

SUPPLEMENTAL INFORMATION #1

For Planning Commission Agenda of:
January 7, 2021

| | | |
|-------------------------------------|------------------------|-----------------------------|
| <input type="checkbox"/> | Consent Agenda Item | <u>Item No.: G-2</u> |
| <input type="checkbox"/> | Continued Hearing Item | |
| <input checked="" type="checkbox"/> | Public Hearing Item | |
| <input type="checkbox"/> | Department Report | |
| <input type="checkbox"/> | Old Business | |

Re: Rolling Meadow Ranch, LLC, Conditional Use Permits

Record Number: PLN-12529-CUP

Assessor Parcel Numbers: 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001

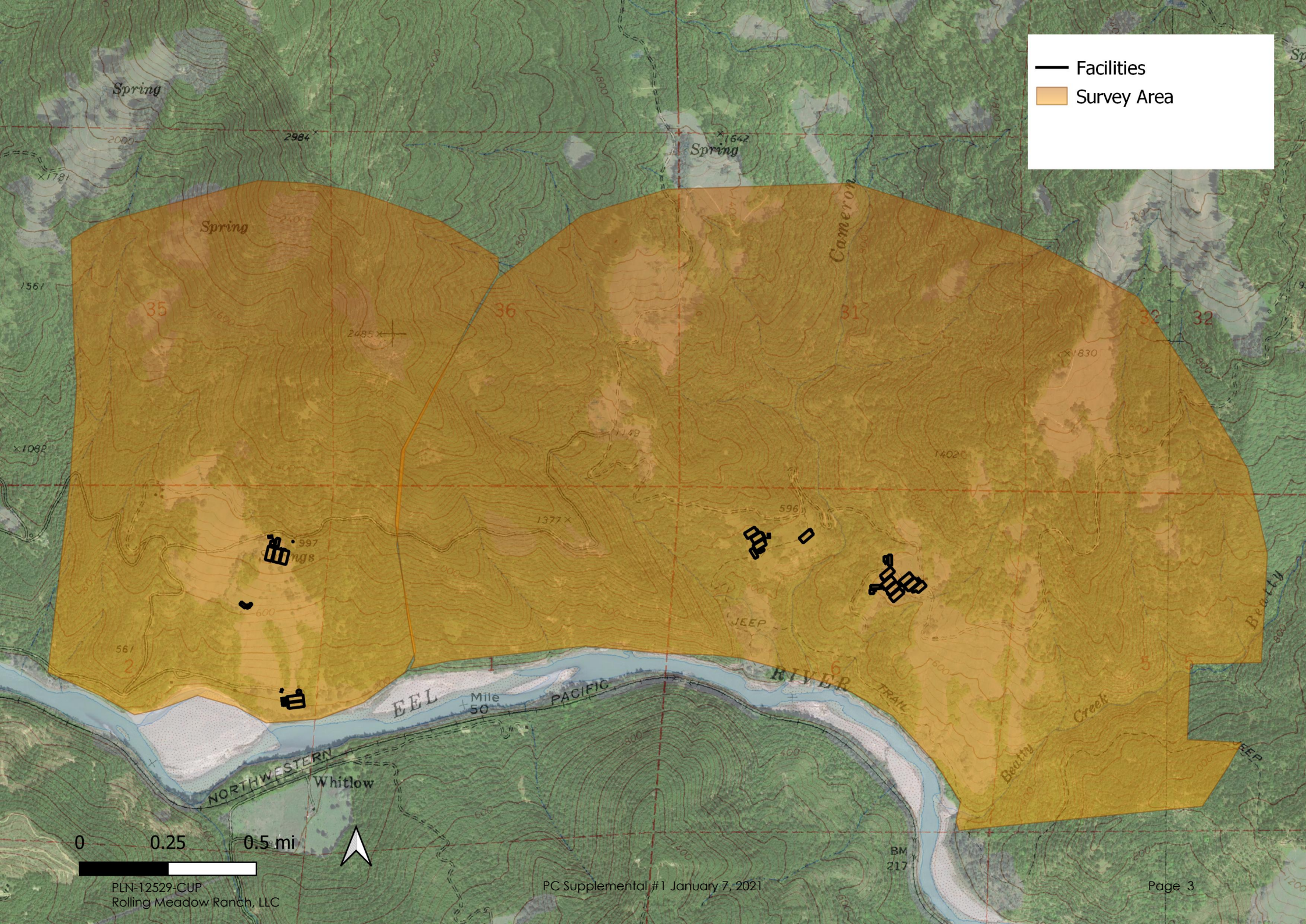
Blocksburg/Myers Flat area

Attached for the Planning Commission's record and review is the following supplementary information items:

1. Figure showing proposed Eagle Survey Areas prepared by NRM Corp., Inc. received December 31, 2020.
2. Comments from Mary Gaterud dated December 28, 2020, with concerns regarding traffic, fire danger and equity.
3. Comments from John Richards dated December 27, 2020, with concerns regarding traffic, noise, fire risk, water supply and quantity, and enforcement.
4. Comments from Annie Bond dated December 29, 2020, with concerns regarding sale of property to owner outside the community and environmental degradation.
5. Comments from Marion Collamer dated December 29, 2020, with concerns regarding access, traffic, availability of P. G. & E. to adequate supply power to a project of this size.
6. Comments from Adrian Kavanuagh dated December 29, 2020, with concerns regarding access, public safety, appropriate easement.
7. Comments from Vanessa Lavorato dated December 29, 2020, with concerns regarding Traffic, fire danger, community safety, environmental degradation and equity.
8. Comments from Andrea Almeida dated December 30, 2020, with concerns regarding water use, biological resources and remote location.
9. Comments from Shannon Mills dated December 30, 2020, with concerns regarding water supply, traffic, public safety, construction.
10. Comments from Theora J. dated December 30, 2020, with concerns regarding access, Humboldt brand, fire hazard, Eel River watershed, community safety.
11. Comments from Rick Pelren dated December 30, 2020, with concerns regarding water use and golden eagles.

12. Comments from Jo Anne Godinho dated December 30, 2020, with concerns regarding water use and golden eagles.
13. Comments from Brian Roberts dated December 30, 2020, with concerns regarding wetland buffers.
14. Comments from the Redwood Region Audubon Society dated December 30, 2020, with concerns regarding Golden eagles, Grasshopper sparrows and Savannah sparrows.
15. Comments from Holder Law Group dated December 30, 2020, with concerns regarding Location, inadequate CEQA review and access.
16. Comments from Friends of Marbeled Murrelet dated December 30, 2020, with concerns regarding Golden eagles, wells, prime agricultural determination, public comment, review and public hearing timelines.
17. Comments from Jim Redd dated December 30, 2020, with comments in support of the proposed project.
18. Comments from Toni and Kurt Stoffel dated December 30, 2020, with concerns regarding Traffic, lighting, nearby church camp, construction traffic.
19. Comments from the Fruitland Ridge Volunteer Fire Protection District dated December 30, 2020, with concerns regarding fire hazards, fire safety, roads, access.
20. Comments from Andrei Hedstrom dated December 30, 2020, with concerns regarding Environmental degradation and Humboldt brand.
21. Planning staff during a telephone conversation on December 30, 2020, in opposition to the Rolling Meadow Ranch, LLC, project.
22. Comments from Patrick Griego received December 30, 2020, with concerns regarding road use and safety.
23. Comments from the California Native Plant Society dated December 30, 2020, with concerns regarding prairies, sensitive natural communities, prime agricultural soils and tree removal.
24. Comments from the Environmental Protection Information Agency (EPIC) dated December 31, 2020, with similar concerns raised by the California Department of Fish and Wildlife, the Holder Law Group and the California Native Plant Society (comments attached as reference). The EPIC also stated concerns with the impacts to golden eagles and the hydrologic connectivity between the wells and the Eel River.
25. Comments from Ernie McGraff dated December 31, 2020, with concerns regarding well, aesthetics, wildlife, power and location.
26. Comments from Whitlow, Charbourne and Moore received December 30, 2020, with concerns regarding risk of fire, threat to wildlife and increased traffic.

— Facilities
Survey Area



December 28, 2020

Via Email and Hand Delivery

Humboldt County Planning Department
Attn: Meghan Ryan, Senior Planner
3015 H St.
Eureka, CA 95501
Email: mryan2@co.humboldt.ca.us



Re: Comments Concerning Revised Initial Study / Mitigated Negative Declaration for the Rolling Meadow Ranch, dated November 25, 2020; Six Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH#2020070339)

Dear Ms. Ryan:

As a full-time resident and property owner in McCann for twenty years, I am writing to express my serious concerns regarding the potential multiple negative impacts of the proposed Commercial Cannabis Project for the Rolling Meadow Ranch, supported by my observations as a longtime community member.

— **Increased Traffic:** The proposal of 30 employees commuting in and out from the property, daily, is an unsustainable burden on the county road infrastructure, based on my lived experience. Not only is McCann Road (State Road No. SD090) unable to bear this increased traffic volume, Dyerville Loop Road (State Road No. SD100), in both directions (as the only access to McCann Road), bears consideration as wholly inadequate in the context of the scale of this project. The road segments in question, Dyerville Loop from Highway 101 to the McCann Bridge and Dyerville Loop from the McCann bridge to the intersection of Sequoia Road (see Attachment A: maps of Dyerville Loop Road, approaches from north and south), have numerous single lane blind turns with no shoulders and steep drop offs down the bank. The stretch of Dyerville Loop Road from the McCann Bridge up to Fruitland Ridge is particularly hazardous, being entirely unpaved with blind, high-percentage grade hairpin turns.

Please view video of the road at: <https://youtu.be/u5UUlpHRxpY> , and refer to Attachments B & C for measurements, Lat./Long. Coordinates, and photographs of 15 separate Road Points that demonstrate the aforementioned qualities of this road.

In 2004 I was involved in a two-vehicle collision as I travelled south-east on Dyerville Loop Road, around one of these turns. The other driver was oncoming at a high rate of speed in a section of one lane road with no shoulders. In another incident in 2010, I was the passenger of a vehicle on that road when motorcyclists approaching from the opposite direction lost control upon seeing our vehicle and went over the bank. On two separate other occasions I have happened upon and assisted stranded drivers because their vehicles had gone off the road and landed in precarious positions. I connected them with tow truck drivers and provided physical assistance until their issues could be resolved.

In addition to these four specific incidents, I have had numerous close calls all along Dyerville Loop Road. Just entering and exiting the entrance to the McCann Bridge from Dyerville Loop Road requires extreme caution, due to the narrow road (pinch point), lack of shoulders, and poor visibility. The description of Dyerville Loop Road from 101 and up to the intersection of Sequoia Road, as well as it's intersection with McCann Road, the condition of the one lane McCann Bridge, the required traversing of the gravel river bar, and subsequent .9 mile of McCann Road from the bridge to "Road Point 1" are all conspicuously absent from The Access Assessment in Appendix C of the ISMND for the project.

The river bar offers its own hazards, and I have seen multiple vehicles get stuck in the gravel, as well as the river itself, and require towing. In the Spring of 2019 I witnessed a large dump truck, ostensibly servicing a grow operation in the process of being permitted, stuck for over twenty-four hours on the river bar. Vehicles have broken down and have even been abandoned on the one-lane McCann Bridge, blocking it in both directions—the only access in and out for the residents of McCann.

To increase the current volume of traffic by upwards of 200% from the current baseline population, on these roads, seems misguided and dangerous, with extreme repercussions for traffic safety and fragile road conditions. McCann Road is built on the slope of the inner canyon of the Main Stem of the Eel River. This river is subject to extreme mutability in its height during the winter rains. I have seen the river rise by as much as twenty-four feet in a twenty four hour period, and fall just as quickly. This hydrological action makes the terrain underpinning the road subject to extreme instability, as demonstrated by the massive January 2017 landslides and slip outs on McCann Road approximately .25 mile west of my property line, 1.25 miles east of the McCann Bridge ("Road Points 2 & 3" in The Access Assessment). For four months the county road was impassable by vehicle, completely blocked by mud, trees, and

debris flows, as well as slipped out and undercut, crumbling away. I could only access my home on foot, packing in all of my supplies after taking the ferry boat.

Construction to remediate this section of the road was completed last week, nearly four years later, funded by federal disaster funds and contracted out because the scope of the job was beyond the capability of the Humboldt County Road Crew. No matter what steps are taken to widen the road, improve visibility, etc., at the Road Points described in the meager Access Assessment—as well as the places left out of that document—the fact remains that the inherent geology of this canyon lends itself to an unstable road bed.

Why enhance that with more traffic? According to the proposal, up to 30 employees in a total of 15 cars will traverse the road. How is that number calculated? Fifteen cars seems like a specious, unrealistically low number, and not inclusive of the true scope of the increased traffic, likely to include large trucks with trailers and heavy equipment, that would ensure and accelerate extreme road erosion... one look at the condition of the ill-fated railroad tracks along the banks of the Eel immediately across the river gives a clue of the future outcome. Who will pay for the inevitable road repairs? And how long will they take? The owner and subsidiaries of Rolling Meadow Ranch have alternate access to their property via Alderpoint Road to the east (referred to as the “Winter Access” in their documents) in the event of another McCann Road failure; my neighbors and I do not.

“Road Point 4” in the Access Assessment is particularly worrisome to me, because it is on the part of the Humboldt County road that bisects my property. The former owners, Art and Barbara Perra, experienced a landslide in the mid-1990’s caused by logging on the parcel above. This slide blocked the county road at this point, destroyed some of the structures on the property, and is still evident all the way down to the river. Humboldt County repaired the road, installing a culvert of questionable engineering, making this area prone to the same sort of catastrophic slip out as the one that occurred in 2017, up the road, for the same reasons.

—**Fire Danger:** With a greater number of people commuting into fire prone wildlands comes a vastly enhanced risk of fire. According to the California Department of Forestry and Fire Protection, a significant majority of wildfires are caused by human activity. This has already proven to be the case on the Rolling Meadow Ranch; on the Fourth of July weekend in 2013, a visitor driving in from Eureka ignited a brush fire with their vehicle’s hot exhaust pipe, requiring an emergency response from CalFire, who contained the blaze.

And it's not just commuting that poses heightened fire risk. Power lines have sparked massively destructive, deadly fires in our state. The cultivation operation planned for Rolling Meadow Ranch is fully dependent on PG&E, and expanded power line infrastructure into remote wilderness. This is gravely concerning to me. I have called 911 and requested emergency fire response on two separate occasions, due to live downed power lines igniting fires in trees. Once in the spring of 2010, as well as January 2020. A third time occurred in October of 2017, while the Tubbs fire in Sonoma County still raged... one of my neighbors called 911, and alerted me to the incident on the County road between my property and the bridge, blocking my only access out. I hold my local volunteer fire department in high esteem, as well as CalFire, but in all of these instances, the time it took to mount a response and get engines to the scene was sobering, to say the least, and speaks to the difficulties of my location. Additionally, telephone landlines are notoriously and absurdly unreliable in this area, also prone to going down along with the power lines. Cell phone service is extremely limited, further complicating communication, especially during an emergency.

The aforementioned January 2017 landslide blocking McCann Road also knocked out power poles and lines. Because the river was so high (40 feet), ferry boat service was cancelled for days. PG&E accessed the downed lines for repair by dropping linemen and their equipment off a cable dangling from a helicopter. I have experienced winter power outages for up to 13 days solid. McCann is at the end of the line regarding the power grid; when a storm creates problems across a wide area, this neighborhood is frequently the last to get serviced. With that established history, as well as the new normal of PG&E Power Safety Shutdowns, any grow operation dependent year round on PG&E necessitates backup power from large generators. This poses it's own set of problems around fire safety, as well as the ecological impacts of volatile, non-renewable fuel use, transportation, storage, and emissions.

As Californians, let us not be in denial that we are living a sad reality; our lives, livelihoods, and health are severely impacted by climate change and catastrophic blazes, as demonstrated by recent events. At this point in history, it is unconscionable and irresponsible, given the current state of environmental affairs and escalating danger, to encourage the expansion of industrial development and human activity further into remote rural areas with enhanced forest fire danger and compromised access roads and power infrastructure, far from emergency services.

in algae blooms in warmer summer months—toxic and life threatening to wildlife, pets, and humans.

Allowing a large cultivation project to substantially increase this burden would be an egregious violation of ethical environmental stewardship.

—**Equity:** Lastly, as a concerned stakeholder in the Humboldt County Cannabis industry, I feel that the Rolling Meadow Ranch project would unfairly exploit, capitalize on, and thereby dilute the value of the Humboldt County Cannabis brand. The owner, based in Florida, who has never resided in Humboldt County, nor grown cannabis on the property in question, seeks permits for what largely amounts to a vast indoor growing operation. Any “mixed light” inside greenhouses intent on growing year round is fossil fuel energy intensive, and can be grown anywhere there is power. This project will negatively impact the environment of Humboldt County, whilst claiming the brand as representative of quality origin. It will be cannabis grown under unnatural conditions and artificial light, divorced from the natural environment, and yet allowed to label itself as coming from a specific region known for its high quality cannabis. As the designation of Cannabis Appellations of Origin becomes codified in California State regulations, the Humboldt County brand and any sub-appellations therein becomes a valuable marketing distinction, thanks to many dedicated, legacy, craft sungrown farmers who have put in the time and hard work to develop that brand.

This detrimental impact is two-fold. Humboldt County is renowned for its landscape. I have spoken to many people as they float by on the Eel River on kayak and canoe trips, who say they return again and again because of the pristine wilderness along the Eel River. A project of this size, scale, intent, and proximity to the river will be a blight on the landscape, and do damage to the image of a Wild and Scenic river, corrupting the natural beauty that Humboldt is known for.

And for what? So that Humboldt County wealth can be extracted by an out of state entity, while damaging the local environment and community, irrevocably? It is a story reminiscent of the naked corporate greed of Charles Hurwitz’s Maxxam Corporation. As for the argument that this project will create jobs, it would be employment that necessitates extraordinarily long commutes.

Encouraging this obsolete, maladaptive business model, which is dependent on urban sprawl and the industrial development of wildlands, is antithetical to the intent of the Cannabis Cultivation Ordinances and the Humboldt County General Plan. This project, as designed, is better suited to a location that is closer to established urban

services and infrastructure. At the very least, should the project be approved in any form, I strongly urge the Planning Commission to require that all access for the purpose of cannabis cultivation operations occur via the Alderpoint Road route, thereby avoiding some of the negative effects outlined above.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mary Gaterud', with a stylized, flowing script.

Mary Gaterud

1465 McCann Road Redcrest, CA 95560

PO Box 287 Redway, CA 95560

(707)845-2199

elevenator@mac.com

Attachment A:


12/26/2020

Dyerville Loop Rd, Myers Flat, CA 95554 to Dyerville Loop Rd, Myers Flat, CA 95554 - Google Maps


Google Maps

Dyerville Loop Rd, Myers Flat, CA 95554 to Dyerville Loop Rd, Myers Flat, CA 95554

Drive 2.3 miles, 8 min



Map data ©2020 2000 ft


 via Dyerville Loop Rd


Fastest route


8 min


2.3 miles


Explore Dyerville Loop Rd

 Restaurants

 Hotels

 Gas stations

 Parking Lots

 More

<https://www.google.com/maps/dir/40.3085982,-123.8177476/40.325842,-123.839541/@40.3166366,-123.8304192,14z/data=!4m2!4m1!3e0?hl=en&au...> 1/1

12/26/2020

Dyerville Loop Rd, Weott, CA 95571 to Dyerville Loop Rd, Myers Flat, CA 95554 - Google Maps



Dyerville Loop Rd, Weott, CA 95571 to Dyerville Loop Rd, Myers Flat, CA 95554 Drive 6.5 miles, 16 min



via Dyerville Loop Rd

16 min

Fastest route

6.5 miles

Explore Dyerville Loop Rd



Restaurants



Hotels



Gas stations



Parking Lots



More

<https://www.google.com/maps/dir/40.3524985,-123.9257558/40.325842,-123.839541/@40.3374734,-123.8779054,13z/data=!4m2!4m1!3e0?hl=en&au...> 1/1

Attachment B:**Road Data / Dyerville Loop Road / State Road 6D100****From the intersection of Sequoia Road to the McCann Bridge:**

| <u>Road Point:</u> | <u>Lat./Long.:</u> | <u>Width:</u> | <u>Notes:</u> |
|---------------------------|---------------------------|----------------------|----------------------|
| 1 | 40.308506, -123.817748 | 13' | |
| 2 | 40.309577, -123.821003 | 17' | |
| 3 | 40.312413, -123.822352 | 12' | |
| 4 | 40.313096, -123.822302 | 12' | |
| 5 | 40.314057, -123.826985 | 16' | |
| 6 | 40.313932, -123.827618 | 14' | |
| 7 | 40.313775, -123.829803 | 13' | |
| 8 | 40.316053, -123.831605 | 13' | |
| 9 | 40.316834, -123.830681 | 16' | |
| 10 | 40.316215, -123.830682 | 18' | |
| 11 | 40.318601, -123.829082 | 15' | very steep |
| 12 | 40.319276, -123.829474 | 17' | |
| 13 | 40.319684, -123.830178 | 10' | one lane/no turnout |
| 14 | 40.320825, -123.832903 | 10' | |
| 15 | 40.321255, -123.833886 | 14' | |

Attachment C:

Photographs Corresponding to Road Points 1 - 15, along Dyerville Loop Road, starting from the Sequoia Road intersection:

Road Point 1:



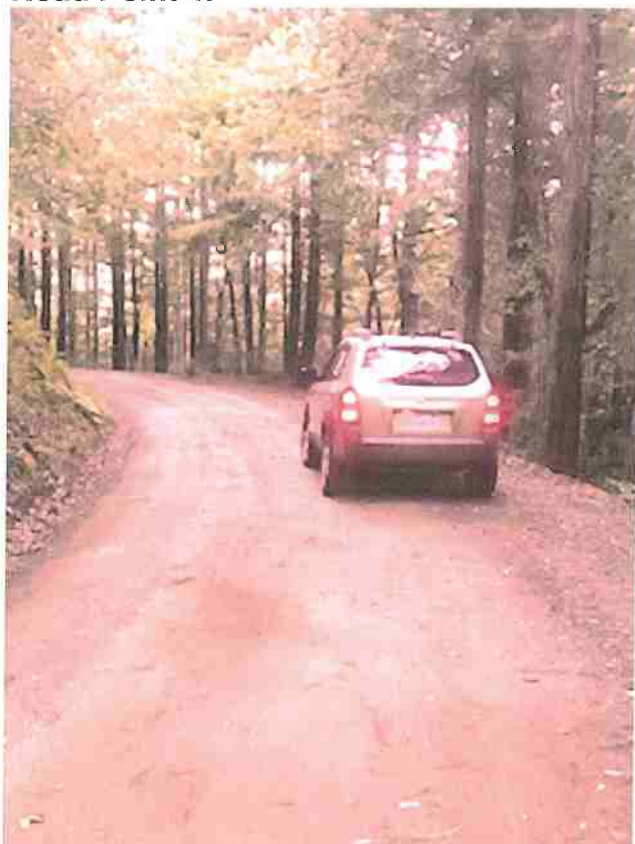
Road Point 2:



Road Point 3:



Road Point 4:



Road Point 5:



Road Point 6:



Road Point 7:



Road Point 8:



Road Point 9:



Road Point 10:



Road Point 11:



Road Point 12:



Road Point 13:



Road Point 14:



Road Point 15:



December 27, 2020

Humboldt County Planning Department
Attn: Meghan Ryan, Senior Planner
3015 H St.
Eureka, CA 95501

Email: mryan@hco.humboldt.ca.us

Re: Comments Concerning Revised Initial Study / Mitigated Negative Declaration for the Rolling Meadow Ranch, dated November 25, 2020; Six Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH#2020070339)

Dear Ms. Ryan:

I am a resident and property owner for 27 years in McCann. I am writing to express my concerns regarding the negative impacts created by allowing such a large-scale industrial cannabis operation in an ill-suited fragile environment.

