



DATE: June 3, 2020

TO: Rodney Yandell, Senior Planner
John Ford, Director
Humboldt County Planning Department
3015 H Street, Eureka, CA 95501

RE: Black Bear Farms, LLC
337 West McCann Rd., McCann, CA.
APN: 211-283-007
Apps#: PLN-12083-SP, PLN-12915-ZCC, PLN-12080-ZCC, & PLN-12742-ZCC

Dear Rodney Yandell,

We have been made aware of a comment letter from Mr. Richards, who owns the property directly adjacent to the east of the proposed Black Bear Farms, LLC project site. We appreciate the opportunity to respectfully respond to the comment letter and address the concerns outlined below.

1. *Odor. Because of the way the wind blows we will be severely impacted by the odor of the cannabis as it matures. I don't know if there is a way to mitigate this other than reducing the scale of the project and orienting the drying sheds so the fans blow out into the river area.*
 - a. Response: Under the CCLUO, proposed commercial cannabis activities are required to occur at least 300' from any residence on an adjacent separately-owned parcel (Section 55.4.6.4.4b). The nearest extent of proposed commercial cannabis is located over 600' from Mr. Richards' residence to the southeast. The drying barn is located approximately 1,400' from the residence.
 - i. To address Mr. Richards' concerns with regard to odor, the fans in the drying barn will be oriented southwesterly toward the river. Additionally, Black Bear Farms will install carbon filters on the exhaust vents of the drying barn to minimize odor.
2. *Spray and drift. Again because of the way the wind blows we will be severely impacted by any agricultural sprays if they are applied when the wind is blowing. Limit the use of sprays to the morning hours and only when there is no wind.*
 - a. Response: If agricultural spraying occurs onsite, it would be conducted by hand and would be directed toward individual plants. Black Bear Farms, LLC is enrolled with the State Water Resources Control Board (SWRCB) Cannabis General Order No. WQ 2019-0001-DWQ ("Cannabis General Order") as a Low Risk Discharger and all agricultural applications will follow BPTC Measures outlined in Attachment A of the General Order. Black Bear Farms is committed to organic-equivalent practices and



will refrain from the improper storage or use of any pesticides, fungicides, fertilizers, or herbicides as required by Ongoing Requirement/Development Restriction No. 9 (Staff Report pg. 25).

3. *Traffic. Currently we should not be impacted directly by any traffic other than the increased wear and tear on the roads by the employees and deliveries and the increased chance for accidents around the blind curves. But, once the new bridge is built and traffic is directed across it we will be impacted. The new bridge will end directly across from the entrance to our driveway. Any traffic turning left and heading west onto West McCann road will be passing in front of us so we will be severely impacted by any noise and dust created by this traffic. So, once the new bridge is built limit the speed on West McCann road to 15 mph.*

- a. Response: Currently, we believe this request is not within the applicant's purview. This comment should be directed to the Department of Public Works at the time that the McCann Bridge Replacement project is brought up for discussion.

4. *Run-off. We have a domestic well in the lower field, under the power lines and approximately 200 feet east of the property line. There is a chance the well could be contaminated. Put in measures to eliminate agricultural run-off and monitor the surrounding area.*

- a. Response: Black Bear Farms is enrolled in the SWRCB Cannabis General Order and is committed to complying with all applicable BPTC Measures of Attachment A in addition to all agency requirements regarding runoff. The Site Management Plan prepared for the project site details erosion control and sediment capture mechanisms for onsite maintenance. The Cultivation and Operations Plan prepared for the site details efficient irrigation practices so that plants are not over-watered and explains how the project will not substantially increase storm water runoff (Staff Report pgs. 7, 38, & 63). The proposed cultivation areas are located over 300 feet from Mr. Richards' well, which also appears to be located hydrologically "upstream", and Black Bear Farms is committed to practicing organic-equivalent farming techniques.

5. *Fire. This project will increase the risk for a fire, especially with the storage of flammable materials such as fertilizers and petroleum products. Being downwind, a fire will quickly spread to our land. If a fire breaks out when the bridge is closed there is no way for a fire truck to respond. Prohibit smoking among all personnel.*

- a. Response: We do not believe personal consumption habits are within the purview of this project, however, Black Bear Farms is committed to fire safety, and all onsite hazardous materials, such as fertilizers and petroleum products, will be stored in secondary containment in accordance with agency recommendations including County Regulations (Staff Report pg. 58) and all applicable BPTC Measures in Attachment A of the SWRCB Cannabis General Order.
- b. The Department of public Works provided comments to the project and did not require any road improvements (Staff Report pgs. 34, 37, 117, and 118). CALFIRE provided comments to the project and did not recommend any road improvements (Staff Report pg. 115).
- c. Recommended Condition of Approval #2 limits the proposed project to operate only when the McCann Bridge is open (Staff Report pg. 23). As the project would not be operating when the bridge is out, the proposed project would have no impact on a fire or fire response.



- d. Recommended Condition of Approval #5 requires Black Bear Farms, LLC to contact Fruitland Ridge Fire Protection District and obtain written documentation of available emergency response and fire suppression services (Staff Report pg. 23).
 - e. Recommended Condition of Approval #7 requires the applicant to comply with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials (Staff Report pg. 23).
 - f. The proposed project site is located in a CAL-FIRE State Fire Responsibility Area (SRA), and will implement onsite improvements for fire safety, such as an emergency services vehicle turn-around and a designated fire suppression water storage tank. Black Bear Farms, LLC is committed to adhering to SRA Fire Safe Regulations and complying with all mandated Conditions of Approval in order to minimize wildfire risk and ensure the continued safety of the McCann area.
6. *We have a potential building site in the west side of our property, near the section corner, that may fall within the 270' setback. How will this affect our ability to pull a permit if it is within the setback?*
- a. Response: Our understanding is that the 270' setback this comment refers to only applies to adjacent *undeveloped* separately-owned parcels (CCLUO Section 55.4.6.4.4b).
 - b. All proposed cannabis cultivation activities are proposed over 600' from Mr. Richards' existing residence, well over the required 300' setback as described in CCLUO Section 55.4.6.4.4b.
7. *Noise. The power goes out constantly and with power shut offs during high fire weather it goes off even more. We are at the end of the line in McCann: first to go off last to be restored. A solar system with battery back-up should be required instead of a generator.*
- a. Response: Any use of onsite generators will be limited to emergencies only, as the property is serviced by PG&E power. Ongoing Requirement/Development Restriction No. 11 requires that any generator use shall not produce noise levels exceeding 50 decibels as measured 100' from the generator or 60 decibels at the property line (Staff Report pg. 25).
 - b. Mr. Richards' residence is located approximately 1,400' from the proposed generator location near the drying barn. We believe that, in the event of an emergency, the generator noise will dissipate to well below the 60-decibel threshold at the property line by the time it travels such a distance.
8. *Visual. The large water tank and hoop houses can be seen from the river which will affect the experience of people who come to enjoy the river such as swimmers and boaters not to mention the neighbors and violates the spirit of the wild and scenic designation of the river. Reduce the scale of this project and plant a few more rows of trees along the windbreak between the field and the river as a visual screen.*
- a. Response: The cultivation is proposed in an area that is naturally screened by timber and topography to the north and northeast, and is screened by fencing and mature landscaping trees of greater than 50 ft height to the southwest, south, and southeast. The existing mature trees are greater than 50 ft. in height and help to visually separate the property from the riverbed and the neighboring parcels. Figures 1-3, attached below, depict the cultivation area as seen from the approach to the parcel on McCann Road (Figure 1), the southwestern landscape screening (Figure 2), and the



- southeastern landscape screening (Figure 3).
- b. To further address Mr. Richards' comment and further screen the proposed cultivation site, the applicant is willing to place a second row of landscaping trees that will grow in and fill any gaps between the existing landscape screening trees as shown in Figure 4.
9. *Poisons. The wood rat and gopher population in McCann is robust. Controlling their populations with poisons will adversely affect other wildlife. Prohibit the use of poisons to control the rodent population.*
- a. Response: Black Bear Farms agrees with Mr. Richards with regard to poisons. As discussed in the Biological Report prepared for the project by Natural Resources Management Corporation, no rodenticides are to be used on site. Ongoing Requirement/Development Restriction No. 12 requires that Black Bear Farms adhere to all recommendations of the Biological Report, including the prohibition of rodenticides (Staff Report pg. 25).
10. *Security. Having such a valuable crop next door dramatically increases the security risk for the neighborhood.*
- a. Response: The applicant believes that safety and security are very important. Please see the Security Memo attached as Appendix 1 that includes details of a more robust plan that Black Bear Farms is committed to implanting.
11. *I would like evidence that the Retirement, Remediation and Relocation provisions have been fully satisfied for each Zoning Clearance Certificate being applied to the project.*
- a. Response: The County's requirements for approval of this project hold the applicants to implementing all components of the RRR Restoration Plans. Black Bear Farms, LLC is committed to doing so.
12. *Access. The bridge will be closed at times during the beginning of the growing season (March – June) and during the harvest season (September and October). What is the contingency plan for this eventuality?*
- a. Response: Per Recommended Condition of Approval No. 2, Black Bear Farms cannot access the site to begin proposed operations until the McCann Bridge is open and must cease operations when the McCann Bridge is closed (Staff Report pg. 23). In the fall, toward the end of the proposed operating season, Black Bear Farms will monitor weather patterns in advance and act accordingly as weather determines. In the event of a surprise storm event or high-water event during the cultivation season, the applicants will adhere to the Conditions of Approval and resume operations when the bridge is back open. Black Bear Farms is prepared to sustain potential damage to the crop if this unlikely event occurs.
13. *Cannabis does not grow without irrigation water. I request that they build out the infrastructure for water supply in appropriate stages prior to being allowed to cultivate, particularly since this is a "superior" relocation site for Retirement, Remediation and Relocation Zoning Clearance Certificates. Minimizing impacts from the water demands of cultivation should be the most important consideration in project conditioning and should not be left to a series of difficult to enforce "if-then" provisions, especially when the Eel River surface and under-flow is adjacent to the project.*
- a. Response: The applicant is committed to environmental responsibility and minimizing water use. Please see the Water Use Memo attached in Appendix 2, which



reiterates the details of responsible cultivation-related water use proposed in the existing project materials.

14. *A car-pool program is a poor fit for the informal work-force that usually provides labor to cultivation operations. Unless there is an enforcement and reporting programming associated with this condition, it will likely not occur. Pro-rate road improvements should be required assuming all employees will be accessing the site in their private vehicles.*

a. Response: Black Bear Farms is committed to carpooling and minimizing traffic as described in the Cultivation and Operations Plan and the Staff Report (pgs. 6, 33, & 46).

15. *I would like proof and verification that this project is within the 20% of prime agricultural soils limit. I don't think they are, the map prepared by North Point consulting includes river bar gravel and the designated wetland in the prime ag area.*

a. Response: NorthPoint Consulting originally utilized the Humboldt County Web GIS layer to calculate the onsite prime agricultural soils. Mr. Richards is correct in that this layer included some mapping on the river bar.

b. We recalculated the Prime Agricultural Soils onsite acreage to include both the Prime Agricultural Soils layer and the 2014 NCRS "Prime if Irrigated" layer, which resulted in 26.9 acres of onsite Prime Agricultural Soils (Figure 5). Removing the gravel bar and the designated wetland (a total of 1.69 acres), resulted in a total of 25.21 acres of Prime Agricultural Soils onsite. 20% of 25.21 acres is 5.042 acres; therefore, the area utilized for cannabis cultivation is approximately 16.6% of the total onsite soils.

We hope these responses provide clarity to aspects of the project and help address Mr. Richards' concerns. Please feel free to contact us with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Praj White", with a long horizontal flourish extending to the right.

Praj White, P.E., Senior Project Manager
NorthPoint Consulting Group

Figures.



Figure 1. View of proposed project site facing northeast depicting the existing natural treeline.



Figure 2. View of existing landscape tree line facing southwest toward the river.



Figure 3. View of southeast parcel line from northeast tree line toward neighboring property and Mr. Richards' residence.

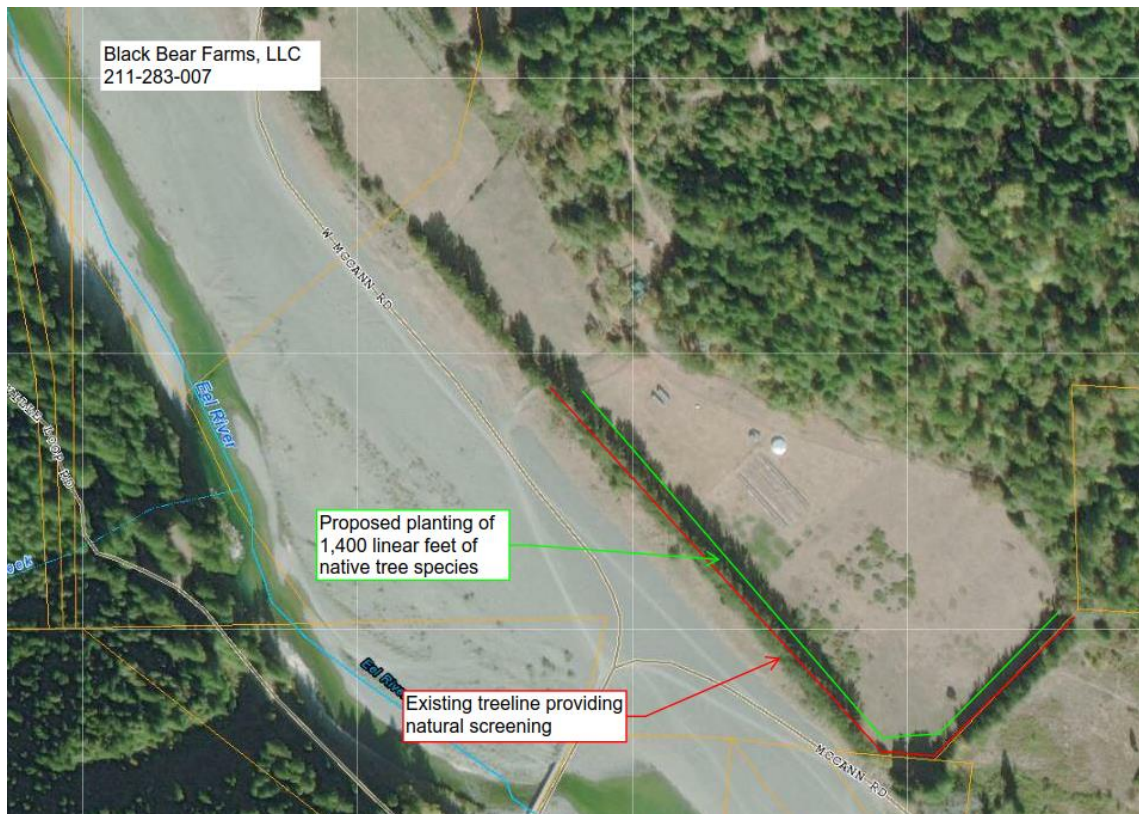


Figure 4. Existing and proposed natural screening.

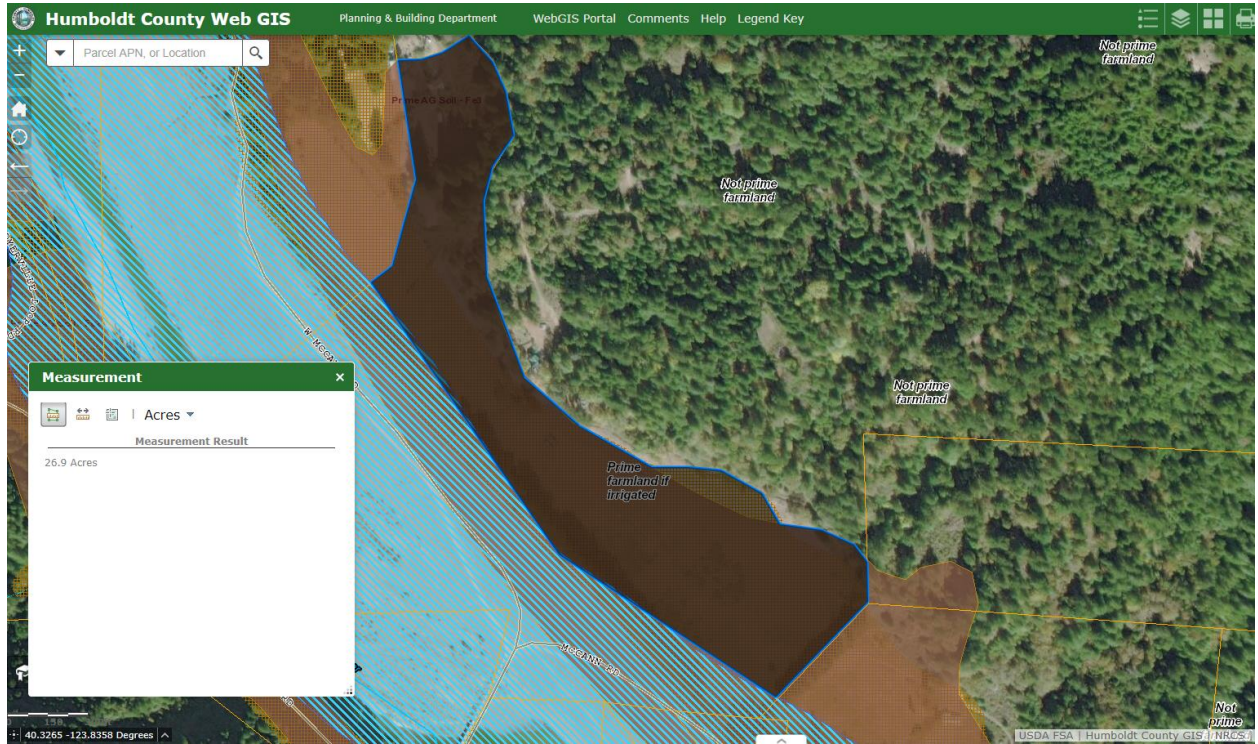


Figure 5. Recalculated Prime Agricultural Soils Area per Mr. Richards' comments.



Appendix 1: Security Memo

Black Bear Farms, LLC
APN 211-283-007

Black Bear Farms, LLC is contracting with Advanced Security Systems to implement a robust onsite security system, complete with fencing, video surveillance, and vehicle-activity sensors. The site is located behind a locked gate and has an existing cattle fence to enclose the operation. Cultivation facilities, including hoop houses, outdoor cultivation, storage sheds, water tanks, and the drying barn will be enclosed within the existing fence and will only be accessible through the locked gate.

The security system will include a video surveillance system, which will monitor all cultivation-related areas of the property. The surveillance system will be capable of recording nighttime activities and will be able to be accessed remotely. The system will record onsite activities 24-hours a day all year round.

Access to the project site will be limited exclusively to employees and approved invited personnel, including agency staff and consultants. The general public will not be able to access the site without an invitation.

During the operational season, approximately 14 workers will be onsite on any given day, providing in-person oversight to the property. An additional 9 employees may be present on site during peak operations such as planting or harvesting. During harvest, the applicants will bring in physical onsite security personnel for additional safety.

The site will cease cannabis operations during the wet season once the bridge is inaccessible. As mandated by Condition of Approval #2, no cultivation activities will be allowed (Staff Report pg. 23) and all cultivation-related materials will be stored away for the winter. Greenhouses will be cleared, all additives will be stored away, and any cannabis products will be removed from the site. No cannabis plants or products are to be stored on the site during the off season, reducing the risk of theft.

During the off season, one or two employees will visit the site at least weekly to ensure recommended winterization measures are in place (Site Management Plan – Attachment 4c), conduct required site monitoring, and provide oversight to the area.

Black Bear Farms, LLC is committed to promoting safety both onsite and offsite and would be welcome to working with any interested parties (neighbors) to ensure the continued security of the McCann area.



Appendix 2: Water Use Memo

Black Bear Farms, LLC

APN 211-283-007

The proposed Black Bear Farms, LLC proposed project will source water from rainwater supplemented by a groundwater well to irrigate cannabis. No diversionary sources are proposed, meaning that no water from springs, shallow wells, or streams (including the Eel River) will be diverted to irrigate the proposed project (Staff Report pgs. 5, 6, 38, 52, 58, 59, & 64).

Water use for the proposed project is expected to be approximately 815,000 gallons annually (equivalent 0.3% of the rainfall which falls on the subject property in an annual water year). This water demand is significantly lower than similarly scaled cannabis projects due to the cultivation method of planting the majority of the cultivation in the ground. Planting directly in the fertile prime agricultural soils, which naturally have high available water storage to retain moisture, allows the plants to uptake water directly from the soil and reduce the demand for supplemental irrigation (See the Water Source, Storage, and Use Compliance Plan in Staff Report Attachment 4a – Operations Plan). In addition, Black Bear Farms, LLC is committed to experimenting with dry-farming techniques to further reduce water demand and to ensure compliance with the CCLUO.

Rainwater is to be collected from structures and stored in plastic hard tanks. The Rainwater Catchment Analysis section of the Water Source, Storage, and Use Compliance Plan details the surfaces to be fitted with rainwater catchment infrastructure and the resulting amount of water to be captured during a typical precipitation year (Staff Report; Cultivation and Operations Manual – Attachment 4a).

As required in Recommended Condition of Approval #4, the cultivation area will be reduced as necessary (even during the middle of the cultivation season) based on available water supply and storage. If insufficient stored water or groundwater is available, Bear Farms will either cultivate cannabis utilizing dry-farming techniques or will simply reduce the amount of cultivation area (Staff Report pg. 23; Condition #4). This means that even if insufficient rainwater is captured to irrigate cannabis *and* the well ceases to produce adequate water supply, no water will be sourced from surface waters such as the Eel River.

Black Bear Farms, LLC will accurately track and record all irrigation water. As required in Recommended Condition of Approval #3, water meters shall be installed on the groundwater well and on the rainwater catchment tank system to ensure detailed records are maintained (Staff Report pg. 23; Condition #3). Black Bear Farms, LLC will furnish water source and use reporting to all applicable agencies, including the Humboldt County Planning Department, the State Water Resources Control Board/North Coast Regional Water Quality Control Board, and the California Department of Fish and Wildlife.

Black Bear Farms, LLC is committed to adhering to the Conditions of Approval and all agency regulations, which include the restriction of surface water diversions, to help preserve water quality and habitat.