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**Sent:** Wednesday, October 16, 2019 4:32 PM

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**Subject:** Objection to cultivation permits

Humboldt County Planning Commission

FOR IMMEDIATE ATTENTION

Colleagues:

We object to your practice of approving marijuana cultivation permits in Spotted Owl habitat. The rationale for these approvals incorporates two general approaches: a reliance on mitigations and the assumption that other agencies will raise objections when there is concern. Neither of these in fact operate to insure that the Spotted Owl will not continue its slide towards extinction. You are cumulatively allowing take of this species and I believe you should lose your permitting authority if you do not take immediate steps to rectify your practices. We have previously raised these concerns to the Zoning Administrator and his response itself has been an apparent violation of law, noted at the end of this letter.

In its review of such permits, your Planning Department begins with a profoundly flawed assumption, which is to ignore past Owl habitat damage of pre-existing grows and continue with occupation of the site. This infers that the habitat no longer exists and/or will not be further impacted by continuation of the site, with its inevitable follow-on extensions such as increased traffic and increased noise. These sites should not be allowed in Spotted Owl territories, irrespective of whether they are pre-existing.

The acceptance of pre-existing sites concurrently makes a dead letter of California planning laws. You cannot take extensive California forest lands, spread industrial

sites willy-nilly through them, and call it “planning”, but that is exactly what is being done. We object.

Your use of mitigations cannot replace degraded habitats, or even stop the degradation. For example, the Spotted Owl relies heavily on Flying Squirrels as prey, but these squirrels require continuous canopy in order to travel through the forest. Such canopy is continually destroyed in these sites, as we have witnessed first-hand. As the forest grows, the shading will prove incompatible with the need for sunlight on the crop, fostering further habitat destruction, which can be legally justified as “firewood gathering”. Academic research also shows that removing as little as fifteen percent of forest canopy may destroy it for interior-dependent species, many of which are in significant decline exactly because of abuse of this nature. There are numerous impacts not being considered here; again for example, the presence of cats at the occupied site represents unnatural competition for owl prey: wild predators by contrast must experience curbs from prey cycles, but house cats have a food bowl to come home to, rendering them into super-predators immune to environmental checks. Cats do not belong in the wildlands, they are a form of Human pollution in such a setting and yet we assume their benignity so far as not even to think of them. You may say this is a small impact but it is cumulative. This unending list of unmitigated owl impacts fingers why these operations do not belong in owl habitats. Owls scarcely resemble Canaries nor do Humboldt wildlands resemble coal mines, but the warning is the same: we are destroying the Earth through our lies and our profound lack of respect.

We request you following your FEIR. You may not legally claim mitigations when in fact there is no meaningful enforcement of them. This flagrantly applies to sound and light pollution, both of which impact Spotted Owls. See Cal Pub Resources Code § 21081.6 (b).

“Mitigating conditions are not mere expressions of hope. Section 21002.1, subdivision (b) states: HN6 “Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.” Furthermore, HN7 “[a] public agency shall provide that measures to mitigate or avoid significant effects on the environment are **fully enforceable** through permit conditions, agreements, or other measures.” “The purpose of these requirements is to ensure that feasible mitigation measures will **actually** be implemented as a condition of development, and not merely adopted and then neglected or disregarded.” (*Lincoln Place Tenants Assn. v. City of Los Angeles*(2005) 130 Cal.App.4th 1491, 1508-1509 [31 Cal.Rptr.3d 353])(emphasis added)

Humboldt County has asked the California Department of Fish and Wildlife to monitor marijuana permit applications in owl territories. But in fact the Department has no funding allocated for this large task with the result that the review, if it occurs at all, is cursory and incomplete, and relies as it must on missing information. No matter that conscientious people are involved; there is only so much they can do, only so much they know. Generic treatments of applications arguably fail to achieve effective protection, and the State of California's authorization of policies that result in take do not justify the County in doing the same. Many biologists do not agree that what the State is doing is sufficient, which is to acknowledge the role of politics in pushing wildlife towards extinction. Stop! We have asked the Planning Director, but he has not chosen to act other than defensively.

We believe John Ford, the Planning Director, has violated California Labor Code 1102.5, which protects whistle blowers. Many of our views Spotted Owls and of recent marijuana permit applications now before you have been enhanced by our conversations with biologists from the California Department of Fish and Wildlife. In response to this, according to our informants, Ford recently wrote a letter to the DFW Director in Sacramento listing employees who have been critical of his permitting and, according to what we are told, libeling one or more of them. We have not seen this letter but believe that if it is as alleged we request it become wide public knowledge in Humboldt County. It appears Director Ford, by engaging in a witch hunt for our sources that we will not name, has seriously violated the public trust. We expect to file a formal complaint soon.

We request no further permit applications be approved without full compliance with California environmental and planning laws, and the federal Endangered Species Act. We support the high quality of the Humboldt marijuana industry and recognize it depends upon respectful implementation.

Robert Sutherland *for* HUMMAP (The Humboldt-Mendocino Marijuana Advocacy Project)

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