Increased traffic. The county roads, Dyerville Loop road and McCann road, accessing this proposed project are not adequate for the increase in traffic that would occur for employees and service vehicles. This increase of traffic would be on top of the traffic produced by the recently approved Black Bear Farms and their employees, an estimated combined 53 employees, and service vehicles which use the same roads. The roads are narrow with many blind turns, mostly unpaved and prone to slides all along their routes. The risk of accidents would increase. The amount of dust created would be immense spread by the notorious Eel river canyon winds especially when crossing the river bar. Much of this dust will inevitably land in the Eel River reducing water quality on top of reducing the air quality for the neighboring properties.

Noise. One of the things that drew us to this area was the minimum of noise created by human activity. The increase in vehicular traffic, construction, diesel generators, loud music, fans and other things will negatively impact the peace of this pristine area. Sound travels quite a way up and down the Eel River Canyon.

Recreation. The Eel River is used by boaters and swimmers. As a boater myself we canoe the river almost every year. The proposed project site can be seen from the river where some of the buildings are proposed to be placed. There are several campsites along the river near the proposed project that will be impacted by the lights and noise the project produces. These are severe negative impacts to the people that are attracted to enjoying the recreation opportunities provided by the Eel River.

Increased Fire Risk. This negative impact is self-evident: any increase of human activity (especially industrial) into the wild land interface will increase the risk of wildfires. Any wildfire that starts in this area will quickly burn out of control because of the remoteness and inadequate access roads.

Water supply and quality. This project requires more than 4,500,000 gallons of water annually. A nearby project requires similar quantities of water. The IS/MND does not properly analyze the cumulative impact of these projects and all the other projects in the Eel River watershed on disrupting the flow of water into the Eel River and on the endangered species dependent on sufficient quantities of clean water for their survival. Some of the fertilizers, herbicides, pesticides and other chemicals used will inevitably end up in the Eel River and other water ways no matter how careful the operators are.

Enforcement. Is the County going to have the resources and will to make sure the applicant follows all the rules if allowed to move forward?

The product produced by this project is accomplished with greenhouses using a mixture of natural and artificial light and by using non-organic methods. Producing cannabis using these methods means they can be produced anywhere without affecting the outcome of the product. I would argue that the proposed project site is the most inappropriate location imaginable. A project of this scale and using these methods is more suited to commercially zoned urban areas where the infrastructure and labor supplies are already established. Therefore, I strongly recommend not approving this project.

Thankyou for your time and consideration,



John Richards

725 McCann Rd

Redcrest, CA 95569

835 Cypress Ave

Ukiah, CA 95482

(707)367-2053

jrvveee@gmail.com

McClenagan, Laura

From: Ryan, Meghan
Sent: Tuesday, December 29, 2020 11:56 AM
To: Annie Bond
Subject: RE: PROPOSED CANNABIS CULTIVATION OPERATION AT ROLLING MEADOW RANCH

Good morning, Annie - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Annie Bond <spotlightrose@gmail.com>
Sent: Tuesday, December 29, 2020 11:27 AM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: PROPOSED CANNABIS CULTIVATION OPERATION AT ROLLING MEADOW RANCH

Hello,

I'm emailing to formally complain about the proposed sale of Rolling Meadow Ranch to someone from outside the community.

I was a young teenager when prop 215 was passed and the cannabis industry started drastically changing. If it weren't for the negative impacts of legalization I would've become a third-generation cannabis cultivator. I can't afford to participate economically in my own cultural upbringing because other people are coming from outside of our community to profit off of our industry.

The environmental impacts alone have affected my life and the health of this community.

Selling this property to a capitalist from another place is going to negatively impact our community and the ecosystem at large.

Please don't give our community away. We can't afford to lose anything more.

Thank you
Annie Bond

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ANNIE BOND M: 707-407-8040 E: spotlightrose@gmail.com Ritz LLC • Envision LLC • BM Center Camp Cafe Culture Jam
• Camp Winnarainbow • YES! Kinetic Grand Championship • Intents • GG

McClenagan, Laura

From: Ryan, Meghan
Sent: Tuesday, December 29, 2020 2:49 PM
To: Marion Collamer
Subject: RE: Comments for Rolling Meadows Ranch LLC MND

Dear Marion - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Marion Collamer <marion@lostcreekcannabis.com>
Sent: Tuesday, December 29, 2020 2:22 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Comments for Rolling Meadows Ranch LLC MND

Ms. Ryan,

I have read the MND for the Rolling Meadows Ranch. I understand that commercial cannabis cultivation is a path for the County to move forward in a sustainable manner however, I have some questions regarding the potential project.

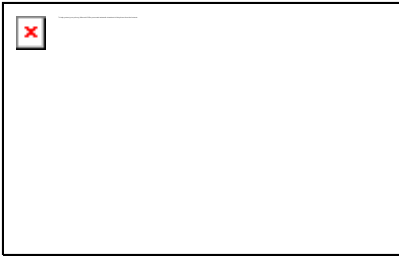
-The winter access for the facility is inadequate. For the entire rainy season workers will use Alderpoint Road. How does the County or the project proponents plan to accommodate the increased traffic on the already outdated and insufficient road? It is a main route of travel for the entire south county yet it is poorly maintained and over traveled. The County has granted other large industrial canopies in my neighborhood and the amount of traffic generated by the facilities has overwhelmed the existing infrastructure. The out of county owners are unaffected and the local residents are stuck with it after the permit is granted.

-How is PG&E going to supply year- round mixed light farm in that extremely rural area? PG&E does not have enough power for current farm owners to obtain industrial power drops in the County. I have been told this directly by their employees. It is not fully addressed anywhere in the document. Humboldt County needs to move to more sustainable and safe power sources.

-It is unfortunate that legacy farmers do not have the financial resources to undertake a project of this magnitude. This out of state corporation will offer a few low level jobs, but mostly the money will be sent out of the area.

Thank you for your reply to these concerns.

Sincerely ,
Marion Collamer



Lost Creek Farms,LLC

(707)845-6308

www.lostcreekcannabis.com

license numbers

C13-0000152. CCL19-0000203
CCL-0000203. CCL19-0000204
CCL19-0000203. CCL18-0001612
CCL19-0000204

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 7:05 AM
To: adrian kavanaugh
Subject: RE: concerns about Rolling Meadows easement (Alderpoint Road)

Dear Adrian - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: adrian kavanaugh <adriankavanaugh@gmail.com>
Sent: Tuesday, December 29, 2020 3:24 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: concerns about Rolling Meadows easement (Alderpoint Road)

Dear Meghan,

I am writing in regards to the Rolling Meadows cannabis permit that is coming up for consideration. I own the property (217-451-003) that has their easement to the Alderpoint Road. I am under the impression that they intend to use my road when they are unable to cross the river at McCann, however when I read the proposal, it listed 22 cars coming through the North Gate (Alderpoint Road) 365 days a year. I have concerns about the number of cars that could potentially travel through my property on a little gravel farm road. The access road through my property is a steep and narrow road and is not suitable for large numbers of vehicles. I have cows that pasture freely across the road in question and worry that the gate may be left open and my cows could end up on the Alderpoint Road. If this project is approved I request that Rolling Meadows be required to install an automatic security gate at the Alderpoint Road to ensure that the gate is shut and locked properly every time.

I have concerns for the safety of my family with that many people having access through my private property. I have questions about where they would be required to post their permits (if approved). If they post their almost 6 acres worth of permits on our gate, it would likely draw unwanted attention to our property, and be a risk to our family. I live here full time with my wife and children.

While there is a legal easement through our property, we do not feel that the original intent was to provide access to a year round operation of this scale. If they were limited to 3 runs a year and required to take the worst winter months off, they would likely have no reason to travel our road. This would also reduce their use on electricity and heating gas. This will have a major impact on our property and our ability to free range our livestock, as the easement travels through our best grazing area.

Thank you for taking the time to read about my concerns. Feel free to contact me with any questions.

Adrian Kavanaugh and Sarah Carey
(707) 273-8373

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 7:10 AM
To: vdoralavorato
Subject: RE: Comments Concerning Revised Initial Study / Mitigated Negative Declaration for the Rolling Meadow Ranch, dated November 25, 2020; Six Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH#2020070339)

Dear Vanessa - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: vdoralavorato <vdoralavorato@gmail.com>
Sent: Tuesday, December 29, 2020 4:12 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Comments Concerning Revised Initial Study / Mitigated Negative Declaration for the Rolling Meadow Ranch, dated November 25, 2020; Six Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH#2020070339)

Humboldt County Planning Department
Attn: Meghan Ryan, Senior Planner
3015 H St.
Eureka, CA 95501
Email: mryan2@co.humboldt.ca.us

Dear Meghan,

This email is to comment on the proposed Rolling Meadow Ranch development. I strongly oppose this project for several reasons:

Increased Traffic: The proposal of 30 employees commuting in and out from the property, daily, is an unsustainable burden on the county infrastructure.

Fire Danger: With a greater number of people commuting into fire prone wildlands comes a vastly enhanced risk of fire.

Community Safety: In addition to the inevitable increase in traffic hazards and accidents, more people entering a remote, rural area poses other safety threats, especially related to the cannabis industry.

Environmental Degradation: The proposed area is untouched nature directly alongside the Eel River. This project will destroy the local environment, pollute the river and irreversibly impact the local wildlife.

Equity: The Rolling Meadow Ranch project would unfairly exploit, capitalize on, and thereby dilute the value of the Humboldt County Cannabis brand. In comparison to other nearby cannabis grows, the sheer size of this project would dwarf other farms. How is that equitable?

The cannabis industry is rooted in compassion and equity. Please do not approve to move this permit forward.

Sincerely,
Vanessa Lavorato

McClenagan, Laura

From: vdoralavorato <vdoralavorato@gmail.com>
Sent: Wednesday, December 30, 2020 7:19 AM
To: Ryan, Meghan
Subject: Re: Comments Concerning Revised Initial Study / Mitigated Negative Declaration for the Rolling Meadow Ranch, dated November 25, 2020; Six Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH#2020070339)

Thank you Meghan. I've been going up to the area to visit my friend for over a decade. I would be truly heartbroken to see the land permitted in this way. We are all for growing cannabis, but at what scale and at what cost?

Thank you for your time. Have a great New Year.

On Dec 30, 2020, at 7:09 AM, Ryan, Meghan <mryan2@co.humboldt.ca.us> wrote:

Dear Vanessa - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: vdoralavorato <vdoralavorato@gmail.com>
Sent: Tuesday, December 29, 2020 4:12 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Comments Concerning Revised Initial Study / Mitigated Negative Declaration for the Rolling Meadow Ranch, dated November 25, 2020; Six Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH#2020070339)

Humboldt County Planning Department
Attn: Meghan Ryan, Senior Planner
3015 H St.
Eureka, CA 95501
Email: mryan2@co.humboldt.ca.us

Dear Meghan,

This email is to comment on the proposed Rolling Meadow Ranch development. I strongly oppose this project for several reasons:

Increased Traffic: The proposal of 30 employees commuting in and out from the property, daily, is an unsustainable burden on the county infrastructure.

Fire Danger: With a greater number of people commuting into fire prone wildlands comes a vastly enhanced risk of fire.

Community Safety: In addition to the inevitable increase in traffic hazards and accidents, more people entering a remote, rural area poses other safety threats, especially related to the cannabis industry.

Environmental Degradation: The proposed area is untouched nature directly alongside the Eel River. This project will destroy the local environment, pollute the river and irreversibly impact the local wildlife.

Equity: The Rolling Meadow Ranch project would unfairly exploit, capitalize on, and thereby dilute the value of the Humboldt County Cannabis brand. In comparison to other nearby cannabis grows, the sheer size of this project would dwarf other farms. How is that equitable?

The cannabis industry is rooted in compassion and equity. Please do not approve to move this permit forward.

Sincerely,
Vanessa Lavorato

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 7:10 AM
To: ms.andreaalmeida@gmail.com
Subject: RE: Rolling Meadow Ranch

Dear Andrea - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

-----Original Message-----

From: ms.andreaalmeida@gmail.com <ms.andreaalmeida@gmail.com>
Sent: Wednesday, December 30, 2020 12:02 AM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Rolling Meadow Ranch

Dear Meghan,

Being a Floridian, I expect fellow Floridians to protect wild and wetlands because of how much ranchers benefit from peace and quiet. I say let them cultivate using sustainable water measures since Floridians think water is more common than a Californian. Also let them cultivate with keeping wetlands and wild lands preserved. If it's all indoor, find a less beautiful region to grow indoors. Seems like they just want to implement practices for profit without a long term profit view by protecting the land around their competitors. Let the competition be in cannabis quality, not destruction of natural resources to get ahead. In fact maybe a better use of this land is to built retreats for remote workers and cannabis taste tours with a small and sustainable cultivation operation; and grow majority in regions where indoor makes more sense like Sacramento.

I appreciate your serious consideration to a better alternative.

Thanks!
Andrea Almeida
Concerned CA Resident

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 8:37 AM
To: 'Shannon Mills'
Subject: RE: Rolling Meadow Ranch

Dear Shannon - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Shannon Mills <shannon.mills00@gmail.com>
Sent: Wednesday, December 30, 2020 8:35 AM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Rolling Meadow Ranch

Good morning,

I writing about my concerns about the Cannabis cultivation operation at the Rolling Meadow Ranch. I am a property owner along the McCann Road in McCann. Hearing about this proposed site is heartbreaking. My first concern is the water and land impacts this will have. I have been in this area my entire life. My Grandmother grew up in McCann and lived out there before the flood in 1964. My family has owned property out there ever since. As of now, the water situation is dire to say the least. The creeks barely flow in the summer months and the river is bare. In some parts, it is maybe 10 feet wide and about 1-2 deep with algae growing along the banks. Then to take almost 5 million gallons from the aquifer in the hills above this river is mind blowing. Goodbye river and creeks all together. They say they will use caught rain water, but there is none if it doesn't rain. We all know how little rainfall we are getting now. The rain water amount shouldn't even be taken into consideration as we cannot predict the amount we will actually get. So if there is 5 million taken from the aquifers, if there is even any left, that will be taken as well. We all know this. Any water available will be gone. This is very very frightening.

The second concern is the amount of traffic that will now be on McCann Road. The already crumbling road will be 100 times worse. Not only the road just from the east side of the river to the property, but both roads from The Avenue to McCann. The roads in some places are barely wide enough for one car, let alone a whole convoy in and out. The current bridge isn't operational when the water is high and it is already like pulling teeth with the County to have the approaches to the bridge put in when the water goes down. To have 30 plus people in and out all day will turn the place into a highway. Which I am guessing will add trash and littered garbage along the roads. There is a spot in the roadway now that is eroding away. A huge slide that nearly took the whole road out. More and more driving on these roads will make them impassable.

The third concern is the amount of people passing along these roads and the crime this will create. It makes me uneasy to know more people will be out there. It is such a remote area it is hard to be sure my family is safe. We know what kind of crime these businesses create. Maybe not the people who are in this proposed business, but people who know what the business entails and they go after that. I don't want people casing my property thinking the same business happens there. I am sure word of mouth will also happen and who knows what additional people that will bring. Having

a young child of my own, it makes me upset that I now will have to now worry about who is around and protecting my family. I know everyone who lives in McCann and the surrounding areas. This will no longer be the case.

The last concern is the amount of construction on the top of this property. How will it affect the properties below it? Will we still have our water? Will there be structural damage to the earth that will one day affect properties below? Are we going to create a massive mudslide and lose everything as the whole hillside falls into the river and creates a damn like in 64'? To think that this untouched precious land is going to be destroyed is sad.

Like I said, I have been going out to McCann my entire life, 34 years, and it has been a special place. A secluded area of just nature and stillness. None of this is going to exist anymore in Humboldt County. The one thing that Humboldt has that is special and unique is rapidly vanishing for such ridiculous reasons. I hope these concerns are seriously taken into consideration.

Shannon Mills
Property owner in McCann

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 11:02 AM
To: 'Theora J'
Subject: RE: Comment on Proposed Cannabis production Rolling Ranch LLC

Dear Theora - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Theora J <satyatheora@gmail.com>
Sent: Wednesday, December 30, 2020 10:52 AM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Comment on Proposed Cannabis production Rolling Ranch LLC

Hello Ms. Ryan,
This is a comment in opposition to proposed commercial Cannabis cultivation permits for Rolling Meadows Ranch LLC in McCann.

I am writing as a concerned citizen, friend, neighbor and former Director of the Humboldt Sun Growers Guild.

I have maintained close relationships with many farm owners who have been struggling to keep up with the permitting demands of the state and county. This new proposed commercial cannabis business in McCann is a prime example of what every local farmer has feared since the beginning. Folks from outside of the area, with lined pockets coming to spoil our natural landscape and capitalize on the Humboldt name. A legacy that has been built over decades for the love of a plant and our area.

There are multiple alarming aspects of this proposed commercial cannabis operation.

The first being the access to the proposed property. I have a couple friends that own property in McCann and the public road is not equipped for the increase in traffic this location would need. It is barely maintained for the few residents that live there. There were three slides a couple years ago that have yet to be fully repaired. Access was extremely dangerous in spots and nothing was done to even bandaid these slides for months. The largest was finally repaired this year. The Public road utilizes a shoddy "bridge" that lands on the river bar. This is completely inaccessible for many days during the fall in winter as river rises and covers the bridge. A "ferry" is required for access. To propose that 30 employees and additional commercial vehicles (delivery drivers, fuel, supplies etc) utilize this daily for access is totally unrealistic. The road can not handle that kind of increased traffic. Not to mention the inevitable increase in road pollution that will end up directly in the Eel river. The road is directly on the river bar which gets flooded every year taking with it all the debris, fuel and oil that has spilled off of vehicles throughout the year. This negativity impact precious river habitat for threatened fish and amphibian species.

The second issue is the degradation of the Humboldt brand. This is a controversial topic but after working with so many farmers as they went through the permitting process I am a strong believer in keeping Humboldt local when it comes to Cannabis. Sure the county will get its fees but where is all that cannabis going to go? I can't tell you how

many farmers have tried and failed at creating a brand or just private labeling and still have a super hard time selling their product to the California market. They have given up after spending tens of thousands of dollars going through all the hoops just to end up sitting on a bunch of product they can't sell. The California cannabis market is already flooded. Our local small artisan farmers do not need a large commercial operation to compete with and guaranteed the product will be low to mid grade. I speak from experience in seeing lots of product come through the sun growers guild from hundreds of local farms. The mentality of folks that start these operations and their expectations that its an easy cash cow., Throw money at it and it will come back 10 fold. Not a reality. It takes years of experience with the plants, varieties, climate and unique terroir of every location to produce high quality Cannabis. I would be very wary of such a large commercial operation with ties out of state. I assure you they will not be able to get rid of all their product at the price they would like on the white market. Although we have the name, Humboldt is far removed from metro areas where the highest cannabis consumption occurs, all of it needs to go elsewhere. Again local farmers do not need competition for shelf space in an already saturated market. I thought we wanted money to stay in the county? How is this served by allowing an operation such as this to be owned by folks from Florida. Sure, local businesses will benefit from the operating costs but all the profits will leave the area and not be stimulating our local economy.

The third ever increasing threat is an increased potential for fire. Again access is limited to this remote area and response to a fire would be limited. Mixed light permit mean lots of high intensity lights, fans and electrical all relying on PGE. Increased traffic and potential for sparks igniting the unmaintained brushy roadside is of concern. As well as folks that smoke cigarettes or otherwise improperly disposing of their butts. Again from experience these larger operations require more people to keep the ship running. There is a high turnover in jobs within the cannabis industry and this will increasing the risk of accidents and environmental damage due to human error from folks lacking experience.

Fourth, water usage from precious eel river water sheds. There are already a few permitted farms within the area and ai am concerned about the increase in water usage this farm would require. The river during the summer is very low in some spots along the stretch near the road. Removing thousands of gallons of water from an already tapped and dwindling water shed would surely be detrimental to the local environment and that down river. If one thing is for sure about climate change it is that we are loosing moisture. Our rivers do not need the added stress of a large commercial operation such as this taking water.

Lastly, this is a remote area of Humboldt county with few residents. There are existing legal farms and adding this one to the map will draw unwanted attention from unsavory characters wanting to take advantage of the remote location, slow response of law enforcement and "sitting duck" cannabis farms. Safety for the local residents is a valid and real concern in this remote area.

I hope these comments resonate with you and it can become clear that the proposed commercial cannabis operation at Rolling Meadows Ranch in McCann should not be permitted as it will only negatively impact the pristine wilderness and livelihood of the inhabitants of this remote area of Humboldt.

Thank you for your time and consideration.

Theora Jackson
Former Director of the Humboldt Sun Growers Guild.

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 1:57 PM
To: RICK PELREN; Planning Clerk; Johnson, Cliff
Subject: RE: Public comment on Rolling Meadows Ranch Conditional Use Permits, SCH 2020070339

Dear Rick - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: RICK PELREN <marvellouslyradiant@outlook.com>
Sent: Wednesday, December 30, 2020 12:11 PM
To: Planning Clerk <planningclerk@co.humboldt.ca.us>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>; Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Public comment on Rolling Meadows Ranch Conditional Use Permits, SCH 2020070339

Please see attached comment letter.
Your sincerely
Rick Pelren

SUBJECT: COMMENT ON ROLLING MEADOWS RANCH CONDITIONAL
USE PERMIS, SCH 2020070339

The proposed marijuana cultivation project will consume more water than the eel River watershed can bear. This will not only further endanger the fisheries there but will cause a general decline in the wildlife habitat of the area. Taking 4 ½ million gallons of water annually will directly affect the Eel River. Only a CA licensed engineering geologist or hydro geologist may evaluate the hydraulic connectivity of wells to surface waters. The county should require an independent evaluation of the wells from a licensed and qualified professional that is not a Golden Eagle contractor. Additionally, the toxic chemicals from the fertilizer will leach into the soil, and eventually find its way into the river and cause further damage. The Eel River watershed is under constant attack, and this project, if approved, will be but one more attack on our River.

Golden Eagle territory completely overlaps the project, and a mapped nest site is within 1000 yards of the primary development area. US Fish and Wildlife Service requires a one mile “no disturbance” buffer around Golden Eagle nests. The developers have conducted some surveys but none have occurred in the critical eagle courtship timeframe (January & February) when observers are most likely to see Eagles and potential nest sites. This means that they failed to follow established protocols, and are invalid. If the project is built as proposed it will likely result in the loss of this Eagle territory. This is a significant issue, and once again the county has totally failed to protect the resources and comes to a false conclusion.

The above-named application should be thrown out.

I am against the proposed project.

Yours sincerely,

Rick Pelren

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 1:59 PM
To: 'Yahoo Mail'
Subject: RE: Commenting on Rolling Meadows Ranch Conditional Use Permit SCH 20200070339

Dear Jo Anne - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Yahoo Mail <fullcircle1048@yahoo.com>
Sent: Wednesday, December 30, 2020 12:11 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Commenting on Rolling Meadows Ranch Conditional Use Permit SCH 20200070339

Hello,

I am writing to voice my opposition to this project as it will have a negative impact on the flow of water in the Eel River and the eagles who nest in this area. Please protect these treasures which make our county so unique.

Thank you,
Jo Anne Godinho
Fortuna CA

McClenagan, Laura

From: Johnson, Cliff
Sent: Wednesday, December 30, 2020 3:13 PM
To: Ryan, Meghan; Lippre, Suzanne
Subject: FW: Commenting on Rolling Meadows Ranch Conditional Use Permit SCH 2020070339

From: Yahoo Mail <fullcircle1048@yahoo.com>
Sent: Wednesday, December 30, 2020 12:15 PM
To: Johnson, Cliff <CJohnson@co.humboldt.ca.us>
Subject: Commenting on Rolling Meadows Ranch Conditional Use Permit SCH 2020070339

Hello Mr. Johnson,

I am writing to voice my opposition to this proposed plan as it will have a negative impact on the flow of water in the Eel River and the eagles who nest in this location. Please do all you can to protect these precious natural resources in our county.

Gratefully,
Jo Anne Godinho
Fortuna, CA

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 2:02 PM
To: Life IsAwesome
Subject: RE: Rolling meadows ranch LLC

Good afternoon, Brian - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Life IsAwesome <lifeisawesome2018@gmail.com>
Sent: Wednesday, December 30, 2020 12:24 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Cc: Eugene Denson <edenson95511@gmail.com>
Subject: Rolling meadows ranch LLC

Hello Meghan.

I am writing this letter in concern to a project you are the lead planner on.

It appears there are wetlands located near future grow sites and a parking lot.

Your staff report did not indicate a 150 buffer from wetlands and ponds for the Rolling Meadows Ranch LLC.

Can you please explain why you choose to enforce the Humboldt County General Plan on pre existing cultivation sites and wetland setbacks but ignore the same set of rules for a new cultivation site?

Why are you not enforcing a 150 foot buffer from all wetlands and ponds on the Rolling Meadows Ranch LLC permit?

Thanks a concerned Humboldt county resident.

Brian

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 2:04 PM
To: 'Haley Mills'
Cc: Shannon Mills
Subject: RE: Proposed cannabis cultivation rejection letter

Dear Haley - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

-----Original Message-----

From: Haley Mills <hmills1012@gmail.com>
Sent: Wednesday, December 30, 2020 12:31 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Cc: Shannon Mills <shannon.mills00@gmail.com>
Subject: Proposed cannabis cultivation rejection letter

To whom it may concern,

I am a local property owner that would be highly impacted by this commercial grow operation.

First of all, to have it be known that this is an out-of-state business that is hoping to purchase property in the Eel River area should bring red flags to begin with. Not only are these people not from California but they are hoping to step foot into a marijuana business in which they are only after profit and have no regard for the beautiful land that they will be destroying. They are wanting to take over 5 acres but we all know that this five acres will impact hundreds of acres in the surrounding area. Not to mention the destruction of soil, trees and other native species for the building of their "16 greenhouses" and "33,750 sq. ft of processing facilities, occurring year-round."

It's insane to think that anyone would have the audacity to let this happen SO CLOSE to the main stem of the Eel River, or anywhere at all in Humboldt county. We know waste will happen in absurd quantities along with the use (or theft) of water, if not from neighboring properties then from the Eel River itself and it's surrounding creeks. We cannot be so clueless to think that this will not permanently damage and destroy the Eel river (one of the last wonderful California Rivers) We are tasing about destruction of county roads, the river itself and the marine habitat of the river. If you're not aware, the Eel river flows into Lake Pillsbury which is a reservoir- Talk about polluting just about all the water of Northern California.

Who is this benefitting? That is the main question here. You can't tell me this benefits the neighbors of the property and it sure as hell doesn't benefit the county because this is the last thing that anyone in Humboldt county wants. It doesn't even benefit California!

For many of us surrounding land owners our families have resided in the area for well over 100 years and to think that this would even be an option for anyone, let alone a commercial OUT OF STATE business, to come in and try and ruin the small treasure of space that California has is truly baffling. Not only will this become a highway to and from Highway 101 full of crooks, strangers and money-driven bodies but now the people who have lived there for centuries will have to be worried for their safety and well-being with no help from any kind of law enforcement agencies. I can speak for myself and several others when I say the thought of this happening scares me to death. It makes me feel like I no longer am safe in my own home and no one should EVER feel that way.

We may be promised and guaranteed safety and security or that it's "not what we think" but for anyone who is willing to listen to that- they are foolish.

We are not talking about a "business," we are talking about money-hungry businessmen who have no regard for anyone but themselves and cash. Not for the land, not for their employees, not for their neighbors.

Would you want an operation like this next door to you?

Haley Mills
Land owner

REDWOOD REGION AUDUBON SOCIETY

P.O. BOX 1054, EUREKA, CALIFORNIA 95502

RRAS.ORG



December 30, 2020

Planning Commission
Humboldt County Courthouse
825 5th Street
Eureka CA, 95501

Subject: Concerns Regarding Continuances of the Planning Commission's Consideration of Six Conditional Use Permits for the Rolling Meadow Ranch, LLC Commercial Cannabis Project (PLN-12529-CUP; SCH# 2020070339)

Dear Chairman Bongio, Honorable Members of the Humboldt County Planning Commission.

Redwood Region Audubon Society is a California non-profit public benefit corporation whose mission is to conserve and protect the earth's natural systems, with an emphasis on birds.

We have reviewed the materials relating to the proposed continuance of consideration for six conditional use permits for the Rolling Meadows Ranch, LLC commercial cannabis project (PLN-12529-CUP; SCH# 2020070339) (Project). We agree with the California Department of Fish and Wildlife comments in their letter of August 17, 2020 on the overall Project and have additional specific concerns regarding the Project's potential negative impacts on birds.

The initial study and draft mitigated negative declaration by Natural Resource Management Inc. (NRM) relies on conclusions based on unsubstantiated assumptions to arrive at a statement of no significant impact with regard to birds, as follows:

1. Golden Eagle (GOEA), a federally fully protected species.
 - 1.1. NRM states that established practice indicates that the best time to establish GOEA presence is in January and February when courtship behavior is obvious but states the opinion that fledging season is also a good time because of location calls. NRM does not support this assumption with evidence or previous studies. We therefore assert that the absence of attempted field observation in January and February invalidates NRS conclusion relating to GOEA in the project area.
 - 1.2. No Mention is made of a known active GOEA nest site located on the south side of the Eel River approximately one kilometer (.62 miles) from a proposed cannabis growing structure and activity site in the project area. The observation on July 17 "GOEA flew from the NE ridgeline to the SW across the Eel River" strongly infers GOEA foraging on Rolling Meadows Ranch and adjacent prairies. The observed GOEA flight also suggests that this bird was going to the nest on the south side of the Eel River.
 - 1.3. The effect of human activity and disturbance adjacent to GOEA foraging areas is not discussed. Therefore, no determination of the effect on GOEA foraging success in this situation has been made. The effect of human activity and disturbance adjacent to GOEA foraging areas is not discussed. Therefore, no determination of the effect on GOEA foraging success in this situation has been made.

- 1.4. In the oak savanna and open prairie habitat of the Coast Range are the primary foraging areas for GOEA prey consisting of Black-tailed Jackrabbit and Beechey ground squirrel. Structures and human activity adjacent to and in these areas is likely to inhibit or prevent GOEA foraging activity. This would not only result in less efficient foraging but less control of jack rabbits and ground squirrels and potential degradation of prairie biodiversity.
 - 1.5. “For Golden Eagles, this area should extend **at least 2 miles** from the Project boundary (Watson *et al.* 2014, Crandall *et al.*, *in prep.*). A 2-mile radius will typically incorporate 80% of home range use (Crandall *et al.*, *in prep.*). For the purposes of this report, I will refer to this 2-mile radius area as the GOEA Analysis Area.” (Woodbridge, 2020)
 - 1.6. Mitigation Measure (MM) Bio-7 lumps GOEA into raptors which vary widely in tolerance for disturbance near active nest sites. GOEA is one of the least tolerant. The proposed MM-Bio-7 provides no justification specific to GOEA. MM-Bio-7 also fails to address loss of GOEA foraging habitat.
2. Grasshopper sparrow and Bryant’s savannah sparrow (GHSP, SAVS), California Species of Special Concern.
 - 2.1. The NRM report stated that no indirect effect on GOSP and SAVS would result if construction were avoided during nesting season. This statement is incorrect as nesting habitat would be permanently eliminated by construction, thereby reducing reproduction of these species due to reduction of nesting and foraging habitat.
 - 2.2. Mitigation Measure (MM) Bio-8 fails to address loss of nesting and foraging habitat for GHSP and SAVS.

For mitigation measures to be effective, all potential impacts on the species of concern need to be determined, based on the best available knowledge.

We find, as explained above, that errors and omissions in the biological report do not support the proposed mitigation measures for potential negative impacts to Golden eagle, Grasshopper sparrow or Savanah sparrow. We therefor request the six conditional use permits for the Rolling Meadow Ranch, LLC Commercial Cannabis Project be denied.

Sincerely,



Gail Kenny, President
Redwood Region Audubon Society

A MEMBER OF THE NATIONAL AUDUBON SOCIETY

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 2:11 PM
To: Jason Holder
Cc: Gregory.OConnell@wildlife.ca.gov
Subject: RE: Comments on Revised IS/MND for Rolling Meadow Ranch Commercial Cannabis Project (PLN-12529-CUP) (1 of 3)

Good afternoon, Jason - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I anticipate I will provide a complete response to comments next week once we receive comments from CDFW and other public members.

I appreciate your participation in the public process.

Best,
Meghan

From: Jason Holder <jason@holderecolaw.com>
Sent: Wednesday, December 30, 2020 1:37 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Cc: Gregory.OConnell@wildlife.ca.gov
Subject: Comments on Revised IS/MND for Rolling Meadow Ranch Commercial Cannabis Project (PLN-12529-CUP) (1 of 3)

Good afternoon Ms. Ryan,

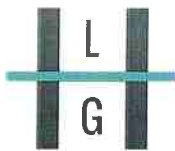
Attached for the County's consideration are comments concerning the revised IS/MND for the above-referenced proposed project. The exhibits to the comment letter will be sent in two successive emails. A hard copy of the comment letter and all exhibits thereto will be hand delivered to the Planning Department today.

Thank you for your attention to this matter and for the County's consideration of the attached comments.
-Jason

--

Jason W. Holder
Holder Law Group

Important: This electronic mail message, including any attached files, is being sent by or on behalf of a lawyer; it is confidential and it may contain or constitute information protected by the attorney-client and/or the attorney work-product privileges. If the person actually receiving this message, or any other reader of this message, is not the named recipient, or the employee or agent responsible to deliver it to the named recipient, you are not authorized to retain, read, copy or disseminate this communication or any part of it. If you have received this communication in error, please immediately notify Holder Law Group at [\(510\) 338-3759](tel:5103383759).
Thank you



Holder Law Group

317 Washington St., #177
Oakland, CA 94607-3810

holderecolaw.com

(510) 338-3759
jason@holderecolaw.com

December 30, 2020

VIA EMAIL AND HAND DELIVERY

Humboldt County Planning Department
Attn: Meghan Ryan, Senior Planner
3015 H St.
Eureka, CA 95501
Email: mryan2@co.humboldt.ca.us



Re: **Comments Concerning the revised version of the Initial Study / Mitigated Negative Declaration for the Rolling Meadow Ranch, LLC, dated Nov. 25, 2020; Six Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH# 2020070339)**

Dear Ms. Ryan:

On behalf of Fran Greenleaf, John Richards, and Patty Richards (collectively "Petitioners"), we submit these comments, which supplement those expressed in Petitioners' previous comment letters concerning deficient environmental review for the proposed Rolling Meadow Ranch, LLC Commercial Cannabis Project ("Project").¹ These supplemental comments address revisions to the environmental impact analysis presented in the "revised" Initial Study, dated November 25, 2020, and the presumably proposed Mitigated Negative Declaration ("Revised IS/MND") and the persistent omissions, errors, and misrepresentations in that analysis.² Through their diligent participation in the administrative process for this Project, Petitioners advance the public purpose of environmental protection by fostering revisions and additions to the environmental impact analysis that should be required for this large Project before it can be considered for approval – revisions that will help make the analysis accurate, complete, informative, and protective, as required under CEQA.

¹ Because the revised version of the IS/MND has not addressed many of the deficiencies identified in Petitioners' prior comments, submitted on August 17, 2020 and September 10, 2020, respectively, those comments are incorporated herein by reference and should also be addressed in any revised impact analysis that the County may conduct for the Project pursuant to CEQA.

² The title page for the latest revised version of the IS/MND does not disclose that the analysis has been revised and the document has been recirculated for public review. The uncompleted Initial Study checklist on pages 33 and 34 of the document also does not disclose that a Mitigated Negative Declaration is proposed for the Project. The County recently issued a Notice of Public Hearing that indicates the intent to adopt an MND for this Project. Thus, for convenience we refer to the document as the "Revised IS/MND."

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I. Introduction: The Proposed Large Commercial Cannabis Project is the Wrong Project at the Wrong Location with the Wrong Level of Environmental Review.

A. The Project is Unsuitable for the Site.

The Project site, Rolling Meadow Ranch, was described in a 2014 real estate listing as a “Conservationists Dream.”³ In fact, according to press reports, in 2016 the Wildlands Conservancy – an organization that specializes in purchasing properties with “significant environmental value” and turning them into nature preserves – almost purchased the 6,500-acre ranch property for \$15,000,000 before the organization was outbid at the last minute in a well-publicized land deal that fell through.⁴ While the property has tremendous potential for conservation, as with many other large ranch properties in the County of Humboldt (“County”), the tremendous allure of commercial cannabis appears to have prevailed.⁵

The Project is one of the largest completely new commercial cannabis projects ever to be proposed within the County.⁶ It is not, like many projects recently processed under the Commercial Medical Marijuana Land Use Ordinance (“CMMLUO”), an existing grow operation by a long-time county resident that is being proposed.⁷ Rather, it is a new industrial-scale operation (including 16 greenhouses, ranging size from just over 17,000- to just under 20,000 - sq. ft. and accompanying processing facilities) by an out-of-state non-resident project applicant.⁸ The applicant does not propose to grow cannabis organically, despite the fact that all 16 greenhouses will be located near sensitive wetlands, Class I and II streams, and the Eel River itself. Rather than propose a seasonal full sun grow operation that would use substantially less electricity and would have less reliance on generators in the event of a power outage, the applicant proposes an energy-intensive year-round mixed-light grow system. The greenhouses and processing facilities will be arranged in several clusters spread over miles of narrow winding unpaved roads. Simply put, the proposed Project is an intensive industrial-

³ See Exh. A – 2014 Real Estate Listing for Rolling Meadow Ranch.

⁴ See The Humboldt Independent, \$20 Million Myers Flat Land Deal Falls Through, dated June 7, 2016, available at: <http://www.humboldtindie.com/local-news/2016/6/6/20-million-myers-flat-land-deal-falls-through>, accessed 12/22/20.

⁵ See SF Chronical, Allure of legal weed is fueling land rush in Emerald Triangle, dated May 27, 2016, available at: <https://www.sfchronicle.com/science/article/Allure-of-legal-weed-is-fueling-land-rush-in-7948587.php>, accessed 12/22/20.

⁶ See Revised IS/MND, p. 10 [The total proposed square footage for all cannabis facility space (Facilities #1-#16 combined) is 304,560 square feet (7.04 acres). The total area dedicated to cannabis cultivation will be approximately 249,739 sq. ft. (5.73 acres)]. Compare this Project’s size to the many smaller commercial cannabis projects described in recent County Planning Commission agendas.

⁷ See, e.g., agenda for Planning Commission meeting on Dec. 4, 2020 [8 existing commercial cannabis projects considered for approval].

⁸ Revised IS/MND, pp. 9-10 [describing greenhouse sizes for facilities #1 through #16].

scale cannabis cultivation and processing operation located in a remote area with vulnerable natural resources and significant access issues.

B. Petitioners are Neighbors Concerned About the Project's Impacts.

Petitioners are neighboring property owners and residents of McCann, an unincorporated area located approximately 5 miles east of Highway 101 and adjacent to the main stem of the Eel River. The Project, as proposed, will substantially intensify the use of Dyerville Loop Road, McCann Road, and the seasonally-open one-lane McCann Bridge – all rural roads that are windy, narrow, and unpaved in many areas. Consequently, if the Project is approved, Petitioners will be adversely affected by increased Project-related traffic, construction and road noise, increased emissions and fugitive dust, increased wildfire risk, and a degraded natural environment, among other impacts. Even worse, the Project could lead to still more development within the expansive ranch area and accompanying environmental impacts. Petitioners seek to preserve the quality of the environment in this remote, undeveloped, and biologically important area adjacent to the Eel River for all to enjoy, both now and for future generations.

C. Substantial Evidence Supports a Fair Argument that the Project Will Cause Significant Environmental Impacts, Necessitating an Environmental Impact Report.

Petitioners maintain that the IS/MND, even as revised and supplemented, does not satisfy CEQA's requirements and cannot serve as the environmental clearance document for this large-scale and difficult-to-access Project. As explained further below, because there is substantial evidence supporting a fair argument that the Project may have one or more significant effects on the environment, the County is required to prepare an EIR before it can consider this Project for approval.⁹ Alternatively, the Planning Commission has authority to deny the application for the six (6) CUPs required for this Project because, among other things, it cannot conform to applicable County and State requirements for road access without substantial roadway modifications.¹⁰

In addition to the substantive deficiencies identified below and in Petitioners' prior comments, the Revised IS/MND also suffers from several procedural deficiencies. For example, the cover page for the Revised IS/MND does not identify the proposed Mitigated Negative Declaration or indicate that the analysis has been revised. Also, the Revised IS/MND does not include a completed checklist summarizing the proposed Project's potentially significant

⁹ See, e.g., *Communities For A Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320 (*CBE v. SCAQMD*), citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75 and *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504-505.

¹⁰ See *Las Lomas Land Co., LLC v. City of Los Angeles* (2009) 177 Cal. App. 4th 837, 849 [local agency with land use authority has discretion to deny project]; see also Gov. Code § 65800 [a county "may exercise the maximum degree of control over local zoning matters"].)

impacts, in contravention of CEQA Guidelines, § 15063(d)(3) and CEQA Appendix G.¹¹ In addition, the Revised IS/MND has not been signed by its preparers.¹²

These comments were prepared with input from retained experts in the fields of hydrogeology and civil engineering. The comments of Pacific Watershed Associates (“PWA”) and civil engineer Steve Salzman are provided herein as Exhibits B and C, respectively.¹³ Please note that the experts’ comments supplement and support some of the issues addressed below. The experience and expertise of these experts qualifies their comments, as incorporated herein, to serve as substantial evidence of the numerous ways in which the Revised IS/MND does not comply with the procedural and substantive requirements of CEQA. The comments from staff at trustee and responsible agencies, including the California Department of Fish & Wildlife (“CDFW”), concerning the original IS/MND and this Revised IS/MND also serve as substantial evidence supporting the conclusion that the Project may cause unanalyzed and unmitigated significant environmental impacts.¹⁴

D. Documents Referenced in the Revised IS/MND Were Not Made Available for Public Review During the Comment Period, as is Required Under CEQA.

As a preliminary matter, the public’s review of the Revised IS/MND was hampered by the unavailability of referenced studies supporting the analysis of Project impacts. CEQA requires the lead agency to make available for public review the environmental review document as well as all documents referenced in that document.¹⁵ Under Public Resources Code, section § 21092(b)(1), the Notice of Preparation of a MND must specify the location of the MND and “all documents referenced [therein] are available for review.” Here, not all documents referenced in the Revised IS/MND have been made available to the public and reviewing agencies as required.

Through a recently submitted request for public records, Petitioners obtained a July 30, 2018 version of a “Biological Report” that is referenced in the Revised IS/MND.¹⁶ Because a

¹¹ See Revised IS/MND, pp. 33-34 [included blank checklist].

¹² See *ibid.*

¹³ Please include in the administrative record for this Project all reports and other documents referenced herein and in the experts’ comment letters.

¹⁴ See *City of Arcadia v. State Water Resources Control Bd.* (2006) 135 Cal.App.4th 1392, 1425 [comments of government officials on a project’s anticipated environmental impacts on their communities constitutes substantial evidence that EIR is inadequate]; see also *City of Rancho Cucamonga v. Regional Water Quality Control Bd.* (2006) 135 Cal.App.4th 1377, 1387 [comments of agency staff constitute substantial evidence].)

¹⁵ See also *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455 [“The lead agency must notify the public of the draft EIR, make the draft EIR and all documents referenced in it available for public review, and respond to comments that raise significant environmental issues.”], citing PRC §§ 21092, 21091(a), (d) and CEQA Guidelines, §§ 15087, 15088.

¹⁶ See Revised IS/MND, pp. 95, 245 [referencing November 2018 revised Biological Report].

later version of the Biological Report was cited as a reference in the Revised IS/MND, and because the Revised IS/MND purports to rely upon the surveys and assessments prepared by the applicant's retained biologists, the unavailability of *any version* of this report during the public review period violates the procedural requirements of CEQA.¹⁷

II. Discussion: The Inadequate Revised IS/MND Cannot be Relied Upon to Satisfy CEQA's Requirements as Applied to this Project.

A. Because the Project Changed Substantially Since the Original Application for Four CUPs Was Submitted, the CCLUO Applies.

In its original application for four (4) conditional use permits for the Project, the Applicant described the Project as replacing pre-existing illegal cannabis grow operations and proposing new, expanded, mixed light grow operations with a total of eighteen (18) greenhouses.¹⁸ Since that time, the applicant has abandoned its effort to obtain CUPs for existing cannabis cultivation and now seeks CUPs for an entirely new cultivation and processing operation. Indeed, the Revised IS/MND analyzed the Project as a completely new commercial cannabis project with no existing cannabis cultivation considered as part of the baseline. According to the staff report to the Planning Commission dated August 20, 2020, the current version of the Project now includes the application for six (6) CUPs for the Project's sixteen (16) greenhouses and processing facilities.¹⁹ The substantial changes to the Project, made since the original application was submitted to the County, warrant processing under the County's CCLUO (a.k.a., Ordinance 2.0).

According to the EIR prepared for Ordinance 2.0, the CCLUO, includes more specific and exacting requirements for commercial cannabis projects.²⁰ For example, Ordinance 1.0 requires the Project to comply with all applicable local land use regulations, including but not limited to the requirement that access roads for cannabis projects meet fire safe standards, whereas Ordinance 2.0 specifically requires access roads for cannabis projects to meet Category 4 standards.²¹

Notably, the County's Ordinance 1.0 (the CMMLUO) under which this Project is being evaluated was passed by using an MND, not an EIR. This means that the cumulative impacts of

¹⁷ When we inquired about this referenced material in an email sent on December 1, 2020, staff reported that the reference to the Biological Report in the Revised IS/MND was "a typo."

¹⁸ Application Form, dated Dec. 22, 2016, p. 1 [Requesting: "Conditional use permits for Four (4) Replacement Mixed Light 22,000 Sq Ft Greenhouse located on parcels where pre-existing cannabis activities were located."], 3 [document entitled "Cannabis Permitting, describing a total of 18 22,000 s.f. proposed greenhouses"]

¹⁹ See Staff Report to Planning Commission re Project, for Aug. 20, 2020 meeting, pp. 1, 9.

²⁰ See Draft EIR for CCLUO project, pp. 2-5, 2-14 – 2-30 [describing CCLUO requirements and restrictions]; see also FEIR for CCLUO project, pp. 1-2, [project objectives for CCLUO project], 2-5 [key environmental objectives of Ordinance 2.0]. The full EIR for the CCLUO is incorporated herein by this reference.

²¹ Compare Humboldt County Code ("HCC") § 55.4.3.3 with HCC § 55.4.6.1.2(c).

projects processed under the CMMLUO have never been comprehensively analyzed under CEQA. This is despite the fact that the CMMLUO precipitated a permitting “rush” in the County.²² This makes adequate environmental review for this Project all the more important.

B. The Revised IS/MND Does Not Include Information and Analysis Recommended by the County’s Own “Peer Review” Consultant and by CDFW.

1. Inaccurate and Incomplete Project Description

Even as revised, the IS/MND released for public review and comment fails to consider the impacts of the whole of the Project, as required under CEQA. The problems with the project description in the Revised IS/MND have persisted in spite of clear County direction, CDFW’s specific recommendations, and Petitioners’ detailed prior comments.

On January 15, 2018, the County’s Supervising Planner wrote to the applicant, recommending numerous changes to a second draft of the Initial Study.²³ Shortly thereafter, CDFW prepared a referral checklist concerning the requirements for the Project’s description and environmental impact analysis.²⁴ A few months later, the County’s own peer review consultant, Transcon Environmental, provided constructive feedback concerning multiple deficiencies in the analysis in at least two memoranda prepared and sent to the applicant.²⁵ As will be explained below, many of the deficiencies in the analysis in an early draft of the IS/MND identified in the County’s January 2018 letter, CDFW’s referral checklist, and in the Transcon memoranda nearly two years ago have still not been corrected.

It is not coincidental that, during the comment period for the original IS/MND, both CDFW and Petitioners independently commented on many of the same issues concerning the inadequate project description that were raised early in the environmental review process by County planning staff and the County’s own peer review consultant.²⁶ These issues have

²² See Memorandum from Planning Director Ford to cannabis project applicants, dated April 28, 2017, available at: <https://humboldt.gov/DocumentCenter/View/59020/April-28-2017-Letter-Application-processing-Update-and-Concerns?bidId=>, accessed 12/01/20.

²³ See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018.

²⁴ See Exh. E – CDFW CEQA Referral Checklist for Rolling Meadow Ranch Project, dated Jan. 24, 2018

²⁵ See Exh. F – Transcon Environmental Memorandum re Peer Review, dated July 23, 2018 (“Memo #1”); see also Exh. G – Transcon Environmental Memorandum re Peer Review – Project Description Deficiencies, dated July 23, 2018 (“Memo #2”).

²⁶ See, e.g., CDFW comments on IS/MND, dated August 17, 2020, pp. 2 [“The entire Project area should include the “whole of the action”, including all proposed buildings, new powerlines, borrow pits, access roads, and other areas of new ground disturbance”] 6 [“The Alderpoint Road alternative access should be included in IS/MND analyses as part of the whole of the action, particularly due to 1) the age and condition of the existing Eel River seasonal low water crossing at McCann, 2) uncertain timeline of the County building a permanent year-round bridge at McCann, and 3) potential the Alderpoint Road may be the Project’s primary access point”]; see also Petitioners’ comments on IS/MND, dated August 17, 2020, p. 5-10; see also Petitioners’ Supplemental comments on IS/MND, dated Sept. 10, 2020, pp. 6-9.

remained problematic because many of the deficiencies, identified early in the environmental review process, were never corrected.

Because an accurate, stable, and finite project description is essential for an adequate analysis of Project impacts under CEQA, the project description deficiencies must first be remedied before a complete assessment of environmental impacts can be conducted in the EIR required for this Project. The following is a non-exhaustive summary list of the persistent problems with the Revised IS/MND's description of the Project:

(a) *Road Improvements*

As Petitioners have previously commented, , as the County's Supervising Planner directed, as the County's peer review consultants recommended in their memoranda, and as CDFW has commented the Project description must include, and provide more information about, all road improvements necessary for Project access. This includes those improvements necessary to comply with the requirements of the Humboldt County Code (namely, the CCLUO and the SRA Fire Safe Regulations).²⁷

In January 2018, the County's Supervising Planner instructed the applicant as follows:

A complete inventory of the interior road network with respect to width and improvement levels, both existing and proposed, and identification of improvements required to bring the road network into compliance, together with identification of impacts from completion of the improvements (construction impacts) are necessary to review the transportation effects on the environment in order to make a determination that the project will not have a detrimental effect on the environment.²⁸

In mid-2018, the County's peer review consultant recommended that the IS/MND be revised to "[s]how that each road, including its water crossings, are able to support a 75,000-pound apparatus. Include all routes that could be used for access during an emergency. Include any needed changes to water crossings (replacement or upgrade of bridges or culverts)."²⁹ The County itself provided similar direction in another letter to the applicant sent several months later, in February 2019.³⁰

²⁷ See HCC, Title III, Div. 11, § 3111-1, et seq. (Fire Safe Regulations); *see also id.* at Title III, Div. 1, Ch. 4, § 314-55.4, et seq.

²⁸ See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018, p. 3.

²⁹ See Exh. G – Memo #2, p. 1. The 75,000-pound threshold specified in this comment is established in the Fire Safe Regulations, HCC § 3112-4.

³⁰ See Exh. H – NRM Response to County Comments on Draft IS/MND, dated Jan. 22, 2020, pp. 4 [County staff commented "The project description should be updated to include all existing and proposed accesses to the

These issues concerning necessary road improvements were not addressed in the original IS/MND, nor were they fully and accurately addressed in the Revised IS/MND.³¹ For example, while the Revised IS/MND adds some information concerning some of the culverts that will need to be replaced and limited road modifications including widening (to the Category 2 standard), the description is silent with respect to the capability of Dyerville Loop Road, McCann Road (and bridge), and private ranch roads towards to support a 75,000-pound apparatus, among other requirements of the Fire Safe Regulations. The Revised IS/MND does not describe these improvements with the specificity required under CEQA and does not address the associated potentially significant impacts.

The new Road Evaluations appendix to the Revised IS/MND reveals that the access roads were evaluated for a "minimum 12-foot width."³² However, the proposed 12-foot width standard for Project access roads do not satisfy the minimum 20-foot width requirements under the SRA Fire Safe Regulations promulgated by CalFire pursuant to its authority under Public Resources Code, § 4290.³³ The SRA Fire Safe Regulations apply because, as the Revised IS/MND admits, the Project would be located within a State Responsibility Area (SRA) with fire protection services provided by CalFire.³⁴ (The SRA Fire Safe Regulations preempt local fire safe regulations but "do not supersede local regulations which equal or exceed minimum regulations adopted by the state."³⁵) The Road Evaluations in Appendix C of the Revised IS/MND do not address whether the Project's access roads, as improved, would comply with the minimum requirements of the SRA Fire Safe Regulations.

Similar to the requirements of the SRA Fire Safe Regulations, under the County's Fire Safe Ordinance, a "Category 4" or equivalent (i.e., 20-foot wide, etc.) access road is required.³⁶ The Project site would likely be considered "mountainous terrain" under the County's Fire Safe Ordinance.³⁷ As such, it is possible that the Project could potentially qualify for the exception under the County ordinance to the usual requirement for full Category 4 access road.³⁸

subject parcel. Also, please include the improvements required for the Alderpoint Road access to utilize this route as secondary access", 14 [summary of necessary additional project description information].

³¹ See original IS/MND, pp. 10-11; Revised IS/MND, pp. 11-12.

³² See Appendix C to Revised IS/MND, p. 3. The original IS/MND did not include substantial evidence to support conclusions regarding the sufficiency of Project access roads. The applicant has attempted to cure this major deficiency through new analysis in Appendix C. Unfortunately, the new analysis does not demonstrate that the Project access roads will satisfy Category 4 and fire safe performance standards.

³³ See 14 C.C.R., § 1273.01(a).

³⁴ See Revised IS/MND, p. 214.

³⁵ Public Resources Code, § 4290(c); see also 14 C.C.R., § 1270.04.

³⁶ See HCC, Title III, Div. 11, §§ 3112-3 [the Category 4 standard, which requires a minimum 20-foot wide two-lane travelled way, generally applies].

³⁷ See *id.* at § 3111-11 [Definitions].

³⁸ See *id.* at § 3112-3(b)(c) [exceptions for areas in mountainous terrain, where Category 3 standards may be deemed sufficient]. This assumes that this County Code provision is not preempted and that such an exception for

However, this exception still requires the travelled way to be at least 16 feet wide with a two-foot shoulder.³⁹ As the Revised IS/MND and the Road Evaluations appendix admit, McCann Road, Dyerville Loop Road, and the private ranch roads providing access to cultivation and processing facilities and to Alderpoint Road are in many areas narrower than the minimum 16-foot width under the County's potentially applicable (and exceptional) Category 3 standard. Consequently, the Project as proposed does not satisfy even the minimum width requirements for access roads under the County Fire Safe Ordinance and the CCLUO.

The Revised IS/MND and Appendix C also show that portions of the Project access roads are at grades that exceed 16%.⁴⁰ CalFire's SRA Fire Safe regulations generally prohibit grades exceeding 16% and require mitigation for steeper road sections.⁴¹ These steep portions of the access roads must also conform to requirements in the County Roadway Design Manual.⁴² The maximum grade standard in the Roadway Design Manual is 12%.⁴³

The Revised IS/MND also call for turnouts on the access road every 1,320 feet.⁴⁴ However, the County Roadway Design Manual indicates that turnouts can be up to a maximum 1,000 between turnouts.⁴⁵

The County's Department of Public Works Road Evaluation Report form defines the equivalent of a Category 4 road as follows:

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

a substantially narrower access road would also be acceptable to CalFire, the agency responsible for ensuring the Project complies with the SRA Fire Safe Regulations.

³⁹ See *id.* at § 3112-3(b);

⁴⁰ See, e.g., Revised IS/MND, p. 81 [identifying "steep roadway" but not revealing the grade at RP6 exceeds 16%]; see also Appendix C to Revised IS/MND, Supplemental Field Investigation, dated January 14, 2019, pp. 3-12; see also *id.*, Supplemental Field Investigation, Appendix B: Access Assessment Photos.

⁴¹ See 14 C.C.R., § 1273.03.

⁴² See HCC, § 3112-5.

⁴³ See County Roadway Design Manual, § 2-315.1, p. 63, available at <https://humboldt.gov/DocumentCenter/View/58258/Humboldt-County-Road-Design-Manual---1971>, accessed 12/02/20.

⁴⁴ See Appendix C to Revised IS/MND, Access Assessment for RMR Project, p. 3.

⁴⁵ See County Roadway Design Manual, Table 2-321.3, p. 64, available at <https://humboldt.gov/DocumentCenter/View/58258/Humboldt-County-Road-Design-Manual---1971>, accessed 12/02/20

stop and wait in a 20 foot wide section of the road for the other vehicle to pass.⁴⁶

Under the above definition, and the definitions and descriptions provided in the Humboldt County Code and Roadway Design Manual, Petitioners maintain that McCann Road and Dyerville Loop Road do not qualify as "Category 4" access roads or their equivalent, as required for commercial cannabis operations under the CCLUO and under the County's Fire Safe Ordinance.⁴⁷

Verifying Petitioner's prior comments, Steve Salzman, a registered civil engineer, has recently evaluated McCann Road for Category 4 equivalency and has concluded that the road does not meet the applicable criteria.⁴⁸ This expert opinion is substantial evidence supporting the conclusion that the proposed McCann Road primary access route does not meet the applicable performance standards for access roads specified in the Humboldt County Code. This conclusion has important implications for the analysis of Project impacts. If the Project is to proceed with McCann Road as the primary access route, these roads will need to be substantially widened in some areas, and paved or seal coated, to be considered the "equivalent" of a 2-lane road where cars can safely travel at 25-40 mph (as required under the County's Category 4 road regulations).

The Road Evaluations appendix to the Revised IS/MND purports to assess the functional equivalence of the Project's access roads to the County's Category 4 standards. However, the analysis relies upon the incorrect standard (Category 2)⁴⁹ as well as intentionally skewed (nonrepresentational) data (e.g., selecting unusually wide and unrepresentative "Road Points," such as RP 1) to characterize the access road as sufficiently wide with limited modifications. The Road Evaluations also completely omit evaluations of McCann Road and Dyerville Loop Road to the west of RP1, such as at the 10- to 11-foot-wide McCann Bridge and adjacent narrow "pinch point" road sections.

The Revised IS/MND does not reveal that the analysis concerning "fire safe" standards relies on meeting the lower Category 2 road standard. The preparers of the Supplemental Field Investigation in Appendix C do not explain how they arrived at Category 2 as the standard, given the plain language of SRA Fire Safe Regulations, § 1273.01, and the County's Fire Safe Ordinance, § 3112-3, both of which clearly call for Category 4 roads. The County's Fire Safe

⁴⁶ See Appendix C to Revised IS/MND, p. 48 [Road Evaluation Report, dated Nov. 16, 2017], emphasis added. This description of the Category 4 road equivalency does not acknowledge that a 2-foot shoulder on either side of the 18- to 20-foot wide paved "travelled way" is also generally required. See County Roadway Design Manual, Table 2-321.1, p. 63.

⁴⁷ See HCC § 3112-3 ["All roads shall be constructed to a minimum Road Category 4 road standard of two ten (10) foot traffic lanes, not including shoulders, capable of providing for two-way traffic flow to support emergency vehicle and civilian egress"].

⁴⁸ See Exh. C – Steve Salzman letter re Evaluation of the McCann Road, dated Dec. 26, 2020.

⁴⁹ See Appendix C to Revised IS/MND, Supplemental Field Investigation, dated January 14, 2019, pp. 1-2.

Ordinance may allow for a minimum Category 3 standard in mountainous area (but not Category 2), if deemed at least equally protective as the state fire safe standard. It makes no sense that one of the largest commercial cannabis projects ever to be proposed in the County would have access roads that do not even meet the minimum 16-foot wide Category 3 standard.

As will be discussed in the section concerning Project impacts, below, given the 16-foot minimum standard, the necessary road improvements would likely be more numerous and would potentially cause greater impacts than disclosed, analyzed, and mitigated in the Revised IS/MND. It is essential for the purposes of providing an accurate and complete impact analysis required under CEQA that all Project-related roadway and associated drainage improvements be specifically described and considered. For example, because biologists identified a species of special concern, the threatened foothill yellow-legged frog, as present adjacent to a culvert on the main access road, the analysis must be revised to describe *all* roadway and drainage improvements necessary for the Project and to consider the associated potential to significantly impact this species. As it stands, the Revised IS/MND contradicts underlying facts concerning the onsite presence of this species and fails to consider all aspects of the Project that could impact this and other special-status species.

The Revised IS/MND admits that access via Alderpoint Road will be necessary in the near-term for year-round operations and on an ongoing basis for emergency access.⁵⁰ And yet this access road and the undescribed necessary improvements thereto were artificially carved out of the Project as described and analyzed in the original IS/MND with a hollow claim of “independent utility” (i.e., that the road and the bridge will be upgraded for ranch purposes).⁵¹ This claim of independent utility is not consistent with how this concept, and the concept of the “whole of the project” are defined under CEQA.⁵²

Unlike the situation in *Banning Ranch*, the applicant here is the proponent for both the Project and the near simultaneously proposed “upgrades” to the private roads and bridge accessing Alderpoint Road. Further, except for the short easements necessary to connect ranch roads to Alderpoint Road, the applicant owns all of the private roads that would provide the Project with access either to the west or to the east. The Revised IS/MND admits that the applicant intends to upgrade and use the private ranch roads to Alderpoint Road for Project access – in fact, year-round operations is currently impossible without the use of this

⁵⁰ See, e.g., Revised IS/MND, p. 13 [description of Project operations].

⁵¹ The Revised IS/MND at least acknowledges necessary access road improvements (albeit to a limited extent because the improvements are not based on a minimum potential 16-foot wide standard).

⁵² Compare *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1225 [holding park and access road would not cause a neighboring proposed development to commence because in part each project had independent utility] with *Del Mar Terrace Conservancy v. City Council* (1992) 10 Cal.App.4th 712, 732 [“[p]iecemealing proposed highway improvements in separate environmental statements should be avoided”], quoting *Daly v. Volpe* (3d Cir. 1975) 514 F.2d 1106, 1109, disapproved on other grounds in *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 564.

alternative access route. As such, the private roads connecting the Project to Alderpoint Road are necessary for the Project and all necessary improvements to those roads to bring them up to Category 4 and Fire Safe standards (as well as provide suitable drainage) are a "consequence" of the Project and must be described and analyzed in the required EIR.

Because the McCann Road and Dyerville Loop Road do not qualify as Category 4 roads or the equivalent, and because bringing these access roads up to required standards would cause multiple significant impacts, Petitioners urge the County and applicant to consider a project alternative that would utilize Alderpoint Road as primary access. This project alternative should be considered in the EIR required for this Project.

In summary, all necessary improvements to the Project's access roads, including all improvements to drainage features such as culverts, should be designed so that they comply with all minimum regulatory requirements, including the requirement for a Lake & Streambed Alteration Agreement ("LSAA") through CDFW.⁵³ The improvements should also adhere to locally adopted recommendations intended to protect the environment.⁵⁴ The details of the access road and related drainage improvements must be described in the required EIR.

(b) Buffers from Watercourses and Wetlands.

CDFW has previously commented that all greenhouses should be set back at least 200 feet from Class I and Class II watercourses, at least 150 feet from wetlands, and at least 200 feet away from the Eel River.⁵⁵ The County's peer review consultant advised "[t]he setbacks from waterways described in the project description should be revised to match the setbacks described in the biological report and to adhere to the setbacks requested in the CDFW referral."⁵⁶ However, the Project design includes greenhouses that are barely more than 100 feet from the nearest Class I watercourse, one structure that is literally on top of a wetland, and several greenhouses that appear to be within 200 feet of the Eel river.⁵⁷ Thus, the description of the proposed Project appears to be inconsistent with regulatory and permit requirements for water resource buffers / setbacks. By describing a proposed Project that is not consistent with applicable regulatory requirements for setbacks, the Revised IS/MND fails to present an accurate view of the Project and its impacts. The revised analysis should take into consideration the necessary relocation of Project facilities outside of setback areas – if any Project facilities cannot adhere to both setback requirements and the requirement to be

⁵³ See Exh. I - Letter from CDFW re LSAA required Mattole River Cannabis Project [LSAA required for replacement of undersized culvert].

⁵⁴ See Five Counties Salmon Conservation Program, A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds (2002), available at: http://www.5counties.org/docs/roadedu/5c_roads_manual.pdf, accessed 11/24/20.

⁵⁵ See Exh. E – CDFW CEQA Referral Checklist for Rolling Meadow Ranch Project, dated Jan. 24, 2018, pp. 2-3.

⁵⁶ See Exh. G – Memo #2, p. 3.

⁵⁷ See Revised IS/MND, pp. 143-145 [Figures 40 – 43].

located on prime agricultural soils outside the TPZ, then those Project facilities should be removed from the Project description.

(c) Water use and storage.

The County's peer review consultant recommended the Revised IS/MND "[p]rovide detail on groundwater proposed use, including probable depth to water (based on similar wells in similar strata) and pumping rate per day during peak use (not just annual estimates)."⁵⁸ Later, the County's planning staff stated that the analysis lacked "sufficient detail to determine if the water from the wells would be considered connected and require a current documented water right or if the water would be considered a non-diversionary source." The information repeatedly requested by the County was not included in the Revised IS/MND.⁵⁹ The revised analysis must describe the Project's peak groundwater use and must consider this demand when analyzing potentially significant impacts to surface water resources, riparian habitat, and wildlife.

(d) PG&E & Backup Power.

The Revised IS/MND should have described "[t]he route, approximate number of new poles, time of construction, vegetation clearing including tree removal, grading, temporary road construction to access each pole site, etc."⁶⁰ However, the Revised IS/MND did not describe the details of this "connected action" with the specificity requested by the County and required under CEQA.⁶¹ The revised analysis must describe with particularity the electric power and back up power facilities needed for the Project.

(e) Hours of Operations and Employee Information.

The peer review consultant recommended that the Revised IS/MND "[i]nclude hours of operation on site as well as typical commute times with and without the McCann Bridge available" and that it "[s]pecify commute routes for each scenario." The Revised IS/MND contains inconsistent information concerning the hours (and season) of operation, and commute times and routes were not specifically described and analyzed in the Revised IS/MND (other than with generalized statements).⁶²

The Revised IS/MND was supposed to describe the "[n]umber of employees, likely residences of employees and plans for parking at 'park and ride' shuttle pickup locations, the

⁵⁸ See Exh. G – Memo #2, p. 2.

⁵⁹ See, e.g., Revised IS/MND, pp. 14 [no information concerning the peak pumping rates], 197 [reliance on "letters" from Fisch Drilling re hydrologic connectivity with no further substantiation].

⁶⁰ See Exh. G – Memo #2, p. 2.

⁶¹ See Revised IS/MND, pp. 51 [electric lines will be buried along access road], 29 [Electric Figure 14], 182.

⁶² See, e.g., Revised IS/MND at p. 55.

number of shuttles per day, parking for shuttles on-site, etc.”⁶³ As we previously noted, the IS/MND provides inconsistent information concerning the number of employees (both before and after the McCann bridge is replaced), and lacks essential information with regard to the shuttle parking area and plans for parking.⁶⁴ The “existing turnaround” depicted in the Revised IS/MND does not currently exist and the topography at Facilities #1 and #2 may not support a turnaround at the proposed location.⁶⁵

(f) *Slopes.*

The Revised IS/MND includes inconsistent information concerning the slopes underlying the Project greenhouses and other facilities.⁶⁶ These discrepancies need to be resolved through adequate site surveys and the slopes for all greenhouses must be accurately reported in the required EIR. To be consistent with CCLUO, the slopes underlying the Project facilities may not exceed 15%.⁶⁷

(g) *Construction practices.*

The peer review consultant asked a number of pertinent questions, which have been left unaddressed. These questions include the following:

How will you get heavy equipment to the site? What size and type of equipment will be used and approximately how long will each be in use? How many employees will be present during construction? How do they get there? What bathroom facilities and drinking water supplies will be available during construction? What are the hours of construction?”⁶⁸

The section in the Revised IS/MND concerning Project construction does not answer many of these pertinent questions or provide the required level of detail.⁶⁹ The revised analysis must provide the information concerning the construction process for this Project.

⁶³ See Exh. G – Memo #2, p. 2.

⁶⁴ See Petitioners’ initial comments on the IS/MND, dated August 17, 2020, at p. 10.

⁶⁵ See Revised IS/MND at p. 23 [Figure 8. Facility #1, #2 Details].

⁶⁶ Compare Revised IS/MND, p. 179 with Appendix to Revised IS/MND, Botanical Survey Report, pp. 4-5 [report showing some areas underlying project greenhouse footprints exceed 15% slope].

⁶⁷ Humboldt County Code, § 55.4.6.4.1

⁶⁸ See Exh. G – Memo #2, p. 2.

⁶⁹ See Revised IS/MND, pp. 11-12.

2. Failure to Identify Necessary Water Right for Project Wells or an Alternative Water Source

The Revised IS/MND fails to identify the water right required for (1) pumping what is very likely hydrologically connected groundwater from the three Project wells or (2) for any as yet unidentified alternative sources of water for the Project's considerable year-round water needs. This failure violates applicable Humboldt County Code requirements under both cannabis ordinances.⁷⁰ As discussed further below, there is substantial evidence supporting the claim that the groundwater underlying the Project site is likely hydrologically connected to surface waters, such as wetlands, streams, creeks, and tributaries to the Eel River. Because well pumping has the potential to divert from surface waters a water right may be required.⁷¹

The EIR required for this Project must identify any and all water rights required to meet the Project's estimated annual water demands and require as a condition of approval, that the applicant apply for and obtain such water rights. If the source of water is uncertain, then the EIR must also evaluate alternative sources of water and address any water right(s) that may be required for such sources.

C. The Revised IS/MND is the Result of Piecemealed Environmental Review.

1. Project Wells, as Part of the Whole of the Project, Should Not Have Been Approved Prior to Completion of Environmental Review.

Carving up a larger project in order to claim a CEQA exemption for any of its components is prohibited under CEQA.⁷² Courts have given the term "project" under CEQA "a broad interpretation and application to maximize protection of the environment [Citations]."⁷³ This broad interpretation ensures that CEQA's requirements "'cannot be avoided by chopping up proposed projects into bite-size pieces' which, when taken individually, may have no significant adverse effect on the environment."⁷⁴ Accordingly, if infrastructure, such as roads or utility lines, are required for a proposed project, those project components must be described and considered in the environmental impact analysis as part of the "whole of the project."

⁷⁰ See CMMLUO, § 55.4.8.2.1; see also CCLUO, § Section 55.4.12.1.

⁷¹ See Water Code, § 1200; see also Paul Kibel and Julie Gantenbein, Fisheries Reliant on Aquifers: When Groundwater Extraction Depletes Surface Water Flows, Univ. of San Francisco Law Review, Vol. 54, Issue 3, pp. 478-480.

⁷² See PRC § 21159.27 ["A project may not be divided into smaller projects to qualify for one or more exemptions pursuant to this article"].

⁷³ *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1223 [holding road widening was part of proposed project], quoting *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1189 and citing *Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653.

⁷⁴ *Ibid.*

During the period within which the application for the Project's permits has been pending, the applicant installed the three wells, relying on a separate ministerial process that would consider these water supply wells, essential for the Project, as somehow independent. These permits were apparently granted and the wells drilled, without any consideration to their connection to the larger Project and the water demand that will be required for Project operations. According to a letter from Planning Director John Ford to applicants for commercial cannabis projects, installing such project infrastructure before use permits are granted is a violation of the CMMLUO.⁷⁵ In addition, under the CCLUO, no ministerial permits may be granted for improvements.⁷⁶

2. Improvements to Access Roads Should Not Have Commenced Prior to Completion of Environmental Review and Project Approval.

According to documents in appendices to the Revised IS/MND, some of the access roads at Rolling Meadow Ranch were "rocked" using rock from the on-site quarry.⁷⁷ As with the installation of the three Project wells in 2019, making these improvements to the access roads prior to issuance of permits for the Project was a violation of the CMMLUO. As proved to be true during this Project's permitting and environmental review process, roadwork prior to environmental review for the Project can result significant and unmitigated environmental impacts.⁷⁸

D. Substantial Evidence Supports Several Fair Arguments that the Project May Result in Significant Environmental Impacts

Substantial evidence presented in this letter, the supporting expert comments, documents referenced in this letter, and in prior comments from Petitioners and others support a fair argument that the Project will have significant direct, indirect and cumulative environmental impacts.

1. Downplayed Traffic Safety Hazard Impacts

Because the proposed Project access roads (Dyerville Loop Road, McCann Road, and private ranch roads to Alderpoint Road) do not meet the required performance standards (i.e.,

⁷⁵ See Memo from Director Ford to Commercial Cannabis Applicants, dated April 28, 2017 ["Starting cultivation activity, including related land modifications (i.e. grading), construction, and improvements, without a permit, for either a new cultivation or expansion of an existing site, is a violation of the CMMLUO"].

⁷⁶ See HCC, § 55.4.3.12 ["No ministerial permit shall be granted for site development activities, including but not limited to grading or building permits, related to any Commercial Cannabis Activity in advance of issuance of the Zoning Clearance Certificate, Special Permit, or Use Permit required under this section"].

⁷⁷ See Appendix I to Revised IS/MND, Assessment of Road Improvement and Maintenance Activity Impacts to Botanical Resources (Oct. 2020), pp. 3-4, 11.

⁷⁸ See Revised IS/MND, pp. 146-147 [describing impacts to wetland features during 2019 road improvement activities].

are not Category 4 roads or their equivalent and do not meet applicable Fire Safe standards) and because the proposed Project includes roadways of varying widths with multiple blind curves and obstructed pinch points, the level of traffic generated by the proposed Project, especially when combined with the existing local traffic baseline traffic, will create traffic safety hazards.

Under the County Roadway Standards Manual, “when varying roadway widths are considered, the effect upon safety must be evaluated.”⁷⁹ In spite of this specific requirement, and the independent requirements for traffic safety impact analysis under CEQA, the Revised IS/MND fails to evaluate the traffic safety hazards associated with designing Project access roads to the Category 2 standard.⁸⁰

2. Unacknowledged Public Services Impacts

While the Revised IS/MND acknowledges that “[t]he isolated location can also pose some limitations in terms of public services,” it downplays the site access challenges that would be encountered by police, fire, and other emergency services.⁸¹ The analysis of impacts to public services does not provide the level of detailed impact analysis that the County has repeatedly requested.

In January 2018, a County planner advised the applicant to improve the discussion of improvements that would be necessary to bring Project roads up to fire safe standards.⁸² Shortly thereafter, the County’s peer review consultant recommended that the applicant:

Modify project description to include compliance with Fire Safe Ordinance, including but not limited to internal ranch road standards for width, surface, and grade, water crossings to the minimum load standards, as well as minimum water supply requirements. Add these elements to the environmental analysis in all sections.⁸³

Transcon also recommended the following revisions to the draft IS/MND:

Please describe how the interior ranch roads will be improved to meet fire safe standards. Existing roads analysis indicates that fire safe standards are not met. Demonstrate that off-ranch access routes (McCann Road and Alderpoint Road as

⁷⁹ County Roadway Design Manual, § 2-321.2, p. 63, available at <https://humboldt.gov/DocumentCenter/View/58258/Humboldt-County-Road-Design-Manual---1971>, accessed 12/02/20.

⁸⁰ See Revised IS/MND, p. 224 [concluding, without supporting analysis and substantial evidence, that “[t]his project will not substantially increase hazards due to a design feature”].

⁸¹ See Revised IS/MND, pp. 214-216.

⁸² See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018. P. 2.

⁸³ See Exh. F – Memo #1, p. 11.

well as roads on adjacent property) meet fire safe standards on all portions, including river crossings, that may be required for fire suppression by Cal Fire firefighting resources.⁸⁴

These instructions from the County's peer review consultant, which were presumably sent to the applicant,⁸⁵ could not be more clear, logical, and sound. Yet, the Revised IS/MND relies upon the unsupported assumption that the Project access roads meet "fire safe standards" to justify the conclusion that the Project will not result in impacts related to fire suppression and police services.⁸⁶ This factually unsupported assertion, however, does not provide the information required to confirm the Project's compliance with the Fire Safe Ordinance.

As reported in the road evaluation conducted by the civil engineer retained by Petitioners, McCann Road from the McCann Bridge to the guard gate at Rolling Meadow Ranch and Facilities #1 and #2 does not meet the County's Category 4 or equivalent standards.⁸⁷ Because this route will provide the primary access to the Project site, it is imperative that McCann Road satisfy applicable fire safe standards. If McCann Road cannot feasibly satisfy Category 4 or equivalent standards, then the route to Alderpoint Road should be considered as for primary access.

The Revised IS/MND states that "[d]uring the winter when the existing low water McCann Bridge is inaccessible and in the years before the new McCann Bridge is built, the project will use the Alderpoint road to access the project sites."⁸⁸ The analysis of impacts to public services, however, does not consider the improvements to the access route to Alderpoint Road that would be necessary to bring those roads up to applicable SRA fire safe standards.

The IS/MND prepared for the CMMLUO assumed for purposes of impact analysis that all cannabis projects processed under Ordinance 1.0 would comply with SRA fire safe regulations and all local and state access road performance standards.⁸⁹ Repeatedly in the analysis, the County relied upon this assumption to determine that the CMMLUO, as a program, would not

⁸⁴ See *ibid.*

⁸⁵ Note: Memo #1 and Memo #2 were among the documents produced by the County in response to Petitioners' request for public records. The County did not produce any documents that verify the memoranda were sent to the applicant or otherwise relayed. Petitioners assume that the County sent both Transcon memoranda to the applicant's consultant, NRM.

⁸⁶ See *ibid.*

⁸⁷ See Exh. C – Road Evaluation by Steve Salzman, p. 12.

⁸⁸ See Revised IS/MND, p. 214.

⁸⁹ See CMMLUO IS/MND, p. 31.

cause significant environmental impacts. For example, with respect to potential impacts to public services, the CMMLUO IS/MND states:

Under the draft ordinance, larger cultivation operations will be subject to discretionary permits where neighboring land owners will be given an opportunity to comment and be notified of pending permit decisions. This will provide opportunity for dialogue and mitigation through careful siting and operational restrictions to address potential impacts on public services. It is anticipated that through mitigation, the impacts on public services including fire protection, police protection, schools, parks, and other public facilities, will be reduced to a less than significant impact.⁹⁰

Petitioners hope that, in the case of the presently proposed large cultivation operation, the assumptions made in the above statement and elsewhere in the CMMLUO IS/MND prove to be true. As currently proposed, however, this Project does not meet the assumed “careful siting and operational restrictions” that will “address potential impacts on public services” – it is inappropriate to site an operation that, between cultivation and processing facilities, exceeds 300,000 square feet in size in a remote wildland area with access roads that do not even currently meet a Category 2 standard, and would barely meet that improperly lax standard with the proposed improvements (except for the steeper than 16% grades and infrequent turnouts).

Similarly, when certifying the EIR for the CCLUO, the Board of Supervisors approved a finding that relies on the assumption that all commercial cannabis projects approved under “Ordinance 2.0” would meet the “Category 4 or equivalent” access road performance standard to support its conclusion that impacts to public services, including wildfire response, would be less than significant.⁹¹ The Final EIR for the CCLUO made the following assumptions concerning compliance with Category 4 access road standards:

[W]here access to a site is provided by roads not meeting the Category 4 standard, the commercial cannabis operation would be subject to a Special Permit and preparation of a report prepared by a licensed engineer evaluating whether the design, condition, and performance of all necessary road segments are currently capable of supporting increases in traffic volume created by the site, in addition to the existing traffic using the road(s). The report would detail all substandard conditions and prescribe measures that would be taken to

⁹⁰ See *id.* at p. 29.

⁹¹ See Bd. of Supervisors Resolution 18-40, p.10 [“Compliance with existing building, electrical, and fire code regulations as well as roadway access performance standards set forth in the proposed ordinance would provide a sufficient access for fire prevention and emergency response”].

achieve compliance with the relevant road standards and objectives, or the same practical effect.⁹²

Further, in response to public comments, the County asserted in its Final EIR for the CCLUO that “[t]he DEIR identifies that existing and future commercial cannabis operations would be required to meet the County’s Category 4 road standards and the emergency access standards set forth in Chapter 10 – Fire Safe Regulations of the County Code.”⁹³ The analysis of commercial cannabis project impacts to public services relied upon adherence to this performance standard.

In contravention of the assumptions relied upon in connection with approving the CMMLUO and CCLUO concerning compliance with access road performance standards, this Project, as proposed, will only satisfy only a Category 2 access road standard along the primary access road to the Project’s clustered facilities (at most, given the steep grades, unpaved roads, blind corners, and infrequent turnouts) for one of the largest commercial cannabis projects ever to be proposed in the County. The Revised IS/MND does not explain how satisfying this lower performance standard for this especially large Project in a remote and difficult to access area will result in less than significant impact to public services.

The Revised IS/MND includes the completely gratuitous and unsupported statement: “In its current state the cannabis industry is at higher risk for security to be an issue and place a greater demand on law enforcement services provided by the County Sheriff’s Department.” This unsupported assertion is completely beside the point of the necessary analysis. The environmental review required under CEQA must evaluate this Project’s environmental impacts. The fact that other activities also have impacts on police services is irrelevant and should not be used to minimize this Project’s potentially significant impacts.

The Revised IS/MND, even after pre-release review and comment and after post-release public comment, *still* does not provide the information required (and specifically requested) to demonstrate that the Project will have adequate access for fire suppression and police equipment and personnel.⁹⁴ Because the Project, as currently described and defined, will not have Category 4 or equivalent roads and a licensed engineer has not evaluated whether the access roads will perform to the same practical effect, the conclusion that the Project will not have significant public services impacts is unsupported. The analysis concerning the Project’s

⁹² See Final EIR for CCLUO, Revisions to the DEIR, p. 3-21 – 3-22; see also *id.* at p. 2-232 [response to comment 01-10].

⁹³ See *id.* at pp. 2-309 – 2-310 [responses to comments I17-2, I17-8], 2-381 [responses to comments I31-14, I31-15], 2-385 – 2-386 [response to comment I31-35], emphasis added.

⁹⁴ See Exh. G, Memo #2, p. 1 [“specify how ranch roads will be improved to meet fire safe ordinance requirements. Show that each road, including its water crossings, are able to support a 75,000-pound apparatus. Include all routes that could be used for access during an emergency. Include any needed changes to water crossings (replacement or upgrade of bridges or culverts)].

potentially significant impacts to public services must be revised in the required EIR and recirculated.

3. Unsupported Assumptions Regarding Public Utility Impacts

The proposed extension of electricity power lines to Project facilities is neither described with particularity in the Revised IS/MND nor are the associated impacts analyzed. As the County's peer review consultants pointed out, because

PG&E would not construct these lines 'but for' the project [...] PG&E line construction is a connected action and must be reviewed at least at the planning level in this ISMND. The route, approximate number of new poles, time of construction, vegetation clearing including tree removal, grading, temporary road construction to access each pole site, etc., needs to be disclosed and analyzed in this ISMND.⁹⁵

The Revised IS/MND does not provide the requested detailed information concerning utility line extension to Project facilities. Additionally, despite a request from the County's peer review consultant, the applicant still has not produced a letter from PG&E confirming that utility infrastructure will be extended to the Project facilities.⁹⁶

4. Disregarded Water Supply and Related Impacts

Petitioners have previously commented that the Project's heavy reliance on groundwater could cause potentially significant impacts to hydrologically connected aquatic resources.⁹⁷ The Revised IS/MND attempts to bolster an otherwise unsupported analysis of Project impacts to groundwater resources and hydrologically connected surface water resources. The only further support offered for the assertion that the wells will rely solely on groundwater in a hydrologically disconnected "perched aquifer" is a conclusory letter from the applicant's well driller that has now mysteriously appeared.

(a) The Conclusions in the Revised IS/MND Regarding "Hydrologic Connectivity" Between Groundwater and Surface Water Are Unsupported.

In January 2018, during his review of the "second Initial Study (IS) submittal," dated December 16, 2017, County Supervising Planner Steve Werner stated that:

⁹⁵ See *ibid.*

⁹⁶ See Exh. F, Memo #1, p. 8 ["Provide a letter or communication from [PG&E] describing how they plan to provide power to each site"]; see also Revised IS/MND, pp. 10, 182, 229, 237; see also generally Appendix to Revised IS/MND.

⁹⁷ See, e.g., Petitioners' initial comments on original IS/MND, dated Aug. 17, 2020, pp. 3, 15; see also Petitioners' Supplemental Comments on Original IS/MND, dated Sept. 10, 2020, pp. 15-18.

The conclusion of the IS with respect to impacts on ground water supplies cannot be supported with the facts provided. Consultation with an engineering geologist is needed to fully document the groundwater supply and impact from the proposed cultivation. It needs to be demonstrated that the wells are not hydrologically connected to the water flow of the river.⁹⁸

Also in January 2018, CDFW commented in its capacity as Trustee Agency that:

If the source is surface water (spring, stream, or hydrologically connected pond or well) CDFW recommends that the applicant notify our Department, pursuant to Fish and Game Code Section 1602, of all unpermitted points of diversion located on the parcel or provide a copy of the nonjurisdictional letter issued by CDFW.⁹⁹

The County's peer review consultants also recognized the need for the applicant to substantiate the claim that the wells are hydrologically disconnected from surface water supplies, and told the applicant to provide this required substantiation in July 2018, more than two years before the Revised IS/MND was finalized and reduced for public review. Specifically, the consultant stated:

Please refer to County's letter dated January 15, 2018 regarding substantiating the claim that the wells are not hydrologically connected to the water flow of the river. We see the letter in the Appendix from Fisch Drilling, however, the County will want to see testing or a technical study to document the existing groundwater supply and anticipated impacts as a result of the new wells and anticipated usage; and to demonstrate that all of the wells are not hydrologically connected. The letter from Fisch drilling needs to be substantiated. CDFW is the Agency [that] determines if the proposed wells will have connectivity with onsite water sources.¹⁰⁰

And again, in February 2019 comments to the applicant, County planning staff directed the applicant to "[d]escribe the hydrological connectivity of the wells proposed for irrigation use."¹⁰¹ In September 2020, after the Planning Commission decided to continue its consideration of the Project for approval, a CDFW official once again commented that the

⁹⁸ See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018, p. 5.

⁹⁹ See Exh. E – CDFW CEQA Referral Checklist for RMR Project, dated Jan. 24, 2018, p. 2.

¹⁰⁰ See Exh. F – Memo #1, p. 9, emphasis added. The letter from the County to the applicant dated January 15, 2018 was not produced in response to Petitioners' initial request for public records. Petitioners obtained this letter through a subsequent request for public records that requested this document specifically.

¹⁰¹ See Exh. H – NRM Response to County Comments on Draft IS/MND, dated Jan. 22, 2020, p. 5.

IS/MND lacks the required substantiation for the assertion that the Project wells are not hydrologically connected to surface waters.¹⁰²

Despite repeated requests for required factual support and transparent analysis for the assertion that the Project wells are hydrologically disconnected from surface waters, the original IS/MND relied upon a mischaracterization of a February 2018 letter from Fisch Drilling as the *sole* support for the conclusion that the Project will have no significant impacts to groundwater or to surface water supplies.¹⁰³ Similarly, according to the August 20, 2020 staff report to the Planning Commission, the determination in the Revised IS/MND that the three Project wells are hydrologically disconnected from surface waters is based *solely* on the single inconclusive and unsupported letter, dated February 15, 2020, from Fisch Drilling.^{*104} This letter, which was sent to the County *before* the three project wells were drilled, states:

These wells will be completed in the Franciscan Sandstone; the wells will most likely be drilled into a perched bedrock with little to no hydraulic connection to any surface water or any part of a larger shallow homogeneous aquifer. [¶] Considering the depth of the well it appears to fall in line with the guide lines of a nonjurisdictional well of similar depth in the surrounding area.¹⁰⁵

Again, despite the County's and CDFW's clear direction and repeated specific comments on the subject, hydrologic connectivity of the Project wells to surface waters has *never* been properly investigated by a engineering geologist nor has a substantiating report been prepared. The Revised IS/MND not only fails to provide the required (and specifically requested) substantiation, but now introduces another letter from the Project applicant's drilling consultant, Fisch Drilling (supposedly dated April 6, 2020¹⁰⁶), as evidence supporting its claim that the wells are not hydrologically connected to surface water.

¹⁰² See Exh. J – Email from Greg Mc'Onnell at CDFW to County planner Meghan Ryan, dated September 10, 2020 [commenting that the IS/MND lacks substantiation for the assertion that the Project wells are not hydrologically connected to surface water].

¹⁰³ See original IS/MND, pp. 152, 198.

¹⁰⁴ See Staff Report to Planning Commission for August 20, 2020 meeting, p. 4.

*Note: Again, if the April 2020 Fisch Drilling letter existed prior to the release of the staff report, then why does the staff report only cite to the February 2018 letter from Fisch Drilling? Petitioners' are understandably skeptical of this new self-serving and unsupported evidence from the applicant's well driller.

¹⁰⁵ See Appendix E to Staff Report, Letter from David Fisch at Fisch Drilling to Andy Machata, dated Feb. 15, 2018, emphasis added.

¹⁰⁶ The April 2020 letter from Fisch Drilling was not cited in the original IS/MND and was not cited in the staff report for the August 20, 2020 Planning Commission meeting. Petitioner submitted a request to public records to the County on September 4, 2020 and the second letter from Fisch Drilling was not produced by the County in response to this request. If the second letter from Fisch Drilling existed prior to the initial release of the original IS/MND and prior to Petitioners' PRA request, it presumably would have been included as an exhibit to the original IS/MND and would have been produced in response to Petitioners' PRA request. If this matter is pursued in

According to David Fisch at Fisch Drilling who drilled the wells “The wells were completed in the Franciscan Sandstone. The wells are drilled into perched bedrock with no hydraulic connection to any surface water or any part of a larger shallow homogeneous aquifer. [¶] Considering the depth of the well, it appears to fall in line with the guidelines of a non-jurisdictional well of similar depth in the surrounding area”.¹⁰⁷

The Revised IS/MND does not describe the qualifications of Mr. Fisch to make the determination regarding hydrologic connectivity nor does it describe the methods Mr. Fisch used to make this determination. The Revised IS/MND does not include any other substantiation for the conclusions reached in the letter and quoted in the analysis. This unsubstantiated and unsupported opinion does not constitute substantial evidence supporting the conclusion that the Project will “clearly” have no significant impacts to groundwater supplies, surface waters, or to aquatic resources, as required under CEQA’s “fair argument” standard of review. Thus, even as corrected with the new evidence (i.e., the second conclusory letter from Fisch Drilling), the Revised IS/MND does not and cannot provide substantial evidence necessary to support the conclusion that the Project’s heavy sole reliance on year-round groundwater pumping will not cause any significant impacts to surface waters (e.g., the Eel River, springs, streams, and wetlands), aquatic resources, and species dependent upon such waters and resources.

Petitioners retained hydrogeologists to evaluate the sufficiency of the Initial Study analysis of impacts that may be caused by Project-related groundwater withdrawal. The experts at PWA have concluded that 1) the sustained yield of these wells and their potential hydrologic connection to nearby surface water features and aquatic resources has never been properly investigated and that 2) the short-term pump tests for the three Project wells were not conducted during the appropriate dry season defined in County regulations.¹⁰⁸

(b) The Potential for Groundwater Pumping to Cause Impacts to Surface Waters and Aquatic Resources Must Be Analyzed and Either Avoided or Mitigated.

According to the thorough report on groundwater resources in the Eureka area (including within the Project area) prepared by the United States Geological Survey (“USGS”) in

litigation, Petitioners will seek discovery concerning the origin and date of submission of the second Fisch Drilling letter to the County.

¹⁰⁷ See Revised IS/MND, p. 197 [purporting to quote the letter from Fisch Drilling], see also Appendix E to IS/MND, second letter from Fisch Drilling with conclusory statements re hydrologic conductivity.

¹⁰⁸ See Exh. B, PWA Memo, pp. 3-4.

1959, the fractured Franciscan Sandstone formation underlying much of the Project site is likely to bear relatively little groundwater.¹⁰⁹ Indeed,

The oldest rocks exposed [within the Eureka area] are undifferentiated sedimentary and metamorphic rocks of the Franciscan and Yager formations of Jurassic and Cretaceous age. These rocks crop out in the hills and mountains along the east and south edges of the area and underlie most of the mountainous drainage area. However, they do not yield appreciable amounts of water to wells.¹¹⁰

The above information directly refutes the unsupported assertions in the Revised IS/MND that 1) the Project's three wells can sustainably pump over 4,000,000 gallons a year without depleting groundwater resources and without diverting from surface waters such as tributary streams and wetlands and 2) the Project will have no significant impact on groundwater supplies.¹¹¹ Furthermore, to the extent the Project's use of limited available groundwater depletes or adversely affects the quantity and quality of surface water wetlands, streams, and tributaries (e.g., to adjacent Beatty Creek or to the downslope Eel River), the use of Project wells may also cause significant impacts to biological resources (e.g., fish, birds, and other wildlife) that depend upon those impacted surface waters (discussed further below).

The USGS further found what relatively little groundwater there is to be found in Franciscan formations "occurs along fault zones, in landslide debris, and in joints" and that this water is "discharged in springs or through seepage zones."¹¹² This finding, while admittedly dated, constitutes substantial evidence that the groundwater the Project will depend upon is hydrologically connected to surface waters and that extracting this groundwater may reduce the discharge of groundwater underlying the three Project well sites to nearby "springs and seepage zones." The geology of the area has not changed appreciably since the report was written in 1959. Further, given increased water demand, prolonged droughts, and the effects of climate change, groundwater availability in these zones cannot possibly have improved.

The applicant and County can use available modelling tools and field techniques to determine or estimate whether and to what degree any of the three Project wells can potentially impact surface waters. For example, USGS Circular 1376 addresses situations where groundwater pumping from wells having a hydrological connection to surface waters may cause

¹⁰⁹ See generally USGS (prepared in cooperation with the California Department of Water Resources), Water-Supply Paper 1470, Geology and Ground-Water Features of the Eureka Area Humboldt County, California (1959), pp. 1, 3-4, 7, 11-12, available at: <https://pubs.usgs.gov/wsp/1470/report.pdf>, accessed 10/01/20.

¹¹⁰ See *id.* at p. 12; see also *id.* at p. 13 [Table 1, stating Franciscan Sandstone of the Jurassic age is "Consolidated; not tapped by wells, probably contains *some* water in fractures and in deeply weathered rocks," emphasis added].

¹¹¹ See Revised IS/MND, pp. 196-198.

¹¹² See USGS Water Supply Paper 1470, *supra*, p. 14.

a decline in those surface waters.¹¹³ The circular recommends several modeling and field techniques that can be used to determine whether groundwater pumping from a specific well can potentially impact nearby surface waters.¹¹⁴ The analysis of this Project's impacts to surface waters should employ modeling and investigation, not rely on speculation and the summary self-serving and unqualified conclusion of the applicant's well drilling company.

USGS Circular 1376 summarizes the "Components of streamflow depletion" as follows:

Both captured groundwater discharge and induced infiltration of streamflow result in reductions in the total rate of streamflow. Streamflow depletion, therefore, is the sum of captured groundwater discharge and induced infiltration. Captured groundwater discharge is often the primary component of streamflow depletion, but if pumping rates are relatively large or the locations of withdrawal relatively close to a stream, then induced infiltration may become an important component of streamflow depletion.¹¹⁵

The required EIR must carefully examine all the ways in which the Project's three Wells can cause streamflow depletion.

Because there is evidence of a hydrologic connection between Project wells and surface water features, the Project may be subject to forbearance of groundwater pumping during certain times of year under the State Water Resource Control Board's Cannabis Cultivation Policy.¹¹⁶ Without an alternative water supply, this forbearance policy may preclude the Project from operating year-round.

Staff has recommended informal, unenforceable mitigation in the event the three wells cannot provide sufficient supply: to either (1) find a secondary source of water or (2) curtail the size of the Project.¹¹⁷ Even if such statements in a staff report could be construed as an enforceable mitigation measure, such a measure cannot serve as a substitute for the Revised IS/MND's deficient analysis of impacts to water supply. In the seminal *Vineyard Area Citizens* case, the California Supreme Court, rejected the argument that a similar adopted mitigation

¹¹³ See generally USGS Circular 1376, *Streamflow Depletion by Wells—Understanding and Managing the Effects of Groundwater Pumping on Streamflow*, available at: https://pubs.usgs.gov/circ/1376/pdf/circ1376_barlow_report_508.pdf, accessed Sept. 24, 2020.

¹¹⁴ See *id.* at p. 35, 50, 54.

¹¹⁵ USGS Circular 1376, p. 76 [Conclusion].

¹¹⁶ See SWRCB, *Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation*, 2019, p. 13, available at: https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_policy.html, accessed 12/28/20.

¹¹⁷ See Staff Report to Planning Commission for August 20, 2020 meeting, p. 4.

measure could substitute for a reasoned discussion of the availability of a project's projected water supply.¹¹⁸

5. Undisclosed Biological Resource Impacts

As CDFW pointed out in its comments on the Revised IS/MND, the analysis does not consider the Project's potentially significant impacts to a number of plant and wildlife species that are known to be present in the Project area.¹¹⁹ The level of survey investigation conducted here does not even meet CEQA's minimum standards.¹²⁰ The Revised IS/MND then uses the determination of no significant Project impacts to species as well as the lack of supporting factual information concerning potentially significant impacts to determine that only limited mitigation is necessary to reduce impacts to less-than-significant levels.¹²¹ This is not the level of impact analysis that CEQA requires.

(a) Inadequate Surveys to Provide Baseline Information

Establishing an accurate environmental baseline is the starting point for any sound impact analysis. The Revised IS/MND dismisses the possibility of Project impacts without ever having conducted the required surveys for numerous wildlife and rare plant species and after disregarding evidence indicating the likelihood of significant impacts. In its comments on the original IS/MND, CDFW noted that the impact analysis lacked sufficient wildlife survey and wetland delineation information to establish an accurate environmental baseline against which the Project's impacts can be measured.¹²² CDFW is correct. The Revised IS/MND fails to determine whether such species and rare plants are present or potentially present throughout the entire area where Project-related construction and operation will occur. Without this information, neither the County nor CDFW have the information required to make their respective permitting decisions with the full environmental impacts of the Project in consideration. Because CEQA requires coordination between agencies when preparing the environmental impact analysis,¹²³ the Revised IS/MND remains inadequate.

The Appendix to the Revised IS/MND contains a Botanical Survey Report and worksheets for surveys for the Northern Spotted Owl ("NSO"). The Appendix, however, does

¹¹⁸ See *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 444.

¹¹⁹ See CDFW comments on IS/MND, dated August 17, 2020, p. 2.

¹²⁰ See *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1398 ["CEQA simply requires that the public and public agencies be presented with adequate information to ensure that 'decisions be informed, and therefore balanced.'"], quoting *Al Larson Boat Shop, Inc. v. Bd. of Harbor Commissioners* (1993) 18 Cal.App.4th 729, 748.

¹²¹ See Revised IS/MND, pp. 108-157.

¹²² See CDFW comments on IS/MND, dated August 17, 2020, pp. 2-4.

¹²³ See *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 936, quoting Public Resources Code, § 21003(a).

not include the referenced “revised Biological Report”¹²⁴ or any other comprehensive report that describes the qualifications of the biologists involved in conducting surveys and preparing the reports that underly the analysis of Project-related impacts to biological resources.¹²⁵ This revised Biological Report, while not included among the appendices to the Revised IS/MND, is part of the administrative record for this Project.

The 2018 Botanical Survey Report that was included as an appendix to the original IS/MND reveals that field surveys were only conducted by botanist Claire Brown on May 28 and July 3, 2018, at the greenhouse sites only and were not conducted along the Project access roads (where Project-related unspecified “upgrades” are planned).¹²⁶ Further, this report reveals that the two surveys were conducted mid-growing season and not spaced throughout the growing season as recommended in CDFW’s protocol.¹²⁷ The Appendix also does not include any information concerning the surveys conducted for Golden Eagle and other special status species.

The Revised IS/MND now includes an additional 2020 Botanical Survey Report.¹²⁸ The 2020 Botanical Survey Report purports to address the Project’s potentially significant impacts to botanical resources within a depicted “study area.”¹²⁹ The 2020 Botanical Survey Report is silent with respect to the earlier surveys and states that the “Surveys took place on May 9th, 2019, June 16th, 2020 and June 25th, 2020.”¹³⁰ The 2020 surveys purport to have included surveys along the Project access road from the McCann bridge. The 2020 Botanical Survey Report does not reveal how the surveys along the access road were conducted (e.g., on foot or from a moving vehicle) or whether those surveys took account of the areas that would be impacted by the numerous newly proposed roadway widening improvements. This Report also reveals that no botanical surveys were conducted between the facility sites and the Alderpoint Road alternative access routes.

¹²⁴ See Revised IS/MND, pp. 95, 245 [referencing November 2018 revised Biological Report].

¹²⁵ NRM, the applicant’s consultant, submitted a revised Biological Report to the County on July 30, 2018. A later version of this report is listed as a reference in the Revised IS/MND.

¹²⁶ See Appendix I to original IS/MND, Botanical Survey Report, 2018, pp. 8-11. The cover page for Appendix I describes a Botanic Survey Report dated 2019, but the report itself states that it was prepared in July 2018.

¹²⁷ See CDFW, Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (2018), p. 6 [“Space botanical field survey visits throughout the growing season to accurately determine what plants exist in the project area. This usually involves multiple visits to the project area (e.g. in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present”], available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>, accessed 11/19/20.

¹²⁸ See Appendix I to Revised IS/MND, Botanical Survey Report, Supplemental to Botanical Survey report prepared by NRM in July 2018, August 2020 (Revised Oct 15, 2020). p. 23.

¹²⁹ See *id.* at Figures 1 through 6.

¹³⁰ See *id.* at p. 23.

Surveys for Golden Eagle were conducted in spring and summer, not in within the period that CDFW specifically recommends, January and February.¹³¹ Because CDFW also noted in its comments that “[t]his Project has potential high use areas for birds of prey including, ... golden eagle ...”, it is imperative that sufficient surveys are conducted.¹³² Without the necessary surveys, sound analysis of the Project’s impacts to protected species is impossible. For these reasons, the Revised IS/MND did not adequately analyze the Project’s potential to impact a number of special status species, including the Golden Eagle.

Appendix M to the Revised IS/MND is a report concerning a wetland delineation performed on a portion of the Project site in 2020. Unfortunately, the wetland delineation did not cover all areas that would be disturbed by Project construction and operation activities.¹³³ The wetland delineation, for example, did not include a full delineation for the wetland features adjacent to the access road culverts that will be replaced and adjacent drainage areas. Evidence in the administrative record suggests that wetland areas may be present in areas near road culverts.¹³⁴ This too is despite CDFW’s specific request for a full wetland delineation in its comments on the original IS/MND:

[A] formal wetland delineation of the entire Project area using accepted methods and procedures was not included in the IS/MND. CDFW is also concerned that the wetland delineation has not yet covered the entire Project area. The IS/MND should be revised to include the results of complete Project area wetland delineation¹³⁵

The wetland delineation report includes the conclusory statement that “the investigation was conducted in full accordance with [USACE] requirements].” However, the Revised IS/MND does not comply with a number of these requirements.

In addition, the wetland delineation report depicts the location of wetlands on the Project site differently than does the Revised IS/MND.¹³⁶ The Revised IS/MND appears to identify wetlands that were not identified in the wetland delineation report. These additional

¹³¹ See CDFW, Protocol for Golden Eagle Occupancy, Reproduction, and Prey Population Assessment (2010), p. 29 available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83955&inline>; see also U.S. FWS, Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations, Pagel, et al. (2010), available at: https://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf, accessed 11/13/20.

¹³² Notably, the Revised IS/MND acknowledges that a golden eagle was observed flying across the Project site on July 16, 2018. See Revised IS/MND, p. 119.

¹³³ See Exhibit M to Revised IS/MND, Delineation of Waters Report; July 2020, NRM, p. 4 [delineation covered only a “portion” of the Project site], 6 [Figure 1].

¹³⁴ See, e.g., NRM, Revised Biological Report, dated July 30, 2018, pp. 6, 12-13, 16-18.

¹³⁵ See CDFW Comments on the original IS/MND, dated Aug. 17, 2020, pp. 3-4.

¹³⁶ Compare, e.g., Revised IS/MND, Figures 40 and 42 with Appendix M to Revised IS/MND, pp. 7-9, Figures 2 and 4.

wetlands may be those identified in the 2018 Biological Report for this Project (that was not included in the IS/MND appendices).¹³⁷ The wetland delineation report in Appendix M of the Revised IS/MND does not describe how the two study areas were defined. These discrepancies and inadequacies must be resolved in the revised analysis.

(b) The Analysis of Impacts to Rare Plants, Special Status Species, Wetlands, and Other Aquatic Resources is Incomplete and Inaccurate.

The Revised IS/MND fails to adequately analyze the Project's potentially significant impacts to biological resources. The shortcomings in the analysis stem from an incomplete description of the Project, incomplete surveys to establish the environmental baseline, and disregarded evidence concerning the presence (or potential presence) of protected habitat and species.

The Revised IS/MND includes a new analysis entitled "Assessment of Road Improvement and Maintenance Activity Impacts to Botanical Resources" prepared in October 2020. While the road assessment acknowledges that "[d]uring the winter months, when access via the bridge is not feasible, the Project area can be accessed via Alderpoint Road," the analysis does not actually include an assessment of potential impacts to botanical resources by necessary roadway and drainage improvements along the alternative access route over private ranch roads to Alderpoint Road.¹³⁸ This document also does not assess the full impact of road improvements to botanic resources because it does not acknowledge the number and scope of the improvements that would be required to bring the roads up to "Category 4 or equivalent" standards. Instead, the assessment relies upon the improper (and substantially narrower) Category 2 standard.

The Revised IS/MND acknowledged that "completion of the project will result in unavoidable impacts [to wetlands]."¹³⁹ This statement and the analysis that follows it, however, only addresses the Projects *direct* impacts on wetlands (i.e., from the Project footprint itself and from close proximity to Project construction), it does not address or acknowledge the potentially significant *indirect* impacts to wetlands and riparian habitat from encroachment of the Project facilities within the buffer areas recommended by CDFW.¹⁴⁰

Further, the vague description for possible compensatory mitigation measures for direct impacts to wetlands lack specific performance standards and constitute improper deferral of

¹³⁷ See NRM, Revised Biological Report, dated July 30, 2018, pp. 6 [photo of wetland vegetation adjacent to ephemeral pond], 19.

¹³⁸ See Appendix I to Revised IS/MND, Assessment of Road Improvement and Maintenance Activity Impacts to Botanical Resources (Oct. 2020), Figure 1 (Depicting RPs where surveys were conducted).

¹³⁹ Revised IS/MND, p. 146.

¹⁴⁰ See Revised IS/MND, pp. 145-148 [indicating use of 100-foot buffer for wetlands and a 150-foot buffer for the Eel River, rather than the CDFW recommended buffers of 150 feet and 200 feet, respectively].

mitigation under CEQA.¹⁴¹ Thus, while the Revised IS/MND acknowledges a potentially significant direct impact, it ignores indirect impacts to wetlands, and it fails to propose specific enforceable mitigation to reduce both direct and indirect impacts to less-than-significant levels.

With respect to the Project's potential to impact the foothill yellow-legged frog (a species listed as endangered or threatened for several geographical regions in CA under the California ESA and a species of special concern within the Project area),¹⁴² the Revised IS/MND inaccurately states that "[t]his species was not observed during surveys of the project areas."¹⁴³ However, according to the 2018 Biological Report prepared by NRM, the applicant's consultant, this species was in fact observed, heard, and even captured at multiple locations on the Project site.¹⁴⁴ This discrepancy between the Revised IS/MND and the underlying survey data must be resolved.

In its July 2018 memorandum, the County's peer review consultant specifically recommended that "[t]he location of the culvert with temporary water where foothill yellow-legged frog was observed should be mapped and explained in relation to the project" in the Revised IS/MND.¹⁴⁵ Yet, despite this specific request for pertinent and accurate baseline information, both the original IS/MND and the Revised IS/MND completely deny the biologist's observation of any yellow-legged frogs on the Project site.¹⁴⁶

This species was not observed during surveys of the project areas. The watercourses in the project areas (with the exception of the eel River) are

¹⁴¹ See *id.* at pp. 148, 152-154.

¹⁴² See 14 C.C.R. § 670.5(a)(D)(E)(F) [endangered listings for this species], 670.5(b)(I), (J); see also CEQA Guidelines, § 15380(b)-(d); see also CDFW Report to the Fish & Game Commission, A Status Review of the Foothill Yellow-Legged Frog in CA (09/20/2019), p. 4 ["The scientific information available to the Department indicates that Foothill Yellow-legged Frog faces varying degrees of imperilment throughout its range. The Department recommends that the Commission find that the petitioned action to list Foothill Yellow-legged Frog as threatened is warranted for the Feather River and Northeast/Northern Sierra clades; that the East/Southern Sierra, West/Central Coast, and Southwest/South Coast clades be listed as endangered; and that listing of the Northwest/North Coast clade is not warranted at this time."], available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=174663&inline>, accessed 12/06/20; see also CDFW Press Release re Fish & Game Commission Listing Decision for the Foothill Yellow-legged Frog (12/12/2019), available at: <https://cdfgnews.wordpress.com/tag/foothill-yellow-legged-frog/>.

¹⁴³ See *id.* at p. 137.

¹⁴⁴ See NRM, Revised Biological Report, dated July 30, 2018, pp. 6, 12-13, 16-18. The Revised IS/MND cites a revised Biological Report dated November 2, 2018, but does not include this document in the Appendix. As a referenced resource that purports to support the analysis of impacts, this document should have been made available to the public for review during the comment period.

¹⁴⁵ See Exh. F – Memo #1, p. 6.

¹⁴⁶ See Revised IS/MND, pp. 95 [stating that, during the surveys conducted by NRM biologists on October 16, 2017, "No special status species were found"], 137 [discussion of the Project's potential impacts to yellow-legged frog].

unlikely to support foothill yellow-legged frog as they are not permanent (dry by June) and breeding habitat is suboptimal with no rocky substrate.¹⁴⁷

Because this species has been confirmed to actually be present on the Project site, the impact analysis regarding foothill yellow-legged frog is therefore also inaccurate. The revised analysis must acknowledge the Project's potential to significantly impact this special status species, known to be present on the Project site, and must propose project design changes to avoid impacts to upland areas adjacent to wetlands (within mandatory set back / buffer areas) and, to the extent avoidance does not reduce impacts to less-than-significant levels, the required EIR must propose specific, enforceable mitigation measures to minimize such impacts.¹⁴⁸

The Revised IS/MND did not consider potentially significant impacts to biological resources that may be caused by the Project's heavy reliance on potentially hydrologically connected groundwater. The 4,628,200 gallons of estimated annual water demand may draw down the water table, potentially reducing or eliminating nearby surface water resources or potentially causing changes in surface water temperature (discussed further below). Withdrawal of hydrologically-connected groundwater may result in depletion of surface water resources, thereby impacting special status species and other biological resources. For example, groundwater pumping could constitute a "diversion" of surface waters that adversely impacts the foothill yellow-legged frog, a special-status species known to be present on the Project site.¹⁴⁹ Of course, such impacts related to groundwater diversion would also affect other species reliant on surface water resources. The Revised IS/MND is silent with respect to how the plant and animal species that depend upon these water resources could be affected by intensive groundwater pumping in an area dominated by Franciscan Sandstone and other sedimentary and metamorphic rock formations with limited potential for groundwater storage and a likelihood to discharge to surface waters. The required EIR for this Project must fully analyze these potentially significant impacts and propose adequate enforceable mitigation to minimize or eliminate them. Proposed Mitigation Measure Bio-15 is inadequate because, among other things, it allows the relocation of any found yellow-legged frogs *before* notification to CDFW.

The Revised IS/MND does not consider the impacts on surface waters, associated riparian habitat, and dependent species that may be caused by the Project's heavy, year-round, and sole reliance on groundwater. The required EIR must address all of this.

¹⁴⁷ See *id.* at p. 137.

¹⁴⁸ See Exh. I – Letter from CDFW re Draft LSAA required Mattole River Cannabis Project, Draft LSAA, p. 5 [protective measures for foothill yellow-legged frog].

¹⁴⁹ See U.S. Dept. of Agriculture, Foothill Yellow-Legged Frog Conservation Assessment in California (2016), p. 44 ["Diversion of water may also result in modifications to stream habitat (e.g., local reaches may become less lotic in nature). Even small operations, such as those used to divert water for growing marijuana (*Cannabis sativa*), may have significant impacts on foothill streams with limited summer flows (Citation)."], available at: https://www.fs.fed.us/psw/publications/documents/psw_gtr248/psw_gtr248.pdf, accessed 11/24/20.

6. Overlooked Land Use Impacts

The large-scale Project in this remote greenfield location is inconsistent with the intent of the CMMLUO (and the arguably more appropriately applicable CCLUO). When these regulations were passed, the intent was to encourage large-scale cannabis projects in the relatively flat bottomlands of the County not in mountainous, undeveloped, timberland.¹⁵⁰

The County's Supervising Planner summarized comments on an early draft IS/MND as follows:

The overarching issue is that our analysis of the [CMMLUO] indicates that the CMMLUO did not contemplate the wholesale conversion of a large tract of wildland area to industrial sized cannabis development, where the level of use and the level of impacts may not be consistent with what was envisioned by the CMMLUO; especially at locations without adequate access, public services, and fire protection. We are concerned that the proposed level of development, including establishing extensive human occupations where none currently exist, and the improvement of roads through wild land areas not previously developed to serve the level of development proposed by the project, can result in cumulative effects on the environment that cannot be reduced or mitigated to a level of insignificance.¹⁵¹

Several months later, the County's consultant reiterated the above comments and recommended that the Revised IS/MND be revised to address the Project's consistency with the County's land use regulations.¹⁵²

In spite of these prior comments from the County and its peer review consultant, the Revised IS/MND does not address the Project's fundamental inconsistency with the letter and spirit of the CMMLUO (and with the later adopted CCLUO). Instead, the conclusory analysis states, without sufficient evidence or even a discussion, that the Project would have no impacts to land use and, more specifically, would cause no significant impacts due to a conflict with "any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect."¹⁵³

¹⁵⁰ See Humboldt County Bd. of Supervisors, Resolution 16-14, General Plan Consistency Analysis and Findings, p. 2 ["[the CMMLUO] provides incentives for the retirement, remediation and relocation of existing cannabis cultivation operations to more suitable agricultural land where cannabis cultivation will have few if any environmental effects where the cultivation of field and row crops is a principally permitted use, while providing strong guarantees that the former TPZ cultivation site will be remediated and no future conversion of timberland will occur"].

¹⁵¹ See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018, p. 1.

¹⁵² See Exh. F – Memo #1, p. 9.

¹⁵³ See Revised IS/MND, pp. 202-203.

The short, unelaborated discussion of potentially significant land use impacts does not address 1) the Project's inconsistency with the CMMLUO based on the conversion of wildlands to an intensive commercial operation and 2) the Project's contribution to cumulative effects caused by the improvement of roads through wildland areas. Again, the County's comments on the draft IS/MND appear to have been ignored or disregarded.

Under both the CMMLUO and the CCLUO, this new Project should not even be possible because most of the Project parcels are designated within a Timber Production Zone ("TPZ").¹⁵⁴ Both the CMMLUO and the CCLUO prohibit new commercial cannabis operations on TPZ property.¹⁵⁵ While the footprints of greenhouses and other Project buildings will technically be just outside the TPZ, to have adequate access and meet fire safe regulations, the Project will require substantial modifications to access roads that cross TPZ areas on the Project site. The Revised IS/MND is silent with respect to this restriction.

Because the Project is inconsistent with applicable land use regulations, the required EIR must disclose those inconsistencies and propose Project changes or mitigation measures to avoid or reduce the impacts to the extent feasible. If the inconsistencies with land use regulations cannot be avoided or rendered insignificant, then the Planning Commission should deny the application for the six CUPs for this Project.

7. Omitted Consideration of Water Quality Impacts from Groundwater Pumping and Access Road Drainage Improvements

Year-round pumping of groundwater from the Project's three wells could cause impacts to hydrologically connected surface waters. According to USGS Circular 1376:

One of the important concerns associated with streamflow depletion by wells is the effect of reduced groundwater discharge on the quality of affected surface waters. Groundwater discharge affects the chemistry of surface water and plays an important role in regulating stream temperature, which is a critical water-quality property [citations].¹⁵⁶

The USGS circular confirms that "reductions in the rates of groundwater discharge to streams caused by pumping can warm stream temperatures during the summer and cool stream temperatures during the winter."¹⁵⁷ The required EIR must also analyze the Project's impacts on water quality, as it relates to intensive year-round groundwater pumping.

¹⁵⁴ See *id.* at p. 47 [Figure 20].

¹⁵⁵ See HCC (CCLUO), §§ 55.4.5.1.3, 55.4.6.5, 55.4.6.5.6; see also Resolution 18-40 (Certifying EIR for CCLUO, p. 8; see also HCC, § 55.4.9 [Permit Types, Table summarizing permits types under the CMMLUO]; see also MND for CMMLUO, pp. 9 ["New operations on TPZ-zoned land will not be permitted under this ordinance"].

¹⁵⁶ See USGS Circular 1376, p. 35.

¹⁵⁷ See *ibid.*

The Revised IS/MND also did not analyze the impacts to water quality that may result from necessary access road improvements. Many of the necessary roadway and drainage improvements were not even identified until after the original IS/MND was prepared and released for public review. Now improvements to meet Category 2 standards have been identified, but the analysis concerning potentially significant water quality impacts has not been modified to reflect the much larger area of disturbance now being proposed.¹⁵⁸ To bring the access roads up to the required "Category 4 or equivalent" standard, there would be even greater potentially significant impacts to water quality that have not been disclosed in the Revised IS/MND.

8. Superficial "Analysis" of the Project's Contribution to Cumulative Impacts

As Petitioners pointed out in their initial comments concerning the Revised IS/MND submitted in August, and again in their supplemental comments submitted in September, the Revised IS/MND fails to identify the relevant past, present, and probable future projects considered in the cumulative impacts analysis.¹⁵⁹ As with the Project description deficiencies identified above, the Revised IS/MND did not incorporate recommendations from the County's peer review consultant concerning the cumulative impacts analysis.¹⁶⁰

The cumulative impacts analysis should be revised to cure these core deficiencies. When revising the analysis in the required EIR, consider consolidating the discussion of cumulative impacts, so that the Project's contribution to cumulative impacts in all categories can be readily ascertained. The Revised IS/MND for the recently approved Hills commercial cannabis project provides a good example of a consolidated analysis of cumulative impacts.¹⁶¹ That analysis provides much more detail concerning the multiple pending and approved projects that were considered. The analysis of cumulative impacts should also consider this Project's impacts in connection within the overall commercial cannabis permitting program, rather than in isolation. The County prepared a Mitigated Negative Declaration for the CMMLUO that purported to analyze the environmental impacts of the County's former permitting program as a whole. That document did not identify the total number discretionary permits that the County expected would be issued under the CMMLUO for cannabis projects nor did it purport to analyze the impacts of large scale new commercial cannabis projects subject to the conditional use permit requirement.¹⁶²

¹⁵⁸ See Revised IS/MND, pp. 15, 49, 51, 194-196, 199.

¹⁵⁹ See Petitioner's initial comments on the IS/MND, dated August 17, 2020, pp. 3, 16-17, 19; *see also* Petitioners' supplemental comments on the IS/MND, dated Sept. 10, 2020, p. 18.

¹⁶⁰ See Exh. F – Memo #1, p. 13.

¹⁶¹ See, e.g., Exh. K – Cumulative Impacts Analysis for the Hills Commercial Cannabis Project (listing past, present, and future projects and discussing that project's contribution to various types of impacts).

¹⁶² See, e.g., IS/MND prepared for CMMLUO, pp. 26-29, 31, 33.

Still more permits will be issued for cannabis projects under the CCLUO. In May 2018, in conjunction with approving the CCLUO, the County adopted Resolution 18-43, which resolution set caps on the number of permits that could be issued in each region of the County, including within the Middle Main Eel River watershed. This Resolution set a cap of 360 permits, allowing for 125 acres of cultivation, for the area wherein which the Project will be located.¹⁶³ The analysis of cumulative impacts should consider this Project's contribution towards cumulative impacts in the context of intensive commercial cannabis development activities under both the CMMLUO and the CCLUO permitting regimes.

Accordingly, the EIR required for this Project must provide a substantially more robust analysis of the Project's contribution to cumulatively considerable impacts.

E. The Revised IS/MND Downplays the Project's Growth Inducing Impacts.

The Revised IS/MND concludes, without support evidence, that the Project will not cause growth inducement impacts.¹⁶⁴ However, as the peer review consultant pointed out, the Project may contribute to growth inducement in several ways. Expansion of roads required for this Project (i.e., to Category 4 or equivalent standards) could lead to more development of this remote area. This development could, include, for example, expansion of the proposed Project to include still more wells and additional greenhouses and processing facilities (potentially processed at a ministerial level, at most, without any additional environmental review). Alternatively, the Project's commercial success could precipitate subdivision of the 6,500-acre Rolling Meadow Ranch into either residential or commercial development. The required EIR should consider the Project's potential to induce growth in the currently largely undeveloped and environmentally sensitive hillsides adjacent to the Eel River.

F. The MND Does Not Incorporate Adequate Project Design Features and Mitigation Measures to Ensure the Project will Have Less Than Significant Impacts.

To be adequate under CEQA, proposed mitigation measures must be described in detail, and must enforceable. The Revised IS/MND assumes, with insufficient factual support, that vaguely described "BMPs" and other measures will reduce various impacts to less-than-significant levels.¹⁶⁵ As explained above and in Petitioners' prior comments, the Project will cause potentially significant impacts to air quality, traffic safety, public services, biological

¹⁶³ See County Resolution 18-43, adopted May 8, 2018, available at: <https://humboldt.gov.org/2124/Medical-Marijuana-Land-Use-Ordinance>.

¹⁶⁴ See Revised IS/MND, pp. 188, 212-213.

¹⁶⁵ See, e.g., Revised IS/MND, pp. 55, 57 [conclusory discussion of avoidance of potentially significant construction period-air quality impacts through compliance with BMPs], 188 [discussion of avoidance of hazards through compliance with BMPs].

resources, water supply, water quality, and land use. These impacts must be mitigated to the extent feasible.¹⁶⁶

Some of the mitigation measures described in the Revised IS/MND are inadequate under CEQA. For example, Mitigation Measure Bio-1 is unclear -- if sensitive plant species are found during the surveys at Facilities #6 - #9 will those facilities never be constructed? Additionally, the proposed Mitigation Measure Bio-15 for the foothill yellow-legged frog is not sufficiently protective of the species because it allows any frogs found during pre-construction surveys to be relocated prior to contacting CDFW.^{167]}

The Revised IS/MND states that the Project "will be powered by grid power derived from 100% renewable resources as provided by the Redwood Coast Energy Authority Repower+ program. However, there is no measure or condition that would require the Project to use renewable energy sources. As with the Adesa project, the Planning Commission should require that 100% of all power necessary for regular operations and in the event of emergencies be generated by renewable sources within 2 years of operation."¹⁶⁸

To avoid and minimize impacts to potentially hydrologically connected surface water features and aquatic resources, the County should also impose an adaptive management mitigation measure for the Project's three wells, such as the following:

Mitigation Measure: Annual groundwater monitoring and adaptive management.

The following requirement will be included as an additional performance associated wells that may be hydrologically connected with surface waters: As part of the annual inspection process, the operator shall provide the County with groundwater monitoring data for on-site well facilities that documents well production and changes in groundwater levels during each month of the year. Should this monitoring data identify potential drawdown impacts to adjacent surface waters and indicate a connection to operation of the on-site wells, the operator, in conjunction with the County, shall develop adaptive management measures to allow for recovery of groundwater levels. Adaptive management measures may include forbearance (e.g., prohibition of groundwater extraction from the months of May to October), water conservation measures, reductions in on-site cannabis cultivation, alteration of the groundwater pumping schedule,

¹⁶⁶ See *San Bernardino Valley Audubon Soc'y v. Metro. Water Dist.* (1999) 71 Cal.App.4th 382, 391 ["CEQA allows the use of a mitigated negative declaration only where the mitigation measures modify the potentially significant impacts of the Project "to a point where clearly no significant effects would occur..." [Citation.] If significant effects remain after mitigation, an EIR is required], quoting CEQA Guidelines, § 15070(b)(1).]

¹⁶⁷ See Jets THP attached to Revised IS/MND, p. 43 [more protective measure for FYLF contained in THP applicable to RMR].

¹⁶⁸ See Staff Report to County Board of Supervisors concerning appeal of Adesa project approvals, for Oct. 27, 2020 meeting, p. 2, incorporated herein by reference.

or other measures determined appropriate. Adaptive management measures will remain in place until groundwater levels have recovered based on annual monitoring data provided to the County as part of subsequent annual inspections.

To avoid potentially significant impacts to water quality and to biological resources in this sensitive area, the County should consider requiring organic cultivation practices.

The County must ensure that mitigation measures concerning potentially significant impacts to biological resources, including special status species, adopted by the County in connection with its adoption of the CCLUO are applied equally to this Project.¹⁶⁹ In addition, the EIR required for this Project should describe mitigation for significant air quality impacts, including offsite fugitive dust (PM 10 and PM 2.5) emissions on McCann Rd during construction and operation.

G. The Required EIR Must Evaluate a Range of Alternatives That Includes a Reduced Size Alternative and an Alderpoint Road Access Route Alternative.

When an EIR is required for a project, such as the proposed Project, that has the potential to significantly impact the environment, CEQA requires the lead agency to consider how those significant impacts can be avoided through the consideration of a reasonable range of project alternatives.¹⁷⁰

Petitioners urge the County and the applicant to consider alternatives to the Project that include less intensive cultivation and processing activities, including a reduced size alternative. The required EIR should also evaluate, as a project alternative among the required reasonable "range of alternatives" that must be considered, a Project design that includes using Alderpoint Road as the primary access route and McCann Road for emergency purposes only.

¹⁶⁹ See Humboldt County Bd. of Supervisors, Resolution 18-40.

¹⁷⁰ See *Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal.3d 376, 400 (*Laurel Heights I*) ["One of [an EIR's] major functions . . . is to ensure that *all reasonable alternatives* to proposed projects are thoroughly assessed by the responsible official"], quoting *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 197], emphasis in original.

III. Conclusion: the Project's Significant Access Issues Justify Outright Denial of the Application for Six CUPs, and its Numerous Potentially Significant Impacts Require the Preparation of an EIR.

As Petitioners' extensive factually-supported comments demonstrate, substantial revisions to the environmental impact analysis for this Project are necessary in order to satisfy CEQA's requirements. These revisions must be made in the required EIR before this Project can be considered for approval. Alternatively, the County has authority to deny the application for the six Conditional Use Permits required for the Project.

Very Truly Yours,



Jason Holder

cc: (Via e-mail only)
Client contacts
Greg O'Connell, CDFW biologist

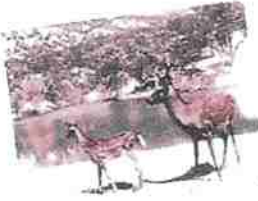
Exhibits:

- Exh. A. 2014 Real Estate Listing for Rolling Meadow Ranch;
- Exh. B. PWA Rolling Meadow Comments, dated Dec. 28, 2020;
- Exh. C. Letter from Steve Salzman concerning Evaluation of McCann Road, dated Dec. 26, 2020;
- Exh. D. Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018;
- Exh. E. CDFW CEQA Referral Checklist for RMR Project, dated Jan. 24, 2018
- Exh. F. Transcon Environmental, Memorandum re Peer Review, dated July 23, 2018 ("Memo #1");
- Exh. G. Transcon Environmental, Memorandum re Peer Review – Project Description Deficiencies, dated July 23, 2018 ("Memo #2");
- Exh. H. NRM Response to County Comments on Draft Revised IS/MND, dated Jan. 22, 2020;
- Exh. I. Letter from CDFW re Draft LSAA required Mattole River Cannabis Project;
- Exh. J. Email from Greg Mc'Connell at CDFW to County planner Meghan Ryan, dated September 10, 2020; and
- Exh. K. Cumulative Impacts Analysis from Revised IS/MND for the Hills Commercial Cannabis Project.



Exhibit A

2014 Real Estate Listing for Rolling Meadow Ranch



JIM KEVIN OUR TEAM RANCH LISTINGS CONTACT US HOME

Conservationists Dream! 6,530 Acre Ranch w/ 2.5 miles of Eel River Frontage

Price:

Offered by: Jim Redd & Kevin Sullivan

Map: Google Maps

Contact

The Ranch Specialists

Over 55 years of combined real estate experience, specializing in ranch & country properties.

Jim Redd

The Ranch Agent
Four Star Realty
331 Harris Street
Eureka, CA 95503
Office: 707-444-9234
Fax: 707-444-9357
Cell: 707-496-3022
jim@ranchagent.com
Licensed since 1978
California #00665810
Oregon #200007041

Kevin Sullivan

Kevin Sullivan Realty, Inc.
4201 Gold Gulch Road
Ukiah, Ca 95482
Office: 707-485-5834
Fax: 707-485-8716
Cell: 707-489-4610
kevin@ranchagent.com
Licensed since 1983
California #845366
Oregon #200008159

www.ranchagent.com



Conservationists' Dream

Approx. 6,530 Acres

People all over the world dream of someday seeing California's redwoods, pristine rivers and panoramic hilltop views with no sign of mans' intrusions. Millions flock to Yosemite's forests to find they are sharing all the natural beauty with thousands of other dreamers each day. This property provides the opportunity to have all the beauty your heart desires, and share it with only the ones you choose! It is one of the last few large, contiguous holdings along the Eel River.

The access to **Rolling Meadow Ranch** takes you through Founders Grove Park, on a lovely, low traffic road lined with ancient redwoods.

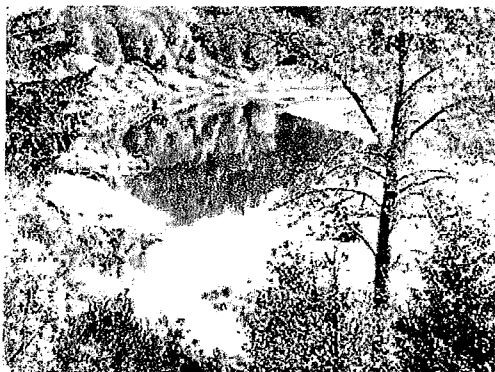


The ranch itself includes 2.5 miles of sparkling Eel River frontage. Unpaved roads provide green accessthroughout the ranch and one may see or hear wildlife at every turn.

The rolling meadows and hills contain beautiful green forests and lead up to a 3,200 foot elevation ridge top on the Coastal Range.



The ranch encompasses all the way from the panoramic-view top of the mountain ridge down to the sparkling waters of the river.



The panoramic views are awe-inspiring.



Breathe fresh air, hike, swim, fish, camp out under the stars, take out your sketch pad or journal...a lifetime paradise can be yours to share and enjoy.



The information contained herein has either been given to us by the owner of the property or obtained from sources that we have deemed reliable. We have no reason to doubt its' accuracy; however, we do not guarantee it. The prospective buyer should carefully verify all information contained herein.

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[Send by email](#)

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Exhibit B

PWA Rolling Meadow Comments, dated Dec. 28, 2020



Date: December 28, 2020

To: Jason Holder
Holder Law Group
317 Washington St., #177
Oakland, CA 94607-3810
jason@holderecolaw.com

From: Michelle Robinson, Staff Geologist
Colin Hughes, CEG #2717
Pacific Watershed Associates Inc.
PO Box 4433
Arcata, CA 95518-4433
micheller@pacificwatershed.com / 707-839-5130

Re: Comments Concerning the IS/MND for the Rolling Meadow Ranch, LLC, dated Nov. 25, 2020; Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH# 2020070339)

This memorandum is provided at the request of Holder Law Group and contains Pacific Watershed Associates' (PWA) opinions regarding the adequacy of analysis and potential effectiveness of proposed mitigation measures identified in the Initial Study and Environmental Checklist (ISEC) for the Rolling Meadow Ranch LLC commercial cannabis project (Project) (SCH# 2020070339). Our opinions are based on review of the ISEC and supporting documents provided by the Applicant for six (6) Conditional Use Permits (PLN-12529-CUP) which are currently under review by the Humboldt County Planning Commission. The following opinions discuss two areas of concern: 1) potential impacts of both the site hydrology and soils to Project feasibility, and 2) potential impacts of the Project to water quality and aquatic habitat resources.

Potentially Significant Impacts to Hydrology, Water Quality, and Aquatic Habitat Resources

Sediment delivery from roads and stream crossings

Section 15063(a) (1) of the State CEQA Guidelines states that the initial study should consider all phases of planning, implementation, and operation of the project. The State Water Resource Control Board's General Order WQ 2019-0001-DWQ requires applicable Dischargers in the North Coast Regional Water Board's jurisdiction (Region 1) to develop a Site Management Plan that describes all Best Practicable Treatment or Control (BPTC) measures for a new cannabis cultivation project. The required BPTC measures must address legacy waste discharge issues, including those that are not related to cannabis cultivation (e.g. former timber harvests, road building, mining, etc.). The ISEC does not describe the necessary "upgrades" to bring all the Project's internal roads up to applicable standards. Figure 2 on page 17 of the ISEC identifies several existing roads/trails within Parcel 1 that have not been included in the initial study's analysis of potential impacts from road treatments described in the Access Assessment developed by Northpoint Consulting Group in Appendix C. The ISEC also states that Natural Resources Management Corps. (NRM) conducted stream crossing investigations in October 2020, however crossings that are located on internal Rolling Meadows Ranch roads that do not access the proposed facilities and roads with deeded easements were not inspected (Page 12 of the ISEC, and Appendix K). All necessary upgrades to Project access roads and internal roads, including stream

crossing upgrades, should be described as part of the Project and the associated potentially significant impacts should be analyzed and mitigated.

Roads are a major source of erosion and sedimentation on the landscape. Road construction and other earthmoving and construction activities can disturb soils and drainage patterns, increase surface runoff and cause erosion and the release of sediment into stream systems (Weaver, Weppner, and Hagans, 2015). Therefore, because State CEQA Guidelines require the initial study to consider all phases of the project, and because the General Order requires BPTC measures to be implemented property-wide, potentially significant impacts associated with treating and maintaining the additional roads and stream crossings within Parcel 1 of the Rolling Meadow Ranch not included in the previous road assessments, should be included in a revised ISEC or EIR if the Project may cause one or more potentially significant impacts.

Setbacks from surface waters

The ISEC states that two greenhouses (Facilities #1-2), a stabilized parking area with 20 parking spaces, an emergency 45KW generator, and water pump will be located within the FEMA 100-year Flood Zone of the Middle Mainstem Eel River. Grading plan documents from Northpoint Consulting Group in Appendix B show plans proposing to utilize a Hilfiker retaining wall and grading to raise the ground surface for the two greenhouses (Facilities #1-2) to remain above the 100-year Flood Zone, however the stabilized parking area is not included in the grading plan. Locating these Project facilities within the flood zone could result in significant impacts to water quality if a major flood event were to occur.

Grading documents from Oscar Larson & Associates in January of 2019 (ISEC Appendix B) stating the proposed grading for the greenhouses can be balanced on site, relate to only three (Facilities #1-2, #3-5, and #10-16) of the five proposed cultivation areas, and was based only on visual observations. Facilities #3, #5-6, #9-10 and #14 are all located within or very near the setbacks from a surface water feature (ISEC Figures 41-43). Graded pad footprints and areas of proposed cut and fill, as well as cut and fill volumes, should be estimated at the proposed grading locations to adequately assess associated impacts from disturbed areas (graded pads) within riparian setbacks, and to allow for proper borrow and spoil storage locations and impacts to be identified, if necessary. Information provided in the ISEC does not adequately identify the potential impacts and mitigation measures associated with grading the pads.

The Delineation of Waters Report (Appendix M) also states "No portion of the Study Area is classified as Wetland" however, the National Wetland Inventory (NWI) identifies a 6.6-acre Freshwater Forested Shrub Wetland that may be located within 100 ft of Facility #3, and Facility #9 is partially within a mapped wetland shown on figure 42. Figure 41 on page 144 of the ISEC does not identify the 6.6-acre Freshwater Forested Shrub Wetland and the appropriate setback. Additionally, while the ISEC states that "All project areas were surveyed for potential wetland," full delineations were only performed around Facilities #1, #2 and #9. Full wetland delineations in accordance with the Army Corps of Engineers Wetlands Delineation Manual should be performed at the remaining three (3) proposed cultivation areas (Facilities #3-5, #6-8 and #10-16) to ensure an accurate calculation of impacted wetlands and associated required mitigation. Without the necessary surveys to establish an accurate environmental baseline, it is impossible to determine the extent of the Project's significant impacts to wetlands and other surface waters.

Water Availability and Impacts to Aquatic Resources

Accuracy of well location data

The mapped location for Well #1 provided in the driller's (Fisch Drilling) well completion report differs greatly from the mapped location of Well #1 in Figure 61 of the ISEC. The well completion report (Appendix E) clearly identifies Well #1 as being located 140 ft from a watercourse. The location of well infrastructure may have implications as to the degree of hydrologic connectivity of well-sourced groundwater with surface waters. The actual location of the well should be determined by the applicant and identified correctly on all maps of well infrastructure within the ISEC.

Hydrologic connectivity of existing wells

As shown on the well completion reports, Well #1 is 140 ft from a tributary stream to Beatty Creek. Well #2 is 300 ft from a Freshwater Emergent Wetland habitat classified as PEM1Ch (NWI). Well #3 is 400 feet from a Freshwater Forested/Shrub wetland habitat classified as PSS1/EM1B that extends through elevations ranging from approximately 610 ft to 930 feet (NWI). The wells have screened intervals ranging from 150 to 200 ft in length. The elevation range of the screened well segments at all Wells #1-3 encompasses the elevation of adjacent wetland and stream surface water resources.

Significant pumping from the groundwater wells could have potential adverse impacts to the watershed from reduced groundwater storage and/or a lowering of the local water table. When groundwater levels are reduced, the location where groundwater intersects with the land surface can change (i.e., become lower), causing local springs and seeps to dry up. Geologic investigations to quantify the hydraulic properties of aquifers within the project area have not been conducted. Due to the proximity of the Wells #1-3 to surface waters, the cone of depression from continuous well water withdrawal may intersect and affect nearby stream and wetland resources. Additional hydrogeologic investigations should be conducted and reported to better identify and describe potentially significant impacts to these wetlands and watercourses. Alternatively, if the wells prove to be disconnected from all surface waters, such reported investigations should transparently substantiate their lack of hydrologic connection. Additionally, pumping and storing the majority of the anticipated annual water use from the wells during the times of greatest recharge (the wet season November – March) will best protect water quality objectives and beneficial uses by minimizing the effect of groundwater extraction on groundwater levels.

Productivity of wells

According to the Humboldt County Division of Environmental Health (DEH) Water Production Standards and Test Procedures, all water production tests must be conducted during the dry season and be representative of the lowest annual water production anticipated from the source. The dry season testing period designated by DEH is August 1 through September 30. All well production tests conducted by Fisch Drilling were performed in early to mid-June, 2019, outside of the dry season testing period. PWA recommends that additional well testing be performed during the dry season period designated in accordance with DEH standards, the test results should be provided in a water availability analysis component of a revised ISEC or in an EIR.

According to (McLaughlin et al., 2000), all three wells identified as sources of irrigation water are in the rocks of the Yager terrane. The subunit of Yager terrane in the project area is described by McLaughlin et al. as, "Sheared and highly folded mudstone- Includes minor rhythmically interbedded sandstone, locally with lenses of conglomerate." Mudstones are low-permeability sedimentary rocks. Brittle

deformation of mudstones results in fracturing and jointing which generally increases the permeability and aqueous transport properties of the rock strata. Conversely, ductile deformation of mudstones can result in compactional strain hardening, reducing the permeability of the rock strata. The well tests that were completed by Fisch Drilling at the time of well installation were 4-hour airlift test to determine well productivity. It is possible that short-term testing of wells in sheared mudstone rocks of the Yager terrane is misrepresentative of sustained well yield, as groundwater stored in fractures may be more rapidly drained over a short period of time and sustained yield of the well may actually be dependent on the pore structures of the rock matrix. In this circumstance, the sustained yield of the wells may be much lower than is recognized by the applicant and is assumed in the ISEC. We believe more prolonged well pump testing is needed to provide more adequate and reliable evidence demonstrating that the property wells will indefinitely supply 4,625,200 gallons of water to the Project annually.

Rainwater catchment

The ISEC proposed 320,000 gallons of rainwater harvest and storage for dry season landscaping, dust mitigation and fire protection. If water stored in the hard tank infrastructure is used entirely for these purposes, no storage for irrigation water is planned and irrigation water must be directly pumped from Wells #1-3 during the dry summer season to meet all irrigation and domestic needs on a daily basis. If the sustained yield groundwater supply from Wells #1-3 is not thoroughly investigated prior to initiation of the project, a water supply deficit may occur, even in the first year of full-scale production.

Greenhouses at Facilities #1-16 total approximately 306,600 ft² of hardened rooftop surface area to capture rainwater. According to rainfall records and modeling provided by the PRISM Climate Group, the project area experiences a mean annual precipitation depth of 55 inches. If all greenhouse facilities were equipped with rainfall catchment infrastructure, approximately 10 million gallons of rainwater could be harvested during a season with average precipitation, reducing the strain on groundwater resources and potential impacts to surface waters and wetlands. Additional use of rooftop rainwater capture and storage should be considered for inclusion in a revised ISEC (or in an EIR) to reduce the risks of significant Project impacts to surface waters and wetlands from groundwater extraction.

We appreciate the opportunity to provide you with our review and opinion of the hydrological and soils components of the Rolling Meadow Ranch Project's ISEC (SCH# 2020070339). If you have any questions or want to discuss our review and opinions in further detail, please do not hesitate to call Michelle Robinson or Colin Hughes at (707) 839-5130.

Sincerely,



Michelle Robinson, Staff Geologist



Colin Hughes, CEG #2717

REFERENCES

- Mean Annual Precipitation data, PRISM Climate Group, Oregon State University, <http://prism.oregonstate.edu>, Mean Annual Precipitation data created 21 Feb 2011.
- McLaughlin R.J., Ellen, S.D., Blake, M.C. Jr., Jayko, A.S., Irwin, W.P., Aalto, K.R., Carver, G.A., Clarke, S.H. Jr., 2000, Geology of the Cape Mendocino, Eureka, Garberville, and Southwestern part of the Hayfork 30 X 60 minute quadrangles and adjacent offshore area, northern California: U.S. Geological Survey Miscellaneous Field Studies MF-2336. Available from: <http://wrgis.wr.usgs.gov/map-mf/mf2336/>
- U. S. Fish and Wildlife Service. 2019. National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. <http://www.fws.gov/wetlands/>
- Weaver, W.E., Weppner, E.M. and Hagans, D.K., 2015, Handbook for Forest, Ranch and Rural Roads: A Guide for Planning, Designing, Constructing, Reconstructing, Upgrading, Maintaining and Closing Wildland Roads (Rev. 1st ed.), Mendocino County Resource Conservation District, Ukiah, California



Exhibit C

**Letter from Steve Salzman concerning Evaluation of McCann Road,
dated Dec. 26, 2020**



December 26, 2020

Jason W. Holder
Holder Law Group
317 Washington St., #177
Oakland, CA 94607-3810

Subject: Evaluation of the McCann Road

Dear Mr. Holder,

I am a licensed civil engineer and have been practicing in the public and private sectors, in Humboldt County for over 30 years. See attached CV for details.

I have been asked to perform a pedestrian survey of the McCann Road from the Dyerville Loop Road to the gate of the Rolling Meadows Ranch and to render an opinion as to the appropriate classification of the road, in accordance with County Standards for Roadway Categories (Section 7-302D, in the Roadway Design Standards Manual and Roadway Classification System), published by the County of Humboldt, Department of Public Works, 1971.

Specifically, I was asked to determine if the road meets the design standards of a Category 4 (or equivalent) road. The pertinent design standards are presented on Figure 7-302D (below).

ROADWAY CATEGORY 4 (TWO LANE- NARROW TRAVELED WAY)

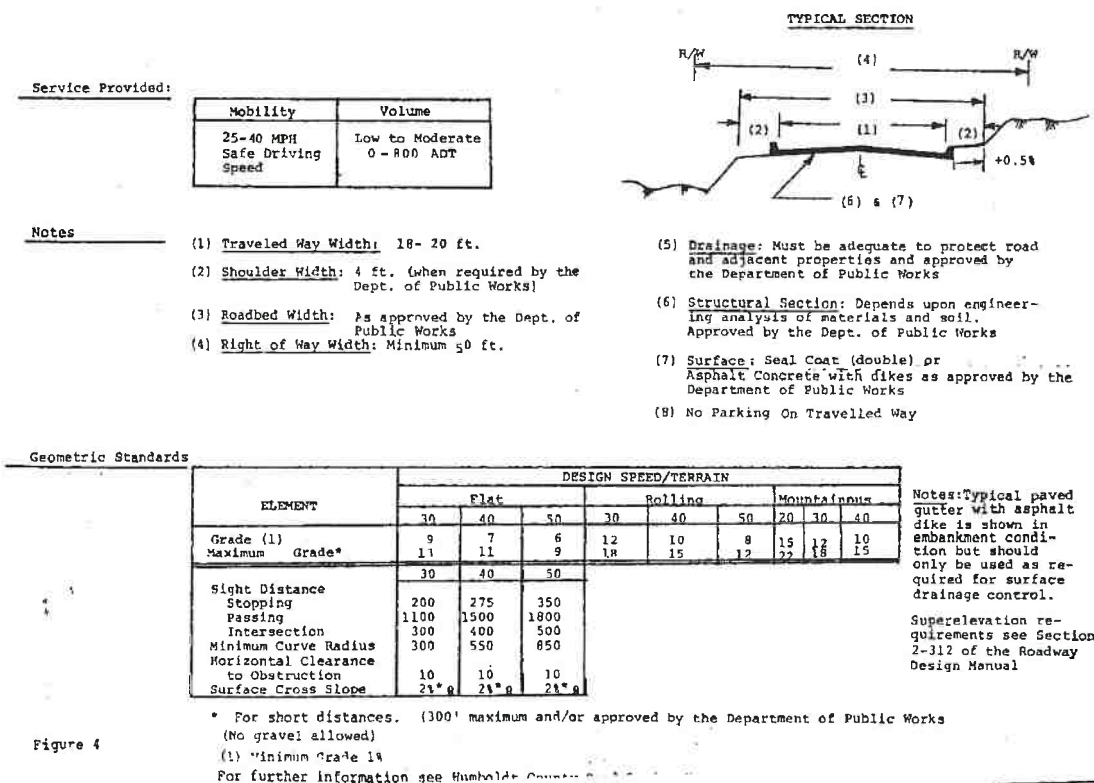


Figure 4

Pertinent standards can also be found in <https://humboldt.county.codes/Code/321-2> Title II - Land Use and Development, Division 2, Subdivision Regulations (see Section 4 in the Appendix). Fire Safe Regulations <https://humboldt.county.codes/Code/321-11>, CC 3111-1 et seq. call for Category 4 Roads for subdivided parcels (see Section 3112-3). This standard may be modified where an exception has been granted pursuant to Sections 3111-7 through 3111-10 of this ordinance.

If the road has substandard characteristics, the County allows for an “equivalency” rating. This rating relies on a judgement call by the responsible party (Humboldt County’s Director of Public Works) and is based on functional performance and safety considerations. Substandard road sections (“pinch points” such as narrow road sections and bridges) must have inter-visible turnouts that allow drivers to see oncoming traffic and utilize turnouts to allow them to pass.

I completed pedestrian surveys and measurements of the McCann Road, on November 7 and 11, 2020. The route is shown on Figure 1. The following narrative and photographs document my findings.



Figure 1. McCann Road from Dyerville Loop Road to Rolling Meadows Ranch gate.

The McCann Road can be accessed from Highway 101, via the Avenue of the Giants (at Founders Grove or from the south) via the Dyerville Loop Road. The intersection of the McCann Road and Dyerville Loop is approximately 6.5 miles east of Founder’s Grove. The McCann Road descends into the floodplain of the Eel River and crosses an approximately 300’ long, 11’-wide, permanent, concrete, low-water bridge. Leaving the bridge, the road continues east traversing an approximately 300’-long, 12’-wide, gravel causeway, then approximately 800’ of gravel bar. There are tracks on the gravel bar providing evidence that vehicles have left the travel way and gotten stuck in the unconsolidated gravel. Photos No. 1, 2 and 3 (below) show the bridge and gravel bar. This segment of the road does not meet the Category 4 requirements.



Photo No. 1. 11'-wide, one-lane, low water bridge and approach, no shoulder, gravel surface.



Photo No. 2. 14'-wide travel way across floodplain/gravel bar, unconsolidated shoulders. Tracks are evidence of vehicles getting stuck in the gravel off the travel way.



Photo No. 3. Looking across gravel bar

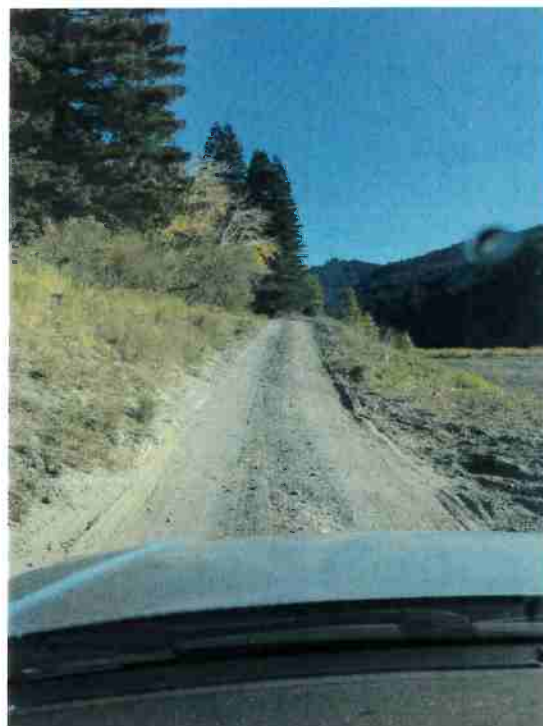


Photo No. 4. Road leaving gravel bar.



Photo No. 5. Looking back down to the floodplain/gravel bar, travel way is 12', inadequate shoulder, gravel surface.

After regaining the terrace above the river, the width of the Road's travel way for the next 0.8 miles varies between 12' and 16'. There are no consistent shoulders. There are a number of pinch points where the road is too narrow for two vehicles to pass. Some have inter-visible turnouts (of adequate dimensions) to allow passing while others do not. The surface is failing asphalt and gravel. The safe driving speed varies between 10 and 25 MPH. (Photos No. 6, 7, and 8). This segment does not meet the requirements for Category 4 Road.



Photo No. 6. Failing asphalt travel way approximately 14'-wide. The sign reads, "Road Subject to Closure at Any Time." No inter-visible turnouts.



Photo No. 7. 13-wide travel way, degraded asphalt surface, with inter-visible turn outs.



Photo No. 8. 12'- wide cattle guard, gravel surface, with inter-visible turn outs.

The surface of the remainder of the Road (approximately 1.0 mile) to the Rolling Meadows Ranch gate is gravel or dirt with some short segments of very old, degraded asphalt. The width of the travel way varies between 12' and 14'. There are no consistent shoulders. There are a number of pinch points where the road is too narrow for two vehicles to pass. Some have inter-visible turnouts to allow passing while others do not. The safe driving speed varies between 10 and 20 MPH. The majority of this section of the Road can generally be described as a one-lane dirt road and does not meet the requirements of a Category 4 Road. (Photos No. 9, 10, 11, 12, 13, and 14.)



Photo No. 9. 12'-wide travel way, no shoulder, gravel/dirt surface, no inter-visible turn outs.

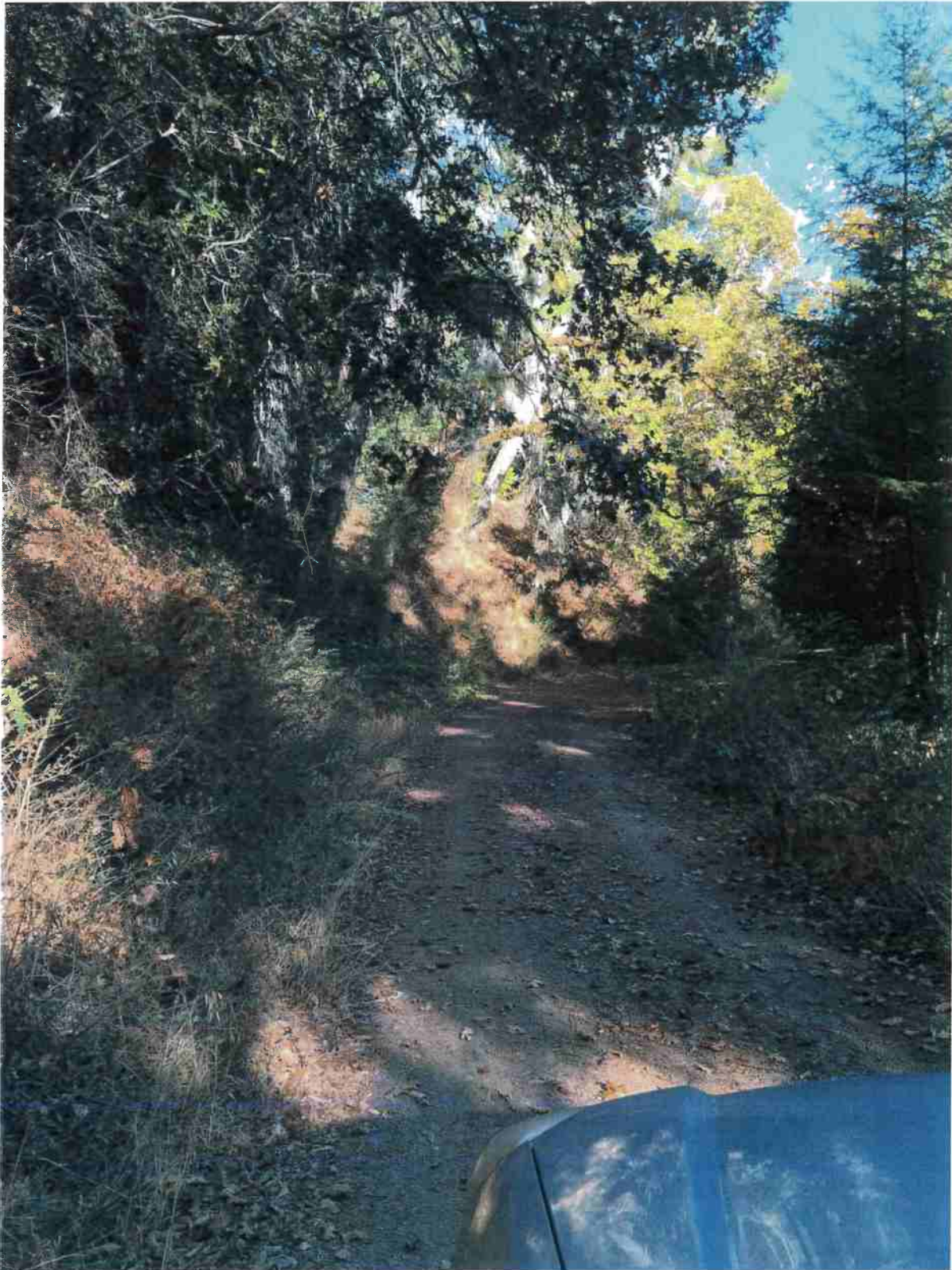


Photo No. 10. 10'-wide travel way, no shoulder, gravel surface, no inter-visible turn outs.

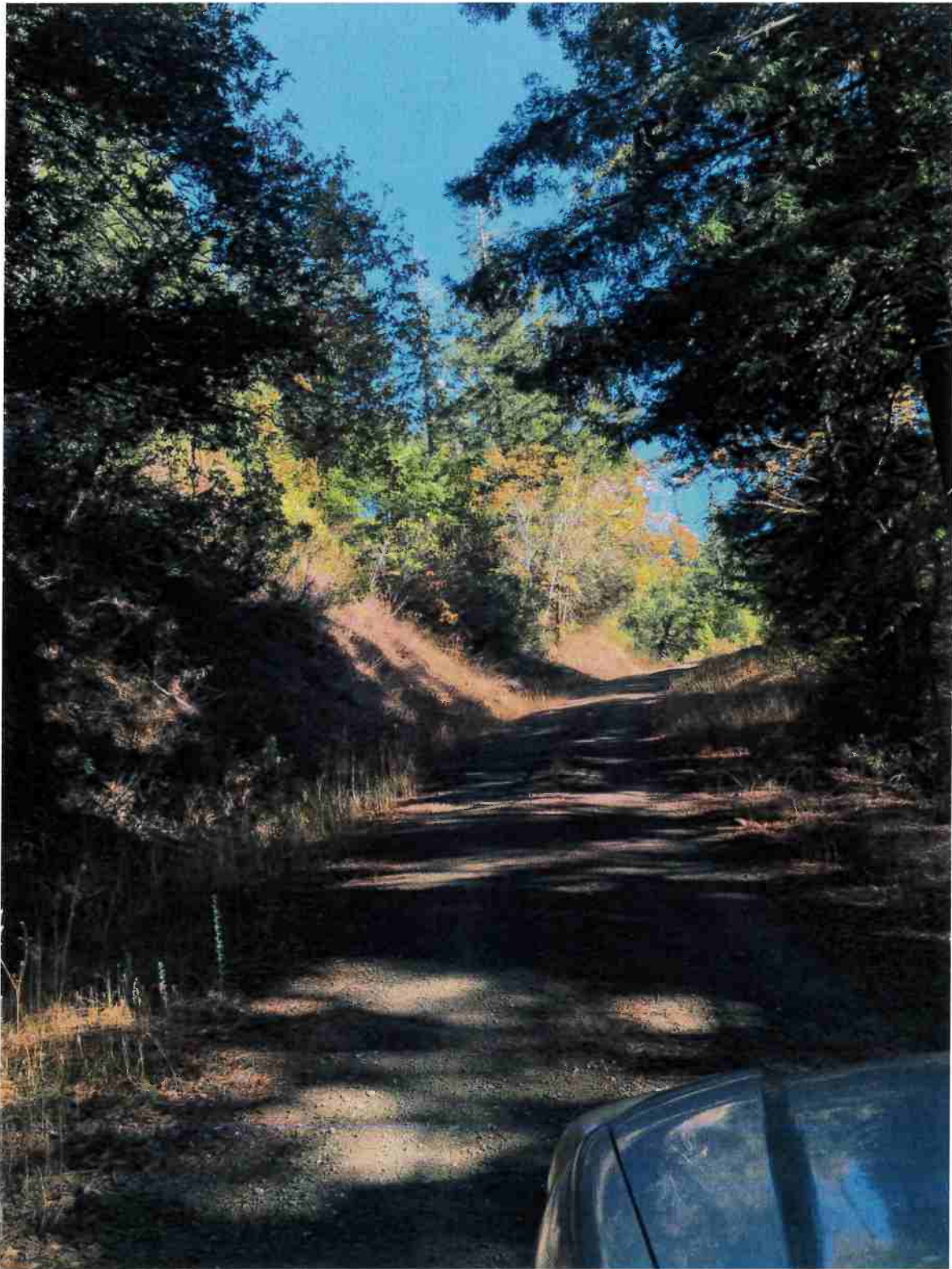


Photo No. 11. 12'-wide travel way, limited shoulder, gravel surface, no inter-visible turn outs.

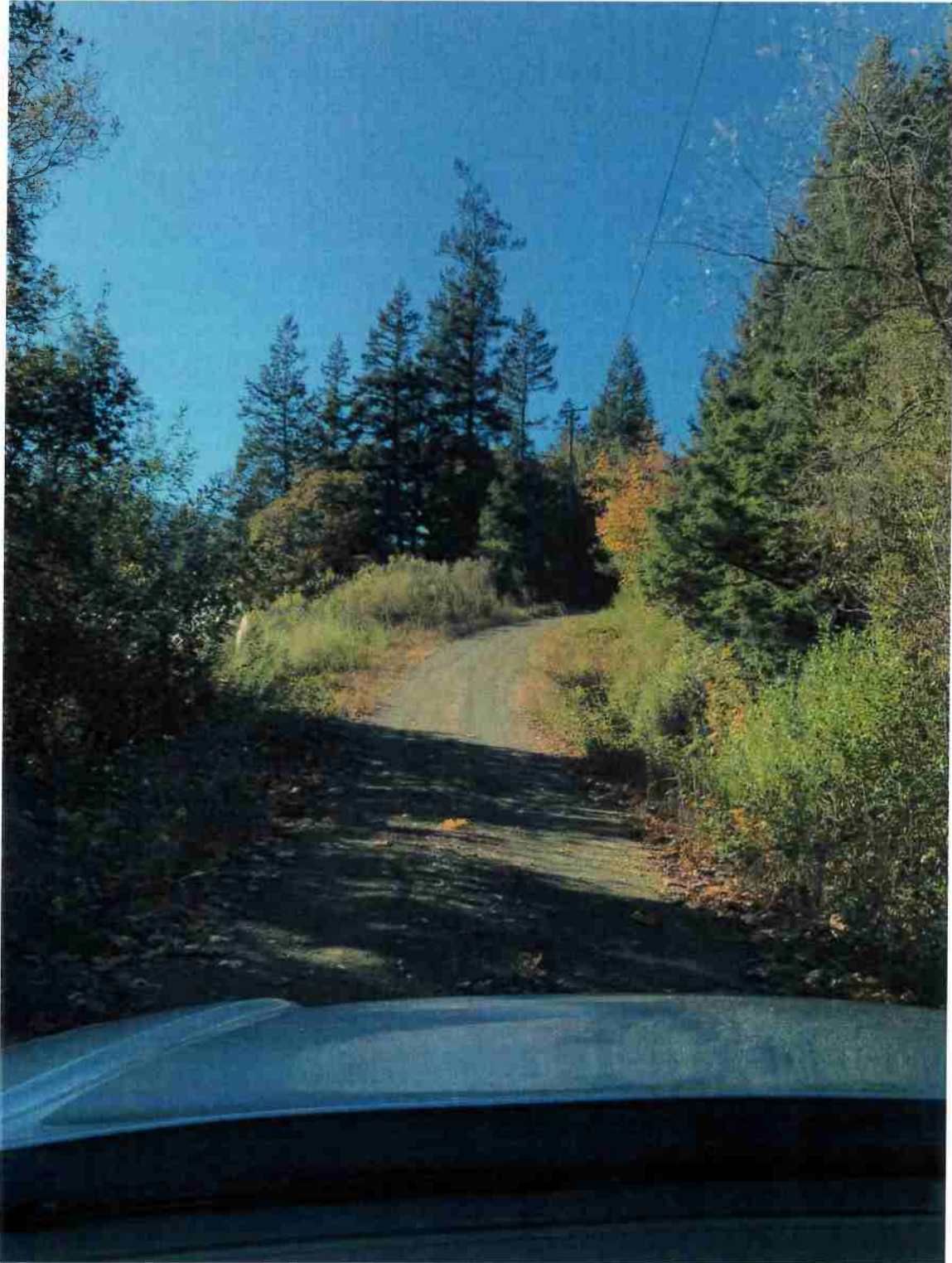


Photo No. 12. 14'-wide travel way, no shoulder, gravel surface, no inter-visible turn outs.



Photo No. 13. Emergency road repair at slide, very unstable roadbed.



Photo No. 14. Looking west from the gate. 15'-wide travel way, no shoulder, gravel surface.

Based on review of the applicable design standards and a visual survey, it is my professional opinion that;

1. The 0.3 mile long portion of the McCann Road crossing the floodplain of the Eel River (low water bridge, causeway, and gravel bar) does not meet the requirements of a Category 4 Road or its equivalent. It is one-lane, not paved, there are no shoulders and where there are "shoulders", there is evidence that two-wheel drive vehicles are likely to get bogged down or stuck if they leave the travel way. If a vehicle broke down on the bridge, all access would be blocked for emergency vehicles and regular traffic. During high flows (on the Eel River) this portion of the Road is under water and residents must cross the river in a boat and leave a vehicle on both sides of the river.
2. The next approximately 0.8 miles of the Road does not meet the requirements of a Category 4 Road due to its narrow width, and lack of shoulders and inter-visible turnouts of adequate dimensions.
3. The final approximately 1.0 miles of the McCann Road (past the cattle guard to the Rolling Meadows Ranch gate) is most accurately described as a single lane dirt road. Its width varies between 10' and 14', it lacks shoulders in most segments, it has a native soil surface, and does not have inter-visible turnouts at pinch points. This last mile of the road cannot provide safe access for emergency services (such as fire trucks) and would only be suitable for low volume residential traffic. It does not meet the requirements of a Category 4 Road.

The Director of Humboldt County's Public Works Department has the authority to declare the Road Category 4 equivalent, but this must be based on an evaluation of the road conditions and its uses. It is my professional opinion that the McCann Road does not currently meet the requirements for a Category 4 (or equivalent) road.

Sincerely,

Steve Salzman, P.E.



Attachment:

Curriculum Vitae for Steve Salzman, P.E.

Curriculum Vitae for Steve Salzman, P.E.

Contact Information

120 E. 12th St., Arcata, CA 95521
(707) 497-8637, salzman222@gmail.com

Professional summary

I have been a licensed civil engineer, practicing in Humboldt County for over 30 years. I have worked in the public and private sectors in various fields of engineering and project management and construction management. I retired, in 2018 and reside in Arcata.

Education

Bachelor of Arts, Humboldt State University, 1979
Industrial Arts and Technology

Bachelor of Sciences, Humboldt State University, 1986
Environmental Resources Engineering

Work experience

Water Resources Engineer, 1987-1988
State Water Resources Control Board, Sacramento, California

Associate Engineer, 1988-1989
City of Eureka, Eureka, CA

Engineer, 1989-1995
SHN Engineers and Geologists, Eureka, CA

Engineer, 1995-2008
Winzler & Kelly, Eureka, CA

Principal Engineer and Owner, 2008-2018
Greenway Partners, Arcata, CA

Skills

Road designs and site layouts for housing subdivisions and landfills including underground utilities, roads, cuts, fills, permit processing, preparation of CEQA and NEPA documents. Stream and salt marsh restoration projects, grant writing and design. Project Management and Construction Management and business management.



Exhibit D

**Letter from Supervising Planner Steve Werner to Project applicant,
dated January 15, 2018**



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CANNABIS SERVICES DIVISION

3015 H Street • Eureka CA 95501
Phone: (707) 445-7541 • Fax: (707) 268-3792
<http://www.humboldt.gov/156>



January 15, 2018

Andrew Machata
3060 Airport West Drive
Vero Beach, FL
32960

RE: Rolling Meadow Ranch Initial Study
217-025-001 et al
Apps numbers 12822, 12830, 12814, 12542
Case numbers ZCCs-16-589, and 16-593; CUPs 16-860, 16-734, 16-735, 16-736, and 16-737

Dear Mr. Machata:

The Cannabis Services Division of the Humboldt County Planning and Building Department has completed our review of the second Initial Study (IS) submittal, dated December 16, 2017, prepared for the above referenced projects by Natural Resources Management, Incorