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
21. All refuse shall be contained in wildlife proof containers, at all times, and relocated to an authorized waste management facility, in compliance with State and local laws, on a regular and on-going basis.

Performance Standards for Cultivation and Processing Operations

22. Pursuant to the MCRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is 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), to the extent not prohibited by law."
23. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
24. Cultivators engaged in processing shall comply with the following Processing Practices:

- i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
25. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
- I. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - (a) Emergency action response planning as necessary;
 - (b) Employee accident reporting and investigation policies;
 - (c) Fire prevention;
 - (d) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - (e) Materials handling policies;
 - (f) Job hazard analyses; and
 - (g) Personal protective equipment policies, including respiratory protection.
 - II. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - (a) Operation manager contacts;
 - (b) Emergency responder contacts;
 - (c) Poison control contacts.
 - III. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
 - IV. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
26. All cultivators shall comply with the approved Processing Plan as to the following:
- I. Processing Practices.
 - II. Location where processing will occur.
 - III. Number of employees, if any.
 - IV. Employee Safety Practices.
 - V. Toilet and handwashing facilities.
 - VI. Plumbing and/or septic system and whether or not the system is capable of handling increased usage.
 - VII. Drinking water for employees.
 - VIII. Plan to minimize impact from increased road use resulting from processing.
 - IX. On-site housing, if any.
27. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation SP issued pursuant to the CMMLUO shall expire after one (1) year after date of

issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.

If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the SP or permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of non-compliance shall terminate the Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to section 55.4.13.

28. Acknowledgements to Remain in Full Force and Effect. Permittee Acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located will not support diversions for irrigation.

Permittee further acknowledges and declares that:

- (1) All commercial cannabis activity that I, my agents, or employees conduct pursuant to a permit from the County of Humboldt for commercial cultivation, processing, manufacturing, and distribution of cannabis for adult use or medicinal use within the inland area of the County of Humboldt, shall at all times be conducted consistent with the provisions of the approved County permit; and
- (2) All cannabis or cannabis products under my control, or the control of my agents or employees, and cultivated or manufactured pursuant to local Ordinance and the State of California Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94), will be distributed within the State of California; and
- (3) All commercial cannabis activity conducted by me, or my agents or employees pursuant to a permit from the County of Humboldt will be conducted in compliance with the State of California MAUCRSA

29. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements, and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:

- a. Identifying information for the new Owner(s) and management as required in an initial permit application;
- b. A written acknowledgment by the new Owner in accordance as required for the initial Permit application;
- c. The specific date on which the transfer is to occur; and
- d. Acknowledgement of full responsibility for complying with the existing Permit; and

e. Execution of an Affidavit of Non-diversion of Medical Cannabis.

30. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

Informational Notes:

1. Pursuant to section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state of county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years of the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the Permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to section 314-55.4.13 of the CMMLUO.
2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"); except where the Compliance Agreement per COA #1 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Condition of Approval #27 of the On-Going Requirements /Development Restrictions, above.
3. If cultural resources are encountered during construction activities, the contractor on site shall cease all work in the immediate area and within a 50 foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the NAHC will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to PRC 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

4. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
5. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or

initiation of use and at time of annual inspection. A conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

6. A Notice of Exemption (NOE) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. **Within three days of the effective date of permit approval**, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the NOE and will charge this cost to the project.

EXHIBIT A



DEPARTMENT OF PUBLIC WORKS COUNTY OF HUMBOLDT

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579
AREA CODE 707

ARCATA-EUREKA AIRPORT TERMINAL
McKINLEYVILLE
FAX 839-3596

PUBLIC WORKS BUILDING
SECOND & L ST., EUREKA
FAX 445-7409

CLARK COMPLEX
HARRIS & H ST., EUREKA
FAX 445-7388

AVIATION 839-5401

ADMINISTRATION 445-7491
BUSINESS 445-7652
ENGINEERING 445-7377
FACILITY MAINTENANCE 445-7493

NATURAL RESOURCES 445-7741
NATURAL RESOURCES PLANNING 267-9540
PARKS 445-7651
ROADS & EQUIPMENT MAINTENANCE 445-7421

LAND USE 445-7205

LAND USE DIVISION INTEROFFICE MEMORANDUM

TO: Michelle Nielsen, Senior Planner, Planning & Building Department

FROM: Kenneth M. Freed, Assistant Engineer *KMF*

DATE: 4-28-2018

RE:

Applicant Name	Robert Trell Messenger
APN	221-151-010
APPS#	11906
CASE#	CUP16-441

The Department has reviewed the above project and has the following comments:

- ☒ The Department's recommended conditions of approval are attached as **Exhibit "A"**.
- ☐ Additional information identified on **Exhibit "B"** is required before the Department can review the project. **Please re-refer the project to the Department when all of the requested information has been provided.**
- ☐ Additional review is required by Planning & Building staff for the items on **Exhibit "C"**. **No re-refer is required.**
- ☐ *Road Evaluation Reports(s)* are required; See **Exhibit "D"**. **No re-refer is required.**

*Note: Exhibits are attached as necessary.

Additional comments/notes:

Applicant has submitted a road evaluation report date 9/20/17 w/ PART A-Box 2 checked. STATING THE roadway is equivalent to a CAT 4 standard. It appears applicant has combined two roads into one evaluation report.

// END //

Exhibit "A"

Public Works Recommended Conditions of Approval

(All checked boxes apply)

APPS # 11906

☐ **COUNTY ROADS- FENCES & ENCROACHMENTS:**

All fences and gates shall be relocated out of the County right of way. All gates shall be setback sufficiently from the County road so that vehicles will not block traffic when staging to open/close the gate. In addition, no materials shall be stored or placed in the County right of way.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☐ **COUNTY ROADS- DRIVEWAY (PART 1):**

The submitted site plan is unclear and/or shows improvements that are inconsistent with County Code and/or Department of Public Works policies. The applicant is advised that these discrepancies will be addressed at the time that the applicant applies to the Department of Public Works for an Encroachment Permit. If the applicant wishes to resolve these issues prior to approval of the Planning & Building permit for this project, the applicant should contact the Department to discuss how to modify the site plan for conformance with County Code and or Department of Public Works policies. Notes:

☐ **COUNTY ROADS- DRIVEWAY (PART 2):**

Any existing or proposed driveways that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. This also includes installing or replacing driveway culverts; minimum size is typically 18 inches.

- If the County road has a paved surface at the location of the driveway, the driveway apron shall be paved for a minimum width of 18 feet and a length of 50 feet.
- If the County road has a gravel surface at the location of the driveway, the driveway apron shall be rocked for a minimum width of 18 feet and a length of 50 feet.
- If the County road is an urban road, frontage improvements (curb, gutter, and sidewalk) shall also be constructed to the satisfaction of the Department. Any existing curb, gutter or sidewalk that is damaged shall be replaced.

The exact location and quantity of driveways shall be approved by the Department at the time the applicant applies to the Department of Public Works for an Encroachment Permit.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☐ **COUNTY ROADS- DRIVEWAY (PART 3):**

The existing driveway will require substantial modification in order to comply with County Code. The applicant may wish to consider relocating the driveway apron if a more suitable location is available.

☐ **COUNTY ROADS-PARKING LOT- STORM WATER RUNOFF:**

Surfaced parking lots shall have an oil-water filtration system prior to discharge into any County maintained facility.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☒ **COUNTY ROADS- DRIVEWAY & PRIVATE ROAD INTERSECTION VISIBILITY:**

All driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☒ **COUNTY ROADS- PRIVATE ROAD INTERSECTION: AT ETTERSBURG RD**

Any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.

- If the County road has a paved surface at the location of the access road, the access road shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.
- If the County road has a gravel surface at the location of the access road, the access road shall be rocked for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☐ **COUNTY ROADS- ROAD EVALUATION REPORT(S):**

All recommendations in the Road Evaluation Report(s) for County maintained road(s) shall be constructed/implemented to the satisfaction of the Public Works Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.

// END //

ATTACHMENT 2

STAFF ANALYSIS OF THE EVIDENCE SUPPORTING THE REQUIRED FINDINGS

Required Findings: To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

The County Zoning Ordinance, Sections 312-1.1.2 and 312-17.1 of the Humboldt County Code (Required Findings for All Discretionary Permits) specify the findings that are required to grant a Conditional Use Permit:

1. The proposed development is in conformance with the County General Plan;
2. The proposed development is consistent with the purposes of the existing zone in which the site is located;
3. The proposed development conforms with all applicable standards and requirements of these regulations;
4. The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity;
5. The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the midpoint of the density range specified in the plan designation) unless the following written findings are made supported by substantial evidence: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized; and
6. In addition, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The project either:
 - a. Is categorically or statutorily exempt; or
 - b. Has no substantial evidence that the project will have a significant effect on the environment and a negative declaration has been prepared; or
 - c. Has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the CEQA Guidelines have been made.

Staff Analysis of the Evidence Supporting the Required Findings: To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

1. The proposed development must be consistent with the General Plan. The following table identifies the substantial evidence which supports finding that the proposed development is in conformance with all applicable policies and standards of the Humboldt County General Plan.

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Land Use Chapter 4</p> <p>Land Use Designations Section 4.8</p>	<p>Residential Agriculture (RA40): This designation applies to large lot residential uses that typically rely upon on-site water and wastewater systems. Varying densities are reflective of land capabilities and/or compatibility issues. General and Intensive agriculture are allowed uses.</p> <p>Density is 40 acres/unit</p>	<p>The Applicant is proposing to continue an existing commercial cannabis cultivation operation consisting of 15,000 square feet of outdoor area on lands designated as Residential Agriculture. Intensive agriculture and agriculture product processing are allowable use types for this designation.</p> <p>The MMRSA, Health and Safety Code section 11362.777(a) provides that medical cannabis is an agricultural product, subject to extensive state and local regulation. The CMMLUO provides for the cultivation and processing of medical cannabis within the zoning districts where agriculture is a principally permitted use, with limits and in compliance with performance standards that will preserve space for more traditional agricultural activities that supply food and fiber contributing to a diverse economic base. The existing cultivation is considered an agricultural use, and the processing facility and supportive infrastructure may be considered accessory to the agricultural use.</p>

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Circulation Chapter 7	<p>Goals and policies contained in this Chapter relate to a balanced, safe, efficient, accessible and convenient circulation system that is appropriate for each type of unincorporated community (C-G1, C-G2); coordinated planning design, development, operations, and maintenance between the County and other transportation system service providers (C-G3); and access for all transportation mode types with improved opportunities to move goods within, into and out of Humboldt County (C-G4, C-G5)</p> <p>Related policies: C-P3. Consideration of Transportation Impacts in Land Use Decision Making</p>	<p>Access to the site from County maintained Ettersberg Road is via several privately maintained roads; Dutyville Road, Crooked Prairie Road, Upper Mattole Canyon Road. The applicant identified the private roads as developed equivalent to a road category 4 standard. This permit is conditional upon obtaining an encroachment permit from the Department of Public Works and making improvements to driveway and private road intersections if they do not meet visibility standards.</p>
Housing Chapter 8	<p>Goals and policies contained in this Element seek to identify existing and projected housing needs and establish goals, policies, standards and measures for the preservation, improvement, and development of housing.</p> <p>Related policies: H-P3, Development of Parcels in the Residential Land Inventory</p>	<p>The project does not involve residential development, nor is the project site part of the Housing element Residential Land Inventory. However, the project will not preclude any future residential development. The project will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.</p>

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Conservation and Open Space Chapter 10</p> <p>Open Space Section 10.2</p>	<p>Goals and policies contained in this Chapter relate to an Open Space and Conservation Program that is complimentary to other agencies' plans and that preserves the county's unique open spaces (CO-G1, CO-G3)</p> <p>Related policies: CO-P1, Conservation and Open Space Program; CO-P12, Development Review, CO-S1. Identification of Local Open Space Plan, and CO-S2. Identification of the Open Space Action Program</p>	<p>The proposed project parcel is located within Open Space land Plan because the parcel contains a designated Streamside Management Area (SMA), a tributary to Mattole Canyon Creek. The project can be found consistent with the Open Space Plan because the proposed project is consistent with the allowable uses of the Land Use Designations. The proposed cannabis cultivation - an agricultural product - is within land planned for agricultural purposes, consistent with the use of Open Space land for management production of resources. The project activities are located at a sufficient distance from the SMA to avoid posing a risk to that resource.</p>
<p>Conservation and Open Space Chapter 10</p> <p>Biological Resources Section 10.3</p>	<p>Goals and policies contained in this Chapter relate to mapped sensitive habitat areas where policies are applied to protect fish and wildlife and facilitate the recovery of endangered species (BR-G1, Threatened and Endangered Species, BR-G2, Sensitive and Critical Habitat, BR-G3, Benefits of Biological Resources)</p> <p>Related policies: BR-P1. Compatible Land Uses, BR-P5. Streamside Management Areas.</p>	<p>The project site does not contain nor is it near any observations of sensitive species. The parcel where the project will occur does contain streamside management areas that are upstream of an observation of the sensitive foothill yellow legged frog, however the project is designed to have no impacts to this habitat. The site has been evaluated for its potential impacts to aquatic habitat in the Water Resource Protection Plan, and must comply with the mitigations detailed therein.</p> <p>As a condition of approval of this permit, before any ground disturbing activities, the applicant is required to have a qualified professional perform a reconnaissance level biological assessment of the project area. Additionally, a bullfrog management plan will be implemented on the recommendation of the Department of Fish and Wildlife.</p>
<p>Conservation and Open Space Chapter 10</p> <p>Cultural Resources Section 10.6</p>	<p>Goals and policies contained in this Chapter relate to the protection and enhancement of significant cultural resources, providing heritage, historic, scientific, educational, social and economic values to benefit present and future generations (CU-G1, Protection and Enhancement of Significant Cultural Resources)</p>	<p>The project was referred to the Bear River band of the Rohnerville Rancheria. The Tribal Historic Preservation Officer responded by stating that she was not aware of any previously recorded cultural resources on or adjacent to the subject parcel, nor does the parcel appear to be overly likely to contain unrecorded cultural resources. She did request the standard inadvertent archaeological discovery language be included as a condition of</p>

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
	Related policies: CU-P1. Identification and Protection, CU-P2. Native American Tribal Consultation]	approval. That language was included as an ongoing Condition of Approval for this permit.
Conservation and Open Space Chapter 10 Scenic Resources Section 10.6	Goals and policies contained in this Chapter relate to the protection of scenic areas that contribute to the enjoyment of Humboldt County's beauty and abundant natural resources (SR-G1); and a system of scenic highways roadways that increase the enjoyment of, and opportunities for, recreational and cultural pursuits and tourism in the County. (SR-G2) Related policies: SR-S4. Light and Glare	The project involves the cultivation of approximately 15,000 sf of full-term sunlight cultivation on an approximately 80 acre parcel. The outdoor cultivation does not include the use of artificial light the project will not create new sources of light and/or glare. However, seeds are started in a propagation nursery greenhouse in April of each growing season. The CMMLUO requires that mixed-light cultivation activities comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). International Dark Sky Association standards exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries. Compliance with these requirements have been added as conditions of approval to the proposed project.

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Water Resources Chapter 11</p> <p>Stormwater Drainage</p>	<p>Goals and policies contained in this Chapter relate to coordinated watershed planning and land use decision making to advance management priorities (WR-G3, WR-G4, WR-G5); watershed conservation and restoration efforts aimed at delisting water bodies and watersheds which are restored to meet all beneficial uses, including water use, salmon and steelhead recovery plans, recreational activities, and the economy (WR-G1, WR-G, WR-G7, WR-G8, WR-G9); and</p> <p>Related policies: WR-P10. Erosion and Sediment Discharge; WR-P42. Erosion and Sediment Control Measures.</p>	<p>The Project site falls within Tier 2 of the North Coast Regional Water Quality Control Board's (NCRWQCB) Order No. 2015-0023 (Order), which requires preparation of a Water Resources Protection Plan (WRPP) to protect water quality from cannabis cultivation and related activities. The applicant retained Timberland Resource Consultants (TRC) for the preparation of a WRPP. The WRPP has been prepared to describe and address the required elements and compliance with the 12 Standard Conditions established by the Order. The WRPP identified the operation as meeting all of the elements except for the element relating to onsite wastewater systems. Since all of the stormwater related elements are being met, this project conforms to the requirements of the Plan.</p>
<p>Water Resources Chapter 11</p> <p>Onsite Wastewater Systems</p>	<p>Goals and policies contained in this Chapter relate to adequate public water supply as well as onsite wastewater systems and natural and developed storm drainage systems that minimize interference with surface and groundwater flows and storm water pollution (WR-G6, WR-G9, WR G10)</p> <p>Related policies: WR-IM7. Basin Plan Septic Requirements; and IS-P17. On-Site Sewage Disposal Requirements.</p>	<p>The Water Resources Protection Plan (WRPP) states that the site has an existing Onsite Wastewater Treatment System (OWTS) that has not been inspected to determine if it was constructed properly to protect water quality and meet the NCRWQCB's Standard Condition 11 relating to OWTS. A qualified professional shall inspect the OWTS and verify that it is functioning properly and is sized appropriately or an appropriately designed and sized OWTS will need to be sited and installed once pending application is approved by Humboldt County Planning and Building Department. These requirements have been incorporated as conditions of approval.</p>

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Noise Chapter 13	<p>Goals and policies contained in this Chapter discourage incompatible uses within communities and reduce excessive noise through the application of standards (N-G1, N-G2)</p> <p>Related policies: N-P1, Minimize Noise from Stationary and Mobile Sources; N-P4, Protection from Excessive Noise</p>	<p>The subject parcel is not located in an area that requires special noise attenuation measures. The cultivation does not use electricity. A generator is currently used to dry and cure the harvested plant when the solar panels and back-up batteries cannot meet electrical demand. Noise generated from the backup generator shall comply with the standards set forth in Section 55.4.11(o) of the CMLUO and Department Policy Statement #DPS-16-005.</p>
Safety Element Chapter 14 Geologic & Seismic	<p>Goals and policies contained in this Chapter relate to communities that are designed and built to minimize the potential for loss of life and property resulting from natural and manmade hazards; and to prevent unnecessary exposure to areas of geologic instability, floodplains, tsunami run-up areas, high risk wildland fire areas, and airport areas planned and conditioned to prevent unnecessary exposure of people and property to risks of damage or injury (S-G1, S-G2)</p> <p>Related policies: S-P11. Site Suitability, S-P7. Structural Hazards,</p>	<p>The project site is not located in a mapped Alquist-Priolo fault zone nor is subject to liquefaction. The cultivation area occurs on slopes of 15% or less, that are seismically classified low instability. The project also does not pose a threat to public safety related from exposure to natural or manmade hazards. The applicant must secure a grading permit and as part of the permit the applicant will, at a minimum, incorporate the standard erosion control measures enumerated in the General Plan. These measures are a condition of approval.</p>
Safety Element Chapter 14 Flooding	<p>Goals and policies contained in this Chapter relate to the use of natural drainage channels and watersheds that are managed to minimize peak flows in order to reduce the severity and frequency of flooding. (S-G3)</p> <p>Related policies include: S-P12, Federal Flood Insurance Program; S-P13, Flood Plains; S-P15, Construction Within Special Flood Hazard Areas</p>	<p>The subject site is outside any mapped flood hazard areas. The project site is not within a mapped dam or levee inundation area and, at more than 1200 feet above mean sea level, is outside the areas subject to tsunami run-up.</p>

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Safety Element Chapter 14</p> <p>Fire Hazards</p>	<p>Goals and policies of this Chapter encourage development designed to reduce the risk of structural and wildland fires supported by fire protection services that minimize the potential</p> <p>Related policies: S-P19, Conformance with State Responsibility Areas (SRA) Fire Safe Regulations;</p>	<p>The subject property is located within the State Fire Responsibility Area where the State of California has the primary financial responsibility for the prevention and suppression of wildland fires. CAL FIRE comments recommended compliance with the requirements of the County's Fire Safe Regulations. The Humboldt County Fire Safe Ordinance (Section 3111-1 et seq.) establishes development standards for minimizing wildfire danger in state responsibility designated areas. The applicant has developed an off-stream of pond that stores more water than is needed for irrigation and will provide water for fire protection.</p>
<p>Air Quality Chapter 15</p>	<p>Goals and policies contained in this Chapter relate to improved air quality to meet current and future state and federal standards, including attainment of particulate matter requirements (AQ-G1, AQ-G2, AQ-G3) and the successful reduction of greenhouse gas emissions to levels consistent with state and federal requirements (AQ-G4)</p> <p>Related policies: AQ-P4, Construction and Grading Dust Control, AQ-S1, Construction and Grading Dust Control, AQ-P7, Interagency Coordination.</p>	<p>As a condition of project approval, applications for grading and or building permits shall be referred to the North Coast Air Quality Management District (NCAQMD) for review and consultation. Dust control practices during construction and grading shall achieve compliance with NCAQMD fugitive dust emission standards.</p>

2. Zoning Compliance and 3. Conforms with applicable standards and requirements of these regulations: The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards in the Humboldt County Zoning Regulations.

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
§312-1.1.2 Legal Lot Requirement	Development permits shall be issued only for a lot that was created in compliance with all applicable state and local subdivision regulations.	A Certificate of Subdivision Compliance was recorded for this parcel on June 19, 2018 as Recorder's Document No. 2018-011240. There is no evidence indicating there have been any subsequent acts to merge or divide this parcel. Therefore, the subject parcel was lawfully created in its current configuration and can be developed as proposed.
§314-7.3 Forestry Recreation (FR) §314-17.1 "B" Combining Zone	<p>Forestry Recreation (FR-B-5(40)): Intended to be applied to forested areas of the County in which timber production and recreation are the desirable predominant uses and agriculture is the secondary use, and in which protection of the timber and recreational lands is essential to the general welfare.</p> <p>B - Special Building Site: Intended to be combined with any principal zone in which lot area and yard requirements should be modified. In B-5 zones, minimum parcel size is determined as specified on zoning maps designating in any such zone.</p>	<p>The applicant is seeking a Conditional Use Permit for an existing 15,000 square foot cannabis cultivation operation on a property zoned FR-B-5(40). The proposed use is specifically allowed with Conditional Use Permit in this zoning district and under Section 314-55.4.8.2.2 of the CMMLUO.</p> <p>The site will be evaluated by a professional forester to determine if any unauthorized timber conversion occurred in the development of the cultivation site. If a conversion did occur without the requisite conversion exemption from CalFire, the RPF will prepare a Timber Conversion Report and make recommendations as to bringing the conversion into compliance with provisions of the Forest Practices Act. The report and RPF's recommendations will be forwarded to CalFire. The approved recommendations, including any requirements of CalFire, will be implemented as a condition of the provisions permit.</p>

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
Minimum Lot Size	One acre	The subject parcel is approximately 80 acres.
Maximum Ground Coverage	None specified	N/A
Minimum Lot Width	200 feet	1300 feet
Maximum Lot Depth	None specified	N/A
Setbacks Front: 20 feet Rear: 20 feet Side: 10 feet SRA setback from all property lines: 30 feet		Front, south property line: plot plan shows a greater than 600 foot setback. Rear, north property line: plot plan shows a greater than 600 foot back. Side, east and west property lines: plot plan shows a greater than 600 foot back from west property line and a greater than 30 foot setback from the east property line is easily inferred.
Max. Building Height	35 feet	
§314-61.1 Streamside Management Area (SMA)	Purpose: to provide minimum standards pertaining to the use and development of land located within Streamside Management Areas (SMAs) and other wet areas (OWA) to implement the County's Open Space Element of the General Plan.	The project cultivation area is located on a flat site on the nose of a ridge that runs through the parcel. Streamside management areas have been identified in the project site map and all project operations are outside of the required buffers.

314-55.4 et seq. HCC: Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use Inland Land Use Regulation (CMMLUO)		
§ 314-55.4.8.2.2 Existing Outdoor and Mixed-Light Cultivation Areas	In...FR zoning districts on parcels one acre or larger, outdoor and mixed-light cultivation may be permitted.	The Cultivation Area verification by the Planning Division confirms evidence of 15,000 sq. ft. of cultivation prior to January 1, 2016. In accordance with the referenced section the applicant has applied for the necessary CUP due to the parcel being greater than one acre in size and the cultivation area being greater than 10,000 square feet outdoor.

§314-55.4.8.2	In all zones where cultivation is allowed consisting of timberland, the commercial cultivation of cannabis for medical use shall only be permitted within a 3-acre conversion exemption area, or non-timberland open area, subject to the conditions and limitations set forth in this Section.	<p>Per CalFire's May 17, 2017 comments, "[c]onversion of timberland takes place when trees are removed and the land use changes even without the sale, barter, exchange, or trade of trees". A review of aerial imagery on the Humboldt County WebGIS shows the parcel has a naturally open area where domestic and cultivation activities have occurred. Tree removal that could constitute a timber conversion possibly occurred between 2005 and 2010. Compliance with the Forest Practices Act will be evaluated by a licensed professional forester who will make recommendations for further corrective actions as necessary, subject to review and approval by CalFire. No observed conversion has occurred since the adoption of the CMMLUO.</p> <p>No trees are proposed to be removed as part of the project.</p>
§314-55.4.8.10 Permit Limit	No more than four commercial cannabis activity permits may be issued to a single person, as defined in the referenced section.	According to records maintained by the Planning Department, the party who is the Robert Trell Messenger applicant, holds two other permits and is entitled to four. This application is for one permit.
§314-55.4.9.1 Accessory Processing	Processing for cultivation requiring a Special Permit or Use Permit will be considered in the Use Permit application.	All commercial medical cannabis cultivated will be processed (dried and cured) in the Ag building to the North of the cultivation area. Trimming and packaging will occur off-site at a licensed third party processing facility. All product harvested on-site will be processed on-site and no product that was not harvested on-site will be processed on-site.
§314-55.4.9.4 Pre-Application Registration	Existing cultivation sites shall register with the County within 180 days of the effective date of this ordinance.	A Commercial Cannabis Registration Form for the site was filed with the Planning Division on November 17, 2016, and within the specified window.
§314-55.4.10 Application Requirements	Identifies the Information Required for All Applications	Attachment 3 identifies the information submitted with the application, and shows all the required information was received.
§314-55.4.11 Performance Standards	Identifies the Performance Standards for Cannabis Cultivation Activities	All the applicable performance standards are included as Conditions of project approval. They are required to be met throughout the timeframe of the permit.

§314-55.4.11.c Performance Standards-Water	Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.	The applicant collects rainwater in a catchment pond for irrigation. Domestic water is sourced from a surface water diversion. This diversion has been registered with the Division of Water Rights and has been issued a Lake and Streambed Alteration Agreement. Based on the submitted evidence, the project complies with the referenced section.
§314-55.4.11.d Performance Standards- Setbacks	The area of cannabis cultivation and on-site processing shall be setback at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, public park, or tribal cultural resources (TCRs).	The applicant's site plan shows that the cultivation area conforms to the 600-foot setback for schools, school bus stops, parks, or places of religious worship. The Tribal Historic Preservation Officer who reviewed the project indicated that there were not any nearby Tribal Cultural Resources.
§314-55.4.11.o Performance Standards- Generator Noise	The noise produced by a generator used for cannabis cultivation shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species, when generator use is to occur in the vicinity of potential habitat. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service	As discussed above the primary power source for the project will be solar power with a small portable generator used during periods of high electrical demand. The large parcel, and interior location of project activities prevents the generator noise from being heard by neighbors. The parcel is not located near any known Marbled Murrelet or Spotted Owl occupied habitat locations. Therefore, the project conforms to the referenced standard.
§314-55.4.17 Sunset Date	No application for any Use Permit pursuant to the CMMLUO shall be processed for issuance or approval that is received after December 31, 2016.	The applicant filed the application on December 15, 2016.

4. Public Health, Safety and Welfare, and 6. Environmental Impact: The following table identifies the evidence which supports finding that the proposed development will not be detrimental to the public health, safety and welfare or materially injurious to properties or improvements in the vicinity, and will not adversely impact the environment.

Code Section	Summary of Applicable Requirements	Evidence that Supports the Required Finding
§312-17.1.4	The proposed development will not be detrimental to the public health, safety and welfare, and will not be materially injurious to properties or improvements in the vicinity.	The Department finds that the proposed project will not be detrimental to the public health, safety and welfare since all reviewing referral agencies have approved the proposed project design. The project as proposed and conditioned is consistent with the general plan and zoning ordinances; and the proposed project is not expected to cause significant environmental damage.
§§15301 of CEQA	Categorically exempt from State environmental review.	CEQA Exemption Sections Class 1, 15301 (Existing Facilities) of the State CEQA Guidelines. Per the submitted evidence and agency responses, none of the exceptions to the Categorical Exemption per Section 15300.2 of the State CEQA Guidelines apply to this project.

5. Residential Density Target: The following table identifies the evidence which supports finding that the proposed project will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
17.1.5 Housing Element Densities	The proposed development shall not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the midpoint of the density range specified in the plan designation), except where: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.	As discussed above the property was not included in the 2014 Housing Inventory because of the land use designation and zoning. It is developed with a single family residence which will remain. The project is in conformance with the standards in the Housing Element.

ATTACHMENT 3

Applicant's Evidence In Support of the Required Findings

Attachment 3 includes a listing of all written evidence which has been submitted by the applicant in support of making the required findings. The following materials are on file with the Planning Division:

1. The name, contact address and phone number(s) of the applicant. (Application form on file)
2. If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement. (On file)
3. Site plan showing the entire parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within ¼ mile (1,320 ft.) of a school, school bus stop, church or other place of religious worship, public park, or Tribal Cultural Resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet. (Revised July 17, 2018, Attached)
4. A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of cultivation activities (outdoor, indoor, mixed light), the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable, and schedule of activities during each month of the growing and harvesting season. (Revised July 17, 2018, Attached)
5. Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable. (On file)
6. Description of water source, storage, irrigation plan, and projected water usage. (On file)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. (On file)
8. If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife. (On file)
9. If the source of water is a well, a copy of the County well permit, if available. (Not applicable)

10. If the parcel is zoned FR, U or TPZ, or involves the conversion of timberland as defined under section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that the landowner has completed a civil or criminal process and/or entered into a negotiated settlement with CAL-FIRE. (Required as a Condition of Approval)
11. Consent for onsite inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter. (On file)
12. For indoor cultivation facilities, identify the source of electrical power and how it will meet with the energy requirements in section 55.4.8.2.3, and plan for compliance with applicable Building Codes. (Not applicable)
13. Acknowledge that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed will not support diversions for irrigation. (On file)
14. Acknowledge that the county reserves the right to engage with local Tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the Tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The county shall request that a records search be performed through the California Historical Resources Information System (CHRIS). (On-file)
15. WDID 1B1612214CHUM Water Resource Protection Plan, dated November 28, 2016. (Attached)
16. DEH Worksheet. (on file)
17. Revised Road Evaluation Report submitted June 27, 2018. (Attached)

Cultivation & Operations Overview

Conditional Use Permit CUP 16-441

APN: 221-151-010

Project Description: The applicant is seeking a Conditional Use Permit under the CMMLUO to permit existing outdoor cannabis cultivation up to 15,000 ft², ancillary processing activities, appurtenant infrastructure/facilities. Date stamped air photo/maps are provided to show cultivated areas in existence prior to January 1, 2016 encompassing an area totaling 16,000 square feet.

The applicant acknowledges that the commercial cannabis activity approval being sought under the aforementioned conditional use permit, pursuant to CMMLUO, is subject to compliance with all other applicable Humboldt County zoning and land use regulations, as well as other applicable provisions of the Humboldt County Code and applicable state laws.

A determination of compliance will require multi-agency review of activities/development described in the aforementioned permit application and in some cases, site inspections.

If development and/or activities on the subject parcel are determined, for some reason, to be out of compliance with any applicable State or County code, regulation or policy, a compliance agreement can be formulated between the applicant and relevant agency or agencies, which includes a compliance timeline whereby operations may continue under a "*Provisional Clearance or Permit*" and corrective action is initiated to achieve compliance under agreed upon terms.

Parcel Information: The subject parcel (APN: 221-151-010) is approximately 80 acres, zoned FR-B-5(40) with AL40 framework designation. It is located at 8045 Upper Mattole Canyon Road near the community of Whitethorn.

Topography/Landscape: Residence development and cultivation operations are confined to a nearly level, semi-cleared area of approximately 7 acres in the central portion of the subject parcel. This area is at the highest elevation (1300 feet) on the parcel. The surrounding landscape slopes away in all directions and supports native tree species.

Surface Water Features: There are several Class III watercourses and one Class II watercourse on the property, all of which are unnamed tributaries to Mattole Canyon Creek, which is a tributary of the Mattole River. They are greater than 350 feet from cultivation areas.

Roads/Stream Crossings/Easements: Site assessment revealed that roads on the property are well maintained with adequate surfacing and drainage features to prevent erosion and sediment contribution to receiving waters. Stream crossings/culverts on the subject parcel were installed by the Mattole Restoration Council and are sized to function adequately during a 100-year peak stream flow.

Utilities: Electrical power is supplied to the subject parcel by solar panels in conjunction with (12) – 24 volt L16 batteries. An auxiliary Honda portable generator is kept onsite for back up purposes. Blue Star Gas in Garberville supplies propane. Domestic wastewater is disposed of in a conventional onsite wastewater disposal system which serves the residence.

Water Supply: Agricultural water is sourced from an off-stream rainwater catchment pond with an approximate capacity of 645,000 gallons located south of the cultivation area. Domestic water is sourced from a permitted diversion, 1600-2016-0028-R1, which is located on a Class II watercourse at the southern extent of the property.

Water Storage: Water storage consists of a 3,500 gallon hard plastic tank, a 2,200 gallon hard plastic tank (both installed 1997) and two off-stream rain catchment ponds; the pond used for agriculture has an approximate capacity of 645,000 gallons, and is capable of meeting peak agriculture demands.

Development Features: The Site Plan included has a legend attached referencing structures and other development on the subject parcel.

Cultivation: Historic cultivation occurring on the subject parcel occurred at two (2) separate areas which were both located in the clearing which accommodates residential development. One site was approximately 15,000 ft² and the other was 1,000 ft². Cultivation in the smaller area (1000 ft²) is no longer occurring. Approval of the 16,000 ft² cultivation area sought under this conditional use permit is limited to a single area which simply enlarges the 15,000 ft² cultivation by 1,000 ft². A 600 foot buffer zone around the cultivation area is shown on the site plan.

Peak Water Demand: The peak water demand projected to maintain plants for the summer months of July through September is 31,000 gallons per month. The "Monthly Water Use" table below shows estimated water use throughout the grow season. Water usage will be monitored and recorded by use of in-line totalizing flow meters in accordance with applicable regulations.

January-March: No Water Use

	<i>16,000 ft² Cultivation</i>	<i>Plant Stage</i>	<i>Total Gallons</i>
<i>April</i>	<i>1,500 gallons</i>	<i>seedling</i>	<i>1,500</i>
<i>May</i>	<i>18,600 gallons</i>	<i>seedling/veg</i>	<i>18,600</i>
<i>June</i>	<i>24,000 gallons</i>	<i>vegetative</i>	<i>24,000</i>
<i>July</i>	<i>31,000 gallons</i>	<i>vegetative</i>	<i>31,000</i>
<i>August</i>	<i>31,000 gallons</i>	<i>vegetative</i>	<i>31,000</i>
<i>September</i>	<i>24,000 gallons</i>	<i>vegetative/flower</i>	<i>24,000</i>
<i>October</i>	<i>18,600 gallons</i>	<i>flower</i>	<i>18,600</i>

Irrigation Method: Gardens are hand watered using conventional garden hoses. Water use is carefully monitored by direct observation to ensure no over-watering occurs. Mulch is carefully placed as a top dressing to optimize soil water retention.

Irrigation Runoff/Erosion control: Hand watering ensures that water delivery to any specific point will not be unattended but carefully regulated. It is very unlikely that residual discharge from overwatering would occur from hand watering. In the unlikely event that residual discharge did occur it would be absorbed upon contact with permeable soil surrounding the cultivation area. Cultivation activities are limited to the immediate area surrounding cultivation areas and conducted so products/materials are kept confined and not allowed to spread. The ground surface within and around the cultivation areas is formed and managed year-round to prevent any movement of entrained constituents such as fine sediment, fertilizer or other organic particles beyond the cultivation area.

Watershed Protection: The Cultivation Areas on the subject parcel meet applicable setback requirements to watercourses, riparian zones or wetlands (see site plan). Sheet flow of rainwater or transport of cultivation byproducts over permeable, gently sloped soils in and around the cultivation areas is unlikely. Vegetative buffers have been maintained at natural slope around entire perimeter of cleared/developed area. **Watershed protection** will be ensured by adherence to measures prescribed in the Water Resources Protection Plan (WDID: 1B161215CHUM) developed specifically for this parcel by Timberland Resource Consultants under Regional Water Quality Control Board WDR Order # R1-2015-0023 enrollment requirements. Included with this submittal is a signed copy of Appendix A, "Enrollment Notice of Intent".

Once enrolled under R1-2015-0023, participants are required to engage in ongoing monitoring, reporting and maintenance including periodic site inspections and reviews of operational practices to ensure regulatory requirements related to the following listed items are being met:

<i>Site maintenance, erosion control, and drainage features</i>	<i>Stream crossing maintenance</i>
<i>Riparian and wetland protection and management</i>	<i>Spoils management</i>
<i>Water storage and use</i>	<i>Irrigation runoff</i>
<i>Fertilizers and soil amendments</i>	<i>Pesticides and herbicides</i>
<i>Petroleum products and other chemicals</i>	<i>Cultivation-related wastes</i>
<i>Refuse and human waste</i>	

Additionally, participants ensure that management measures and controls are effectively protecting water resources, and that any newly developing problems representing a water quality concern are identified and corrected quickly.

Fertilizers, Pesticides, other Regulated products: Fertilizers/Amendments are used to recondition soil at the beginning of each grow season.

Neem Seed Meal 6-1-2

Bat Guano 9-3-1

VermiBlend Soil Amendment 1-1.5-0.6

Earthworm Castings 1.25-0-0

Once brought to the site, the products are blended into raised beds. The total amount of any leftover products (combined weight) is not expected to exceed 400 lbs. and it would be stored atop pallets inside the shop adjacent to the garden. This is an outdoor cultivation and pesticides/herbicides/fungicides are not used.

The applicant acknowledges that the storage and/or use of certain materials in specified volumes and/or weights will be subject to regulation through Humboldt County Division of Environmental Health CUPA and may require: submittal of inventories for those materials, documentation of emergency and training procedures, maintenance of hazardous waste disposal records, obtaining an EPA generator ID number and be subject to site inspections.

Cultivation Related Wastes: Cultivation related wastes are sorted such that compostable materials are recycled/composted onsite within a small area equipped with perimeter and top containment to prevent unwanted movement of materials due to weather conditions or animals/pests. Other materials, unsuitable for composting, are stored in conventional lid trash containers along with domestic garbage and hauled to an approved transfer station/disposal facility as needed. Soils is carefully managed and reused.

Human Waste: Normal day to day operations shall be carried out by individuals residing on the subject parcel. **Restrooms** within the residence/dwelling on the subject parcel are within close proximity to all cultivation areas and are easily accessed by the individuals on the property as needed.

Cultivation Operations:

March	General site maintenance and preparation.
April	Plants are started from seed in small 6-pack containers inside of a small "Starter" greenhouse.
May	Outdoor beds are amended with Neem Meal, VermiBlend, Bat Guano and Worm Castings; Plants are transplanted into 2 gallon pots. At the end of the month plants are removed from 2 gallon pots and place into outdoor beds
June	General garden care and maintenance
July	General garden care and maintenance
August	General garden care and maintenance
September	General garden care and maintenance
October	General garden care and maintenance; harvest at peak ripeness
November	Clean cultivation area and prepare for winter.

Processing: Plants are harvested at peak ripeness and immediately transferred to the Ag Barn where they are hung to dry. Professionally prepared plans for this structure are being developed to facilitate issuance of a permit from the Humboldt County Building Inspection Division.

Operations are conducted such that all surfaces, equipment and utensils which come into contact with harvested product are maintained in a clean, sanitary condition at all times.

Trimming and further handling of dried product will be conducted at an approved off-site licensed facility.

Security: Access to the parcel is restricted by locked metal gate at the driveway which is kept locked at all times. Property owner/occupants are normally present on the parcel.

Water Resource Protection Plan

WDID: 1B161214CHUM

APN: 221-151-010

Submitted to:

Robert Trell Messenger

Prepared by:

Timberland Resource Consultants

165 South Fortuna Blvd

Fortuna, CA 95540

11/28/2016

Purpose

This Water Resource Protection Plan (WRPP) has been prepared on behalf of the property owner, Robert Trell Messenger, for the Humboldt County property identified as parcel number 221-151-010, by agreement and in response to the California Water Code Section 13260(a), which requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate regional water board a Report of Waste Discharge (ROWD) containing such information and data as may be required by the Regional Water Board. The Regional Water Board may waive the requirements of Water Code section 13260 for specific types of discharges if the waiver is consistent with the Basin Plan and in the public interest. Any waiver is conditional and may be terminated at any time. A waiver should include monitoring requirements to verify the adequacy and effectiveness of the waiver's conditions. Order R1-2015-0023 conditionally waives the requirement to file a ROWD for discharges and associated activities described in finding 4.

Scope of Report

Order No. R1-2015-0023 states that "Tier 2 Dischargers and Tier 3 Dischargers who intend to cultivate cannabis before, during, or following site cleanup activities shall develop and implement a water resource protection plan that contains the elements listed and addressed below. Dischargers must keep this plan on site, and produce it upon request by Regional Water Board staff. Management practices shall be properly designed and installed, and assessed periodically for effectiveness. If a management measure is found to be ineffective, the plan must be adapted and implemented to incorporate new or additional management practices to meet standard conditions. Dischargers shall certify annually to the Regional Water Board individually or through an approved third party program that the plan is being implemented and is effectively protecting water quality, and report on progress in implementing site improvements intended to bring the site into compliance with all conditions of this Order."

Methods

The methods used to develop this WRPP include both field and office components. The office component consisted of aerial photography review and interpretation, existing USGS quad map review, GIS mapping of field data, review of on-site photography points, streamflow calculations, and general planning. The field component included identifying and accurately mapping all watercourses, wet areas, and wetlands located downstream of the cultivation areas, associated facilities, and all appurtenant roads accessing such areas. An accurate location of the Waters of the State is necessary to make an assessment of whether potential and existing erosion sites/pollution sites have the potential to discharge waste to an area that could affect waters of the State (including groundwater). Next, all cultivation areas, associated facilities, and all appurtenant roads accessing such areas were assessed for discharges and related controllable water quality factors from the activities listed in Order R1-2015-0023, Finding 4a-j. The field assessment also included an evaluation and determination of compliance with the Standard Conditions per Provision I.B of Order No. R1-2015-0023. The water resource protection plans required under Tier 2 are meant to describe the specific measures a discharger implements to achieve compliance with standard conditions. Therefore, all required components of the water resource protection plan per Provision I.B of Order No. R1-2015-0023 were physically inspected and evaluated. A comprehensive summary of each Standard Condition as it relates to the subject property is appended.

Property Description

The property assessed is an 80-acre parcel that includes one residential structure and associated cannabis cultivation. The property is located approximately 3.2 miles northeast of Ettersburg, California at an elevation of approximately 1,300 feet. The legal description of the property is the Western ½ of the Southeast ¼ of Section 28, Township 3 South, Range 2 East, HB&M, in the Ettersburg 7.5' Quadrangle. There are several Class III watercourses and one Class II watercourse located on the property, all of which are unnamed tributaries to Mattole Canyon Creek, tributary of the Mattole River.

Monitoring Plan

Tier 2 Dischargers shall include a monitoring element in the water resource protection plan that at a minimum provides for periodic inspection of the site, checklist to confirm placement and efficacy of management measures, and document progress on any plan elements subject to a time schedule. Tier 2 Dischargers shall submit an annual report (Appendix C) by March 31 of each year that documents implementation and effectiveness of management measures during the previous year. Tier 2 annual reporting is a function that may be provided through an approved third party program.

Monitoring of the site includes visual inspection and photographic documentation of each feature of interest listed on the site map, with new photographic documentation recorded with any notable changes to the feature of interest. At a minimum, all site features must be monitored annually, to provide the basis for completion of the annual re-certification process. Additionally, sites shall be monitored at the following times to ensure timely identification of changed site conditions and to determine whether implementation of additional management measures is necessary to iteratively prevent, minimize, and mitigate discharges of waste to surface water: 1) just prior to October 15 to evaluate site preparedness for storm events and storm water runoff, 2) following the accumulation of 3" total precipitation or by November 15, whichever is sooner, and 3) following any rainfall event with an intensity of 3" precipitation in 24 hours. Precipitation data can be obtained from the National Weather Service Forecast Office (e.g. by entering the zip code of the parcel location at <http://www.srh.noaa.gov/forecast>).

Monitoring Plan Reporting Requirements

Order No. R1-2015-0023, Appendix C must be submitted to the Regional Water Board or approved third party program upon initial enrollment in the Order (NOI) and annually thereafter by March 31. Forms submitted to the Regional Water Board shall be submitted electronically to northcoast@waterboards.ca.gov. If electronic submission is infeasible, hard copies can be submitted to: North Coast Regional Water Quality Control Board, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403.

Assessment of Standard Conditions

Assessment of Standard Conditions consisted of field examinations on October 14, 2016 and November 8, 2016. The examination evaluated areas near, and areas with the potential to directly impact, watercourses for sensitive conditions including, but not limited to, existing and proposed roads, skid trails and landings, unstable and erodible watercourse banks, unstable upslope areas, debris, jam potential, inadequate flow capacity, changeable channels, overflow channels, flood prone areas, and riparian zones. Field examinations also evaluated all roads and trails on the property, developed areas, cultivation sites, and any structures and facilities appurtenant to cultivation on the property. Anywhere the Standard Conditions are not met on the property, descriptions of the assessments and the prescribed treatments are outlined following each associated section below.

Summary of Standard Conditions Compliance

1. Site maintenance, erosion control, and drainage features Y☒/N☐
2. Stream crossing maintenance Y☒/N☐
3. Riparian and wetland protection and management Y☒/N☐
4. Spoils management Y☒/N☐
5. Water storage and use Y☒/N☐
6. Irrigation runoff Y☒/N☐
7. Fertilizers and soil amendments Y☒/N☐
8. Pesticides and herbicides Y☒/N☐
9. Petroleum products and other chemicals Y☒/N☐
10. Cultivation-related wastes Y☒/N☐
11. Refuse and human waste Y☐/N☒

A. Standard Conditions, Applicable to All Dischargers

1. Site Maintenance, erosion control and drainage features (Compliance: Y☒ / N☐)

- a. Roads shall be maintained as appropriate (with adequate surfacing and drainage features) to avoid developing surface ruts, gullies, or surface erosion that results in sediment delivery to surface waters.

Physical reconnaissance of the property revealed that all roads on the property are maintained with adequate surfacing and drainage features to prevent erosion that results in sediment delivery to surface waters.

- b. Roads, driveways, trails, and other defined corridors for foot or vehicle traffic of any kind shall have adequate ditch relief drains or rolling dips and/or other measures to prevent or minimize erosion along the flow paths and at their respective outlets.

All roads and trails have adequate measure in place to prevent or minimize erosion along their flow paths and at their respective outlets.

- c. Roads and other features shall be maintained so that surface runoff drains away from potentially unstable slopes or earthen fills. Where road runoff cannot be drained away from an unstable feature, an engineered structure or system shall be installed to ensure that surface flows will not cause slope failure.

Physical reconnaissance of the property revealed no unstable areas per 14CCR 895.1.

- d. Roads, clearings, fill prisms, and terraced areas (cleared/developed areas with the potential for sediment erosion and transport) shall be maintained so that they are not hydrologically connected¹, as feasible, from surface waters, including wetlands, ephemeral, intermittent and perennial streams.

Physical reconnaissance of the property revealed that all roads, clearings, fill prisms, and terraced areas are not hydrologically connected to surface waters.

- e. Ditch relief drains, rolling dip outlets, and road pad or terrace surfaces shall be maintained to promote infiltration/dispersal of outflows and have no apparent erosion or evidence of soil transport to receiving waters.

All ditch relief drains, road pads, and terrace surfaces are maintained to promote infiltration/dispersal of outflows and have no apparent erosion or evidence of soil transport to receiving waters.

- f. Stockpiled construction materials are stored in a location and manner so as to prevent their transport to receiving waters.

There were no stockpiled construction materials observed during the site assessment.

2. Stream Crossing Maintenance (Compliance: Y ☒ / N ☐)

- a. Culverts and stream crossings shall be sized to pass the expected 100-year peak streamflow.

All culverts and stream crossings are adequately sized to pass the expected 100-year peak streamflow. All culverts and stream crossings were installed by the Mattole Restoration Council.

- b. Culverts and stream crossings shall be designed and maintained to address debris associated with the expected 100-year peak streamflow.

All culverts and stream crossings appear to be designed to address debris associated with the expected 100-year peak streamflow. The Discharger shall maintain all culverts and stream crossings to minimize the potential of them becoming plugged with debris during peak streamflow.

- c. Culverts and stream crossings shall allow passage of all life stages of fish on fish-bearing or restorable streams, and allow passage of aquatic organisms on perennial or intermittent streams.

¹ Connected roads are road segments that deliver road surface runoff, via the ditch or road surface, to a stream crossing or to a connected drain that occurs within the high delivery potential portion of the active road network. A connected drain is defined as any cross-drain culvert, water bar, rolling dip, or ditch-out that appears to deliver runoff to a defined channel. A drain is considered connected if there is evidence of surface flow connection from the road to a defined channel or if the outlet has eroded a channel that extends from the road to a defined channel. (http://www.forestsandfish.com/documents/Road_Mgmt_Survey.pdf)

All stream crossings on the property are on Class II and Class III watercourses. There are no Class I watercourses on the property. All culverts and stream crossings appear to allow passage of aquatic organisms.

- d. Stream crossings shall be maintained so as to prevent or minimize erosion from exposed surfaces adjacent to, and in the channel and on the banks.

At the time of assessment, all stream crossings appear to be designed and maintained so as to prevent or minimize erosion from exposed surfaces adjacent to, and in the channel and on the banks.

- e. Culverts shall align with the stream grade and natural stream channel at the inlet and outlet where feasible.²

All culverts align with stream grade and natural stream channel at the inlet and outlet.

- f. Stream crossings shall be maintained so as to prevent stream diversion in the event that the culvert/crossing is plugged, and critical dips shall be employed with all crossing installations where feasible.³

All stream crossings appear to be maintained so as to prevent stream diversion in the event that the culvert/crossing becomes plugged. The Discharger shall maintain all culverts and stream crossings to prevent them from becoming plugged.

3. Riparian and Wetland Protection and Management (Compliance: Y☒/ N☐)

- a. For Tier 1 Dischargers, cultivation areas or associated facilities shall not be located within 200 feet of surface waters. While 200 foot buffers are preferred for Tier 2 sites, at a minimum, cultivation areas and associated facilities shall not be located or occur within 100 feet of any Class I or II watercourse or within 50 feet of any Class III watercourse or wetlands. The Regional Water Board or its or its Executive Officer may apply additional or alternative⁴ conditions on enrollment, including site-specific riparian buffers and other BMPs beyond those identified in water resource protection plans to ensure water quality protection.

All cultivation areas and associated facilities are located no closer than 200 feet from the nearest watercourse or wetland.

² At a minimum, the culvert shall be aligned at the inlet. If infeasible to align the culvert outlet with the stream grade or channel, outlet armoring or equivalently effective means may be applied.

³ If infeasible to install a critical dip, an alternative solution may be chosen.

⁴ Alternative site-specific riparian buffers that are equally protective of water quality may be necessary to accommodate existing permanent structures or other types of structures that cannot be relocated.

- b. Buffers shall be maintained at natural slope with native vegetation.

Physical reconnaissance of the property revealed that all buffers have been maintained at natural slope with native vegetation.

- c. Buffers shall be of sufficient width to filter wastes from runoff discharging from production lands and associated facilities to all wetlands, streams, drainage ditches, or other conveyances. Riparian and wetland areas shall be protected in a manner that maintains their essential functions, including temperature and microclimate control, filtration of sediment and other pollutants, nutrient cycling, woody debris recruitment, groundwater recharge, streambank stabilization, and flood peak attenuation and flood water storage.

All buffers appear to be of sufficient width to filter wastes from runoff discharging from production lands and associated facilities to all wetlands, streams, drainage ditches, or other conveyances. All riparian and wetland areas appear to be protected in a manner that maintains their essential functions.

4. Spoils Management (Compliance: Y ☒ / N ☐)

- a. Spoils⁵ shall not be stored or placed in or where they can enter any surface water.

No spoils were observed anywhere on the property at the time of the assessment. If spoils are stored on the property in the future, the Discharger shall not store or place them where they can enter any surface water.

- b. Spoils shall be adequately contained or stabilized to prevent sediment delivery to surface waters.

If at any time spoils are stored on the property, they shall be adequately contained or stabilized to prevent sediment delivery to surface waters

- c. Spoils generated through development or maintenance of roads, driveways, earthen fill pads, or other cleared or filled areas shall not be sidecast in any location where they can enter or be transported to surface waters.

No spoils generated through development or maintenance of roads, driveways, earthen fill pads, or cleared or filled areas were observed anywhere on the property.

⁵ Spoils are waste earthen or organic materials generated through grading or excavation, or waste plant growth media or soil amendments. Spoils include but are not limited to soils, slash, bark, sawdust, potting soils, rock, and fertilizers.

5. Water Storage and Use (Compliance: Y☒/ N☐)

- a. 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 by operations, instream flow requirements and/or needs in the watershed, defined at the scale of a HUC-12⁶ watershed or at a smaller hydrologic watershed as determined necessary by the Regional Water Board Executive Officer.

Cultivation on the property consists of an outdoor garden with 222 full-term plants in 100 gallon smart pots. Total cultivation area on the property equates to approximately 17,850 square feet. The Discharger states that average water use for cultivation purposes is approximately 650 gallons per day. Water for cultivation purposes is sourced from an off-stream rainwater catchment pond located south of the cultivation area. The pond is an irregular oval shape at approximately 115 feet long by 100 feet wide by 15 feet deep, has an approximate capacity of 645,000 gallons, and was constructed by Wilcox Interprises. Water for domestic use is sourced from a permitted diversion, 1600-2016-0028-R1, which is located on a Class II watercourse at the southern extent of the property. All water diversion and use is occurring per the specifications in the CDFW agreement.

- b. Water conservation measures shall be implemented. Examples include use of rainwater catchment systems or watering plants with a drip irrigation system rather than with a hose or sprinkler system.

The Discharger utilizes an off-stream rainwater catchment pond as the source for all water used for irrigation.

- c. For Tier 2 Dischargers, if possible, develop off-stream storage facilities to minimize surface water diversion during low flow periods.

Water storage on the property consists of one 3,500 gallon hard plastic tank and two off-stream rainwater catchment ponds. The rainwater catchment pond being used as the water source for irrigation has an approximate capacity of 645,000 gallons, and is capable of providing a more than an adequate amount of water for cultivation purposes.

- d. Water is applied using no more than agronomic rates.⁷

The Discharger states that water is applied using no more than agronomic rates. Timberland Resource Consultants observed no conditions to suggest otherwise.

⁶ See definition and link to maps at: <http://water.usgs.gov/GIS/huc.html>

⁷ "Agronomic rates" is defined as the rates of fertilizer and irrigation water that a plant needs to enhance soil productivity and provide the crop or forage growth with needed nutrients for optimum health and growth, without having any excess water or nutrient percolate beyond the root zone.

- e. Diversion and/or storage of water from a stream should be conducted pursuant to a valid water right and in compliance with reporting requirements under Water Code section 5101.

Water for domestic use is sourced from a permitted diversion, 1600-2016-0028-R1, which is located on a Class II watercourse at the southern extent of the property. The off-stream rainwater catchment ponds are capable of providing a more than adequate amount of water for irrigation without the need to divert to storage, thus there is no need for a water appropriation or Small Irrigation Registration. It is recommended that a water meter is installed to ensure accurate water use monitoring is occurring and to fulfill annual reporting requirements.

- f. Water storage features, such as ponds, tanks, and other vessels shall be selected, sited, designed, and maintained so as to insure integrity and to prevent release into waters of the state in the event of a containment failure.

Physical reconnaissance of the property revealed that the water storage tank is located on flat stable ground. The larger of the two ponds was lined with bentonite clay in 2014 to prevent any leaking or seepage from occurring. Both ponds show no signs of instability and appear to be adequately maintained to prevent containment failure. The Discharger shall maintain all water storage features to maintain their integrity and prevent release into waters of the state in the event of a containment failure.

The larger pond's spillway channel requires reconstruction as explained in the CDFW Agreement. The spillway is currently prone to erosion and subsequent discharge due to the inadequate design of the channel and the rip-rap used for rock armoring. The spillway shall be a "Rocked V-Channel" consisting of a minimum 4-foot wide channel with minimum 3:1 side slopes. The bed and banks of the V-Channel shall be rock armored with 1/8 – 1/16 ton boulders capable of withstanding erosion from the pond's discharge. The rock shall be keyed into the V-Channel to a sufficient depth to provide stability. Boulders shall then be built up and keyed in to one another to a height no less than 3+ feet.

6. Irrigation Runoff (Compliance: Y ☒ / N ☐)

Implementing water conservation measures, irrigating at agronomic rates, applying fertilizers at agronomic rates and applying chemicals according to the label specifications, and maintaining stable soil and growth media should serve to minimize the amount of runoff and the concentration of chemicals in that water. In the event that irrigation runoff occurs, measures shall be in place to treat/control/contain the runoff to minimize the pollutant loads in the discharge. Irrigation runoff shall be managed so that any entrained constituents, such as fertilizers, fine sediment and suspended organic particles, and other oxygen consuming materials are not discharged to nearby watercourses. Management practices include, but are not limited to, modifications to irrigation systems that reuse tailwater by constructing off-stream retention basins, and active (pumping) and or passive (gravity) tailwater recapture/redistribution systems. Care shall be taken to ensure that irrigation tailwater is not discharged towards or impounded over unstable features or landslides.

No irrigation runoff was observed during the inspection, nor was there evidence that it had occurred in the past. The Discharger states that water and fertilizers are applied at or below standard agronomic rates, thus minimizing pollutant entrainment and preventing any irrigation runoff from occurring.

7. Fertilizers and Soil Amendments (Compliance: Y☒/ N☐)

- a. Fertilizers, potting soils, compost, and other soils and soil amendments shall be stored in locations and in a manner in which they cannot enter or be transported into surface waters and such that nutrients or other pollutants cannot be leached into groundwater.

Fertilizers and soil amendments are stored in the fully enclosed shed located at the northeastern edge of the only cultivation area. The storage location is sufficient to prevent any pollutants from being transported to surface waters or leached into ground water.

- b. Fertilizers and soil amendments shall be applied and used per packaging instructions and/or at proper agronomic rates.

The Discharger states that fertilizers and soil amendments are applied and used per packaging instructions and/or at proper agronomic rates. Timberland Resource Consultants observed no conditions to suggest otherwise.

- c. Cultivation areas shall be maintained so as to prevent nutrients from leaving the site during the growing season and post-harvest.

The one cultivation area appears to be maintained in a manner so as to prevent nutrients from leaving the site during the growing season and post-harvest. The cultivation area is located on an approximate 6% slope. No evidence of irrigation runoff was observed, nor was there any evidence of any pollutants migrating outside of the fenced enclosure.

8. Pesticides/Herbicides (Compliance: Y☒/ N☐)

At the present time, there are no pesticides or herbicides registered specifically for use directly on cannabis and the use of pesticides on cannabis plants has not been reviewed for safety, human health effects, or environmental impacts. Under California law, the only pesticide products not illegal to use on cannabis are those that contain an active ingredient that is exempt from residue tolerance requirements and either registered and labeled for a broad enough use to include use on cannabis or exempt from registration requirements as a minimum risk pesticide under FIFRA section 25(b) and California Code of Regulations, title 3, section 6147. For the purpose of compliance with conditions of this Order, any uses of pesticide products shall be consistent with product labeling and any products on the site shall be placed, used, and stored in a manner that ensures that they will not enter or be released into surface or ground waters.

The Discharger states that no pesticides or herbicides are used. The Discharger shall ensure that if any pesticides or herbicides are used in the future, that they are placed, used, and stored in a manner that ensures that they will not enter or be released into surface or ground waters.

9. Petroleum products and other chemicals (Compliance: Y ☒ / N ☐)

- a. Petroleum products and other liquid chemicals, including but not limited to diesel, biodiesel, gasoline, and oils shall be stored so as to prevent their spillage, discharge, or seepage into receiving waters. Storage tanks and containers must be of suitable material and construction to be compatible with the substance(s) stored and conditions of storage such as pressure and temperature.

There are no petroleum products or other chemicals stored on the property.

- b. Above ground storage tanks and containers shall be provided with a secondary means of containment for the entire capacity of the largest single container and sufficient freeboard to contain precipitation.

There are no above ground fuel storage tanks on the property.

- c. Dischargers shall ensure that diked areas are sufficiently impervious to contain discharged chemicals.

There are no diked areas on the property with the purpose of containing discharged chemicals.

- d. Discharger(s) shall implement spill prevention, control, and countermeasures (SPCC) and have appropriate cleanup materials available onsite.

The Discharger does not have any fuel storage tanks that require implementation of spill prevention, control, and countermeasures (SPCC), or to have appropriate cleanup materials available onsite.

- e. Underground storage tanks 110 gallons and larger shall be registered with the appropriate County Health Department and comply with State and local requirements for leak detection, spill overflow, corrosion protection, and insurance coverage.

The Discharger states that there are no underground storage tanks 110 gallons or larger on the property.

10. Cultivation-related wastes (Compliance: Y☒/ N☐)

Cultivation-related wastes including, but not limited to, empty soil/soil amendment/fertilizer/pesticide bags and containers, empty plant pots or containers, dead or harvested plant waste, and spent growth medium shall, for as long as they remain on the site, be stored⁸ at locations where they will not enter or be blown into surface waters, and in a manner that ensures that residues and pollutants within those materials do not migrate or leach into surface water or ground waters.

The Discharger utilizes a burn pile for plant wastes. The Discharger shall ensure that if at any time cultivation related wastes are stored on site, that they are stored at locations where they will not enter or be blown into surface waters, and in a manner that ensures that residues and pollutants within those materials do not migrate or leach into surface water or ground waters.

11. Refuse and human waste (Compliance: Y☐/ N☒)

- a. Disposal of domestic sewage shall meet applicable County health standards, local agency management plans and ordinances, and/or the Regional Water Board's Onsite Wastewater Treatment System (OWTS) policy, and shall not represent a threat to surface water or groundwater.

A septic system was installed by the Discharger at the residence, and the Discharger states that the septic system was built to code. No evidence of failure were present at the time of assessment, such as a foul odor or a vegetation bloom. The Discharger is currently in the process of registering his project with Humboldt County, and will soon have the septic system inspected to determine if it is compliant with all associated standards, ordinances, and policies. This standard condition cannot be met until the septic system is inspected by a qualified professional and deemed to comply with all regulations.

- b. Refuse and garbage shall be stored in a location and manner that prevents its discharge to receiving waters and prevents any leachate or contact water from entering or percolating to receiving waters.

All refuse and garbage is appropriately stored in lidded trash bins that are located in the shed to the south of the only cultivation area. The storage location for refuse and garbage is sufficient to prevent discharge to receiving waters, and to prevent any leachate or contact water from entering or percolating to receiving waters.

- c. Garbage and refuse shall be disposed of at an appropriate waste disposal location.

The Discharger states that all garbage and refuse is frequently disposed of at an appropriate waste disposal location.

⁸ Plant waste may also be composted, subject to the same restrictions cited above for cultivation-related waste storage.

12. Remediation/Cleanup/Restoration

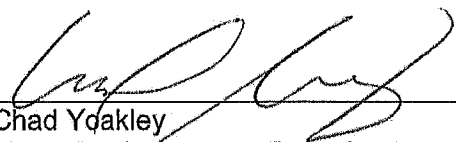
Remediation/cleanup/restoration activities may include, but are not limited to, removal of fill from watercourses, stream restoration, riparian vegetation planting and maintenance, soil stabilization, erosion control, upgrading stream crossings, road outcropping and rolling dip installation where safe and suitable, installing ditch relief culverts and overside drains, removing berms, stabilizing unstable areas, reshaping cutbanks, and rocking native-surfaced roads. Restoration and cleanup conditions and provisions generally apply to Tier 3 sites, however owners/operators of Tier 1 or 2 sites may identify or propose water resource improvement or enhancement projects such as stream restoration or riparian planting with native vegetation and, for such projects, these conditions apply similarly. Appendix B accompanying this Order includes environmental protection and mitigation measures that apply to cleanup activities such as: temporal limitations on construction; limitations on earthmoving and construction equipment; guidelines for removal of plants and revegetation; conditions for erosion control, limitations on work in streams, riparian and wetland areas; and other measures.

Mitigation measures are listed in the Water Resource Protection Plan and also noted above in the document. This standard condition is being met at this time.

STATEMENT OF CONTINGENT AND LIMITING CONDITIONS CONCERNING THE PREPARATION AND USE OF WATER RESOURCE PROTECTION PLAN

Prepared by Timberland Resource Consultants

1. This Water Resource Protection Plan has been prepared for the property within APN 221-151-010 in Humboldt County, at the request of the Client.
2. Timberland Resource Consultants does not assume any liability for the use or misuse of the information in this Water Resource Protection Plan.
3. The information is based upon conditions apparent to Timberland Resource Consultants at the time the inspection was conducted, and as disclosed to Timberland Resource Consultants by the landowner and/or Discharger. Changes due to land use activities or environmental factors occurring after this inspection, have not been considered in this Water Resource Protection Plan.
4. Maps, photos, and any other graphical information presented in this report are for illustrative purposes. Their scales are approximate, and they are not to be used for locating and establishing boundary lines.
5. The conditions presented in this Water Resource Protection Plan may differ from those made by others or from changes on the property occurring after the inspection was conducted. Timberland Resource Consultants does not guarantee this work against such differences.
6. Timberland Resource Consultants did not conduct an investigation on a legal survey of the property.
7. Persons using this Water Resource Protection Plan are advised to contact Timberland Resource Consultants prior to such use.
8. Timberland Resource Consultants will not discuss this report or reproduce it for anyone other than the Client named in this report without authorization from the Client.


Chad Yockley
Timberland Resource Consultants

WRPP Locator Map

180101070203TRC170

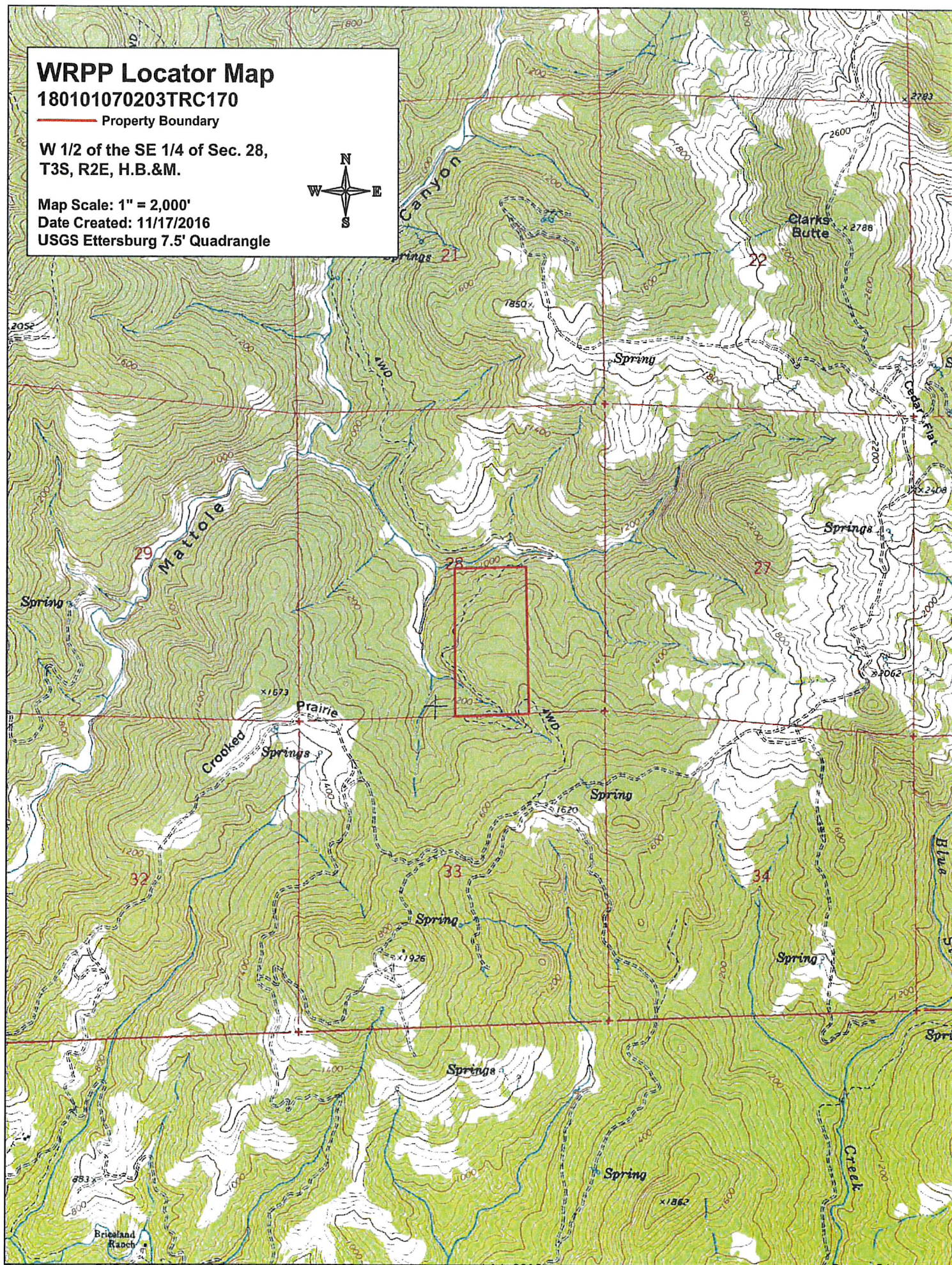
Property Boundary

W 1/2 of the SE 1/4 of Sec. 28,
T3S, R2E, H.B.&M.

Map Scale: 1" = 2,000'

Date Created: 11/17/2016

USGS Ettersburg 7.5' Quadrangle



WRPP Site Map

180101070203TRC170

Date Created: 11/17/2016
Humboldt County 2016 DOQ

- Property Boundary
- Seasonal Dirt Road
- Permanent Rock Road
- Outdoor Cultivation Area
- Pond
- Class III Watercourse
- Class II Watercourse
- ▲ Point of Diversion
- Stream Crossing

- Water Storage
- Residence
- Barn
- Shed



Map Scale: 1" = 300'



WRPP Site Map

180101070203TRC170

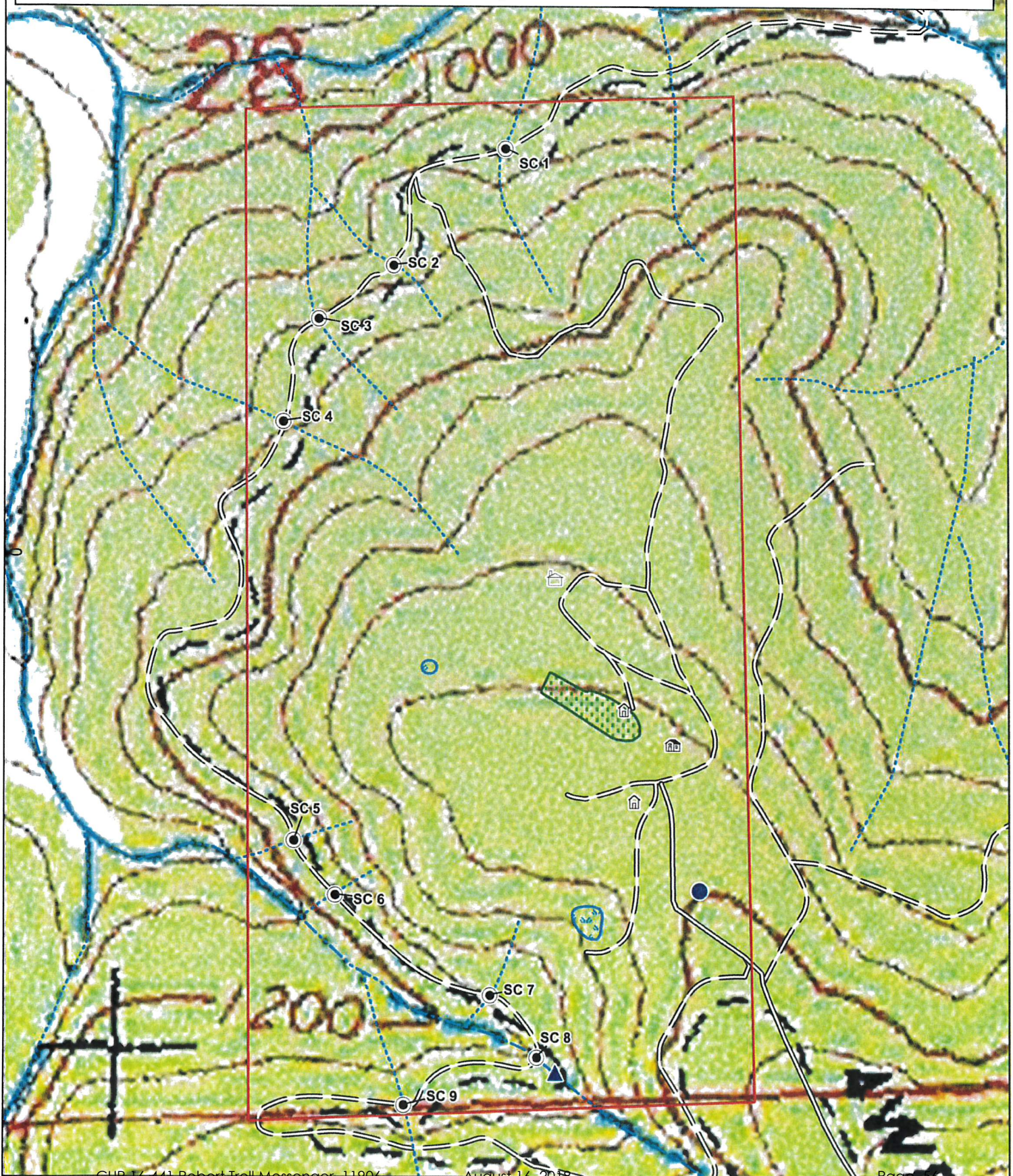
Date Created: 11/17/2016
USGS Ettersburg 7.5' Quadrangle

- Property Boundary
- Seasonal Dirt Road
- Permanent Rock Road
- Outdoor Cultivation Area
- Pond
- Class III Watercourse
- Class II Watercourse
- Point of Diversion
- Stream Crossing

- Water Storage
- Residence
- Barn
- Shed



Map Scale: 1" = 300'







WRPP Site Map

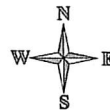
180101070203TRC170

Date Created: 11/17/2016
Ettersburg 7.5' Quadrangle
Contours = 40'

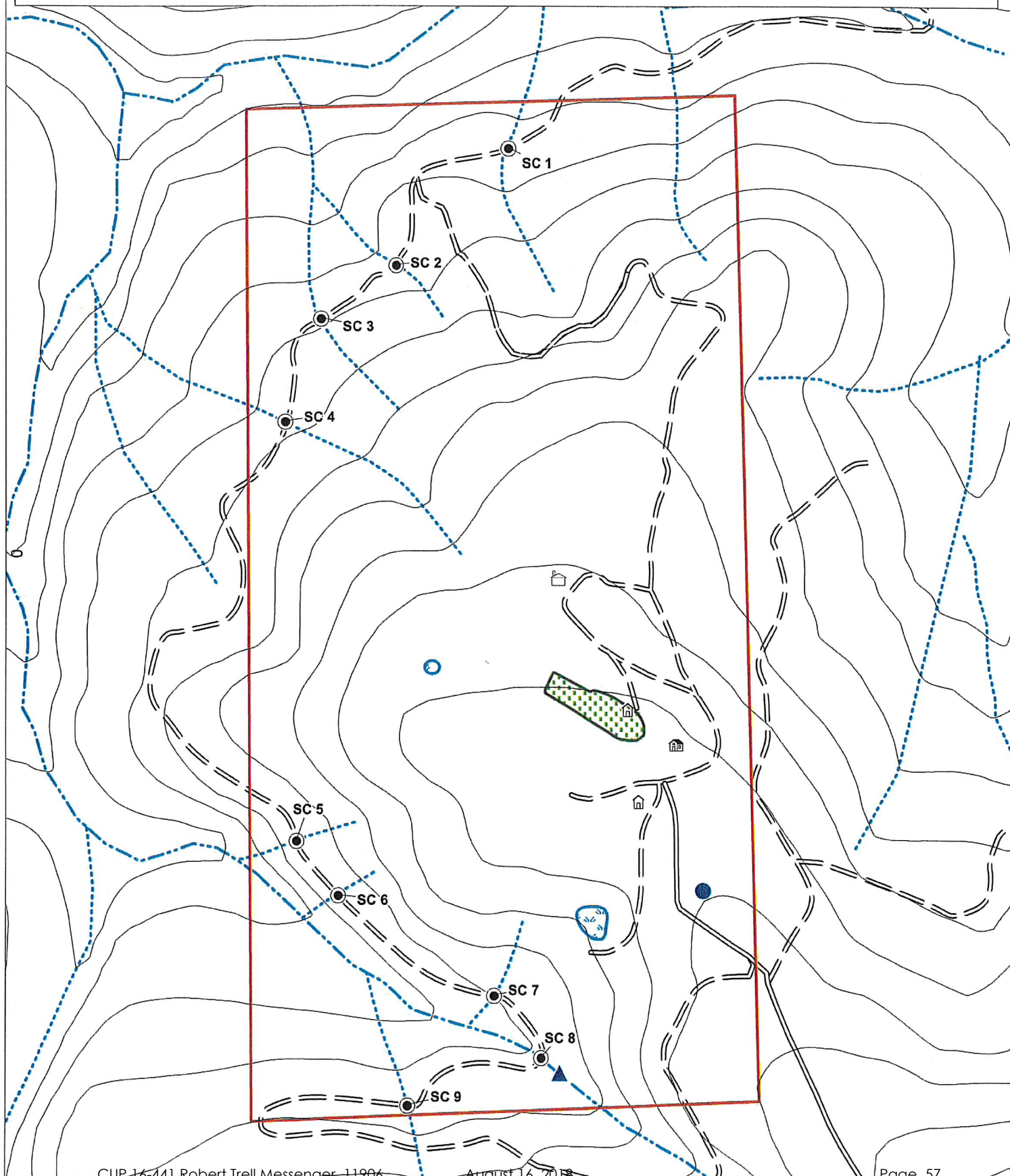
-  Property Boundary
-  Seasonal Dirt Road
-  Permanent Rock Road
-  Outdoor Cultivation Area
-  Pond

-  Class III Watercourse
-  Class II Watercourse
-  Point of Diversion
-  Stream Crossing

-  Water Storage
-  Residence
-  Barn
-  Shed



Map Scale: 1" = 300'



HUMBOLDT COUNTY DEPARTMENT OF PUBLIC WORKS
ROAD EVALUATION REPORT

PART A: Part A may be completed by the applicant

Applicant Name: ROBERT MESSENGER APN: 221-151-010
Planning & Building Department Case/File No.: APPS: 11906 CUP 16-441
Road Name: Upper MATTOLE CANYON RD (complete a separate form for each road)
From Road (Cross street): Crooked Prairie Rd
To Road (Cross street): SUBJECT PARCEL
Length of road segment: 0.4 miles Date Inspected: 6-27-2018
Road is maintained by: ☐ County ☒ Other
(State, Forest Service, National Park, State Park, BLM, Private, Tribal, etc)
Check one of the following:

- Box 1 ☐ The entire road segment is developed to Category 4 road standards (20 feet wide) or better. If checked, then the road is adequate for the proposed use without further review by the applicant.
- Box 2 ☒ The entire road segment is developed to the equivalent of a road category 4 standard. If checked, then the road is adequate for the proposed use without further review by the applicant.

An equivalent road category 4 standard is defined as a roadway that is generally 20 feet in width, but has pinch points which narrow the road. Pinch points include, but are not limited to, one-lane bridges, trees, large rock outcroppings, culverts, etc. Pinch points must provide visibility where a driver can see oncoming vehicles through the pinch point which allows the oncoming vehicle to stop and wait in a 20 foot wide section of the road for the other vehicle to pass.

- Box 3 ☐ The entire road segment is not developed to the equivalent of road category 4 or better. The road may or may not be able to accommodate the proposed use and further evaluation is necessary. Part B is to be completed by a Civil Engineer licensed by the State of California.

The statements in PART A are true and correct and have been made by me after personally inspecting and measuring the road.

Robert Messenger
Signature
Robert Messenger
Name Printed

6-27-18
Date

Important: Read the instructions before using this form. If you have questions, please call the Dept. of Public Works Land Use Division at 707.445.7205.



HUMBOLDT COUNTY DEPARTMENT OF PUBLIC WORKS
ROAD EVALUATION REPORT

PART A: *Part A may be completed by the applicant*

Applicant Name: ROBERT MESSENGER APN: 221-151-010
Planning & Building Department Case/File No.: APPS: 11906 CUP 16-441
Road Name: Crooked Prairie Rd (complete a separate form for each road)
From Road (Cross street): Dutyville Rd
To Road (Cross street): Upper MATTOLE CANYON Rd
Length of road segment: 3.1 miles Date Inspected: 6-27-2018
Road is maintained by: ☐ County ☒ Other
(State, Forest Service, National Park, State Park, BLM, ~~Private~~, Tribal, etc)
Check one of the following:

- Box 1 ☐ The entire road segment is developed to Category 4 road standards (20 feet wide) or better. If checked, then the road is adequate for the proposed use without further review by the applicant.
- Box 2 ☒ The entire road segment is developed to the equivalent of a road category 4 standard. If checked, then the road is adequate for the proposed use without further review by the applicant.

An equivalent road category 4 standard is defined as a roadway that is generally 20 feet in width, but has pinch points which narrow the road. Pinch points include, but are not limited to, one-lane bridges, trees, large rock outcroppings, culverts, etc. Pinch points must provide visibility where a driver can see oncoming vehicles through the pinch point which allows the oncoming vehicle to stop and wait in a 20 foot wide section of the road for the other vehicle to pass.

- Box 3 ☐ The entire road segment is not developed to the equivalent of road category 4 or better. The road may or may not be able to accommodate the proposed use and further evaluation is necessary. Part B is to be completed by a Civil Engineer licensed by the State of California.

The statements in PART A are true and correct and have been made by me after personally inspecting and measuring the road.

Robert Messenger
Signature
Robert Messenger
Name Printed

6-27-18
Date

Important: Read the instructions before using this form. If you have questions, please call the Dept. of Public Works Land Use Division at 707.445.7205.



HUMBOLDT COUNTY DEPARTMENT OF PUBLIC WORKS
ROAD EVALUATION REPORT

PART A: *Part A may be completed by the applicant*

Applicant Name: ROBERT MESSENGER APN: 221-151-010

Planning & Building Department Case/File No.: APPS: 11906 CUP 16-441

Road Name: DUTYVILLE RD (complete a separate form for each road)

From Road (Cross street): Ettersburg - Honeydew Rd.

To Road (Cross street): Crooked Prairie Rd

Length of road segment: 1.7 miles Date Inspected: 6-27-2018

Road is maintained by: ☐ County ☒ Other
(State, Forest Service, National Park, State Park, BLM, Private, Tribal, etc)

Check one of the following:

Box 1 ☐ The entire road segment is developed to Category 4 road standards (20 feet wide) or better. If checked, then the road is adequate for the proposed use without further review by the applicant.

Box 2 ☒ The entire road segment is developed to the equivalent of a road category 4 standard. If checked, then the road is adequate for the proposed use without further review by the applicant.

An equivalent road category 4 standard is defined as a roadway that is generally 20 feet in width, but has pinch points which narrow the road. Pinch points include, but are not limited to, one-lane bridges, trees, large rock outcroppings, culverts, etc. Pinch points must provide visibility where a driver can see oncoming vehicles through the pinch point which allows the oncoming vehicle to stop and wait in a 20 foot wide section of the road for the other vehicle to pass.

Box 3 ☐ The entire road segment is not developed to the equivalent of road category 4 or better. The road may or may not be able to accommodate the proposed use and further evaluation is necessary. Part B is to be completed by a Civil Engineer licensed by the State of California.

The statements in PART A are true and correct and have been made by me after personally inspecting and measuring the road.

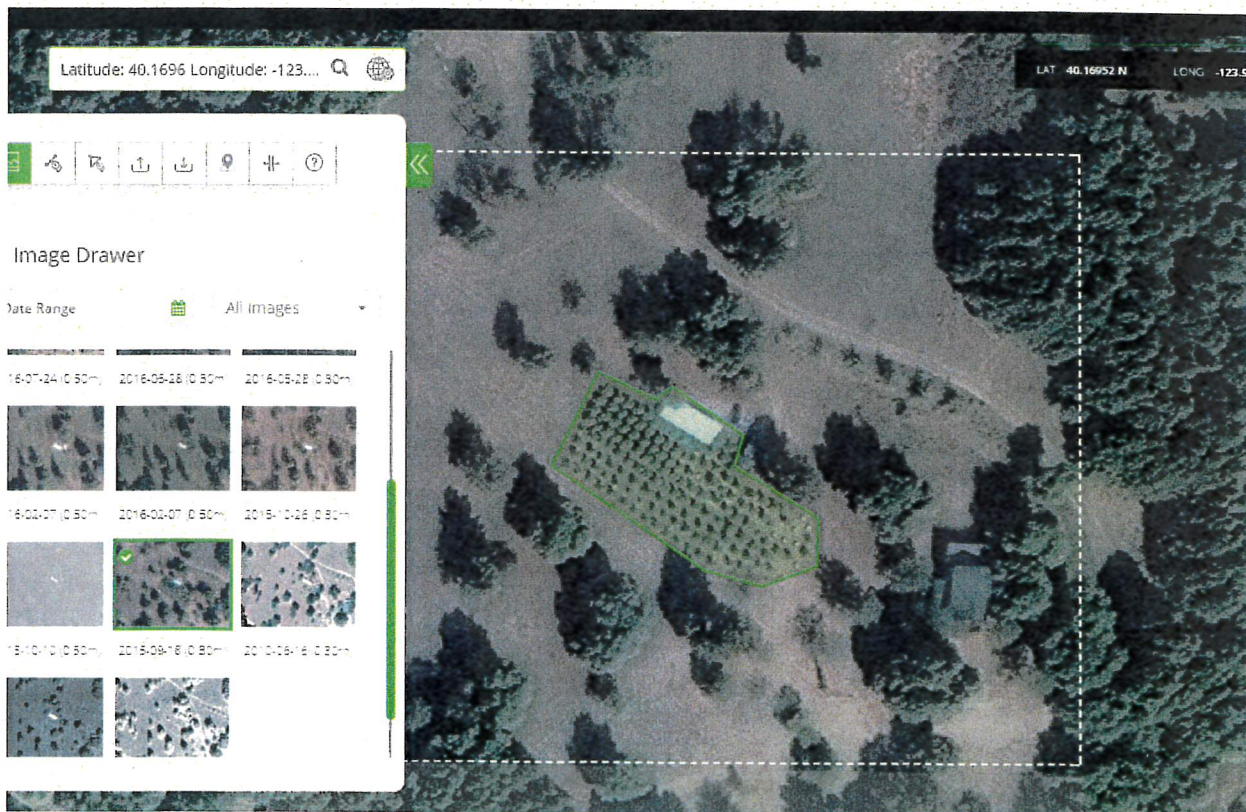
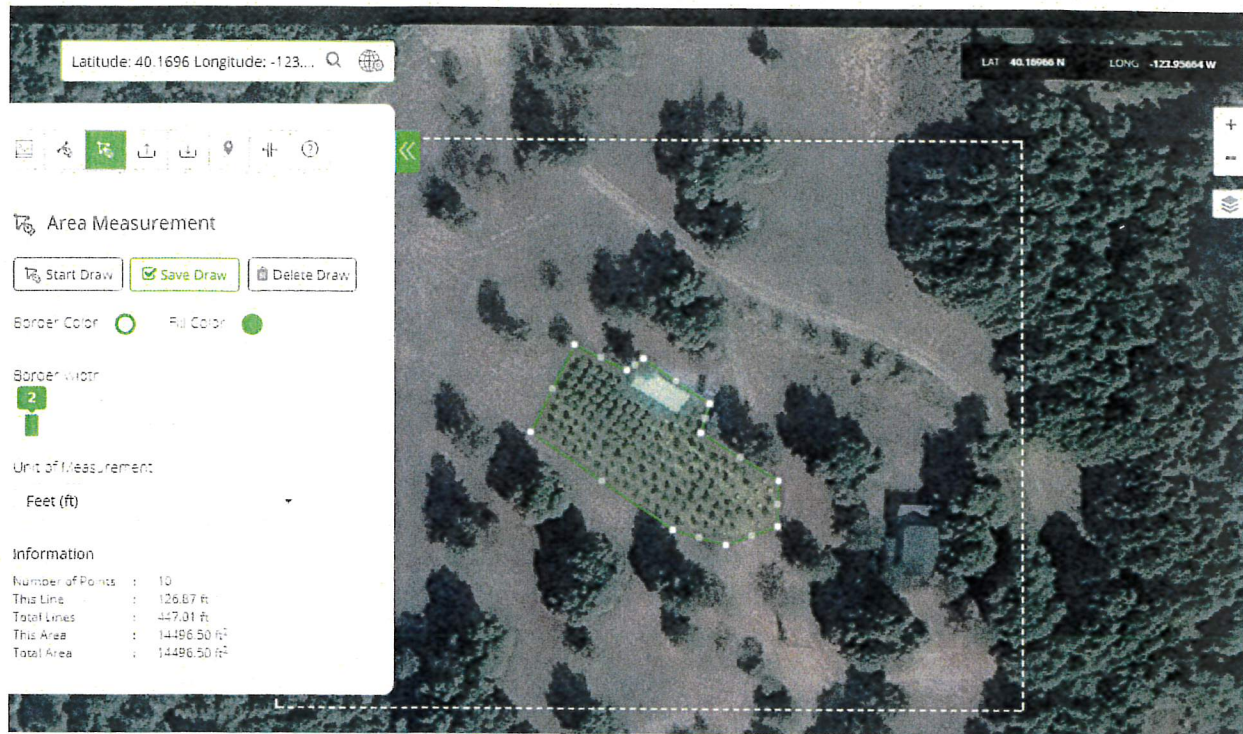
Robert Messenger
Signature

6-27-18
Date

Robert Messenger
Name Printed

Important: Read the instructions before using this form. If you have questions, please call the Dept. of Public Works Land Use Division at 707.445.7205.





CULTIVATION AREA VERIFICATION

Imagery Date: 09-18-2015

14,496.50 SF traced polygon - call 15,000 SF

KH

9/14

ATTACHMENT 4

REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

The project was referred to the following referral agencies for review and comment. Those agencies that provided written comments are checked off.

Referral Agency	Response	Recommendation	Location
Building Inspection Division	✓	Other comments	On file with Planning
Land Use Division	✓	Conditional Approval	Exhibit A of Attachment 1
Division Environmental Health	✓	Conditional Approval	Attached
Calfire	✓	Other comments	On file with Planning
Department of Fish & Wildlife	✓	Other Comments	Attached
NWIC	✓	Further Study	On file with Planning
Bear River Band of the Rohnerville Rancheria	✓	Conditional Approval - Inadvertent Discovery Protocol	On file with Planning
RWQCB		No Response	
CA Division of Water Rights		No Response	
Humboldt County Sheriff		No response	
Humboldt County District Attorney		No response	
Humboldt County Agricultural Commissioner		No response	
Southern Humboldt Unified School District		No response	
Briceland Fire Protection District		No response	

Laney, Megan

From: Bocast, Kalyn@Wildlife <Kalyn.Bocast@Wildlife.ca.gov>
Sent: Monday, August 21, 2017 9:27 AM
To: Planning Clerk
Cc: Bauer, Scott@Wildlife
Subject: Robert Trell Messenger Conditional Use Permit Application-APPS 11906



To Whom It May Concern,

Thank you for referring the Robert Trell Messenger Conditional Use Permit application (APPS 11906, Project) to the California Department of Fish and Wildlife (CDFW) for review and comment. A Conditional Use Permit for an existing 16,000 square foot outdoor cultivation operation on APN: 221-151-010. Water for irrigation is stored in a 645,000-gallon rainwater catchment pond. Water storage consists of two hard-sided storage tanks with a total of 6,000 gallons of capacity. Cultivation areas are hand-watered using conventional garden hoses. Cultivation operations occur from March to November, with one harvest occurring in October. Processing, including drying and trimming will occur in the existing agricultural barn onsite. There will be four employees needed for cultivation activity during peak operations. Solar panels are the primary power source for the parcel and there is a portable generator as a back-up power source.

CDFW offers the following comments on the Project in our role as a Trustee and Responsible Agency pursuant to the California Environmental Quality Act (CEQA; California Public Resource Code section 21000 et seq.). These are comments intended to assist the Lead Agency in making informed decisions early in the planning process.

- This referral does not contain sufficient information to conduct meaningful environmental review. CDFW recommends a biological assessment of the property by a qualified, experienced person.
- A Final Streambed Alteration Agreement (1600-2016-0028) was issued to the applicant on 6/1/2016. According to CDFW records, the applicant is currently out of compliance due to a failure to meet the reporting requirements of the Agreement. CDFW recommends as a condition of project approval, that the applicant provide all requested reporting information, pursuant to the Agreement, to CDFW.
- The referral materials state that the applicant contains 16,000 square feet of existing outdoor cannabis cultivation. Aerial imagery suggests that the cultivation area, prior to January 1, 2016, was approximately 10,000 square feet. CDFW recommends that the applicant provide proof of existing cannabis on the parcel, prior to the cutoff date, or that the application be reconsidered for permit approval.
- Existing fish or wildlife resources the project could substantially adversely affect include Townsend Big-eared Bat (*Corynorhinus townsendi*), include Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), Coastal Cutthroat Trout (*O. clarki clarki*), Western Brook Lamprey (*Lampetra richardsoni*), Pacific Lamprey (*Entosphenus tridentata* ssp. 1), Pacific Giant Salamander (*Dicamptodon tenebrosus*), Foothill Yellow-Legged Frog (*Rana boylei*), Coastal Tailed Frog (*Ascaphus truei*), Western Pond Turtle (*Actinemys marmorata marmorata*) amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

Thank you for the opportunity to comment on this Project. Please contact me at kalyn.bocast@wildlife.ca.gov if you need additional information.

Please confirm that you have received this email.

Sincerely,

Kalyn Bocast



HUMBOLDT COUNTY
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7541

DEH received
7-12-17

PROJECT REFERRAL TO: Health and Human Services Environmental
Health Division

Project Referred To The Following Agencies:

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, Supervising Planner, Current Planning Division, County Counsel, California Coastal Commission, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, Brice Land Fire Protection District Fire Protection District, Humboldt County Sheriff, Southern Humboldt Unified School District, Public Works - Road Eval

Applicant Name Robert Trell Messenger **Key Parcel Number** 221-151-010-000

Application (APPS#) 11906 **Assigned Planner** Cannabis Planner (CPOD) (707) 445-7541 **Case Number(s)** CUP16-441

Please review the above project and provide comments with any recommended conditions of approval. To help us log your response accurately, please include a copy of this form with your correspondence.

Questions concerning this project may be directed to the assigned planner for this project between 8:30am and 5:30pm Monday through Friday.

County Zoning Ordinance allows up to 15 calendar days for a response. If no response or extension request is received by the response date, processing will proceed as proposed.

☐ If this box is checked, please return large format maps with your response.

Return Response No Later Than Planning Commission Clerk
County of Humboldt Planning and Building Department
3015 H Street
Eureka, CA 95501
E-mail: PlanningClerk@co.humboldt.ca.us **Fax:** (707) 268-3792

We have reviewed the above application and recommend the following:

Conditional Approval

DISTRIBUTED
3-21-18

Comments:

Tier 0 - Existing Cultivation/Processing Operation - Resident (aka Family) staffing (e)SFD

Prior to renewal of permit the operator is required to submit to DEH receipts, or copy of contract confirming sufficient use of portable toilets to serve staff for duration of first year or provide written assessment from a qualified septic consultant confirming a Tier 0 status for the existing onsite waste treatment system serving the dwelling.

*This review and recommendation is for the Land Use aspects of the planning project and does not include or imply compliance with all DEH programs. Although DEH recommends the approval of the Planning project, Solid Waste and HazMat Program requirements need to be addressed directly with staff from those programs.

Response Date: 3/20/2018 **Recommendation By:** Joey Whittlesey

CUP 16-441, Robert Trell Messenger 11906

August 16, 2018

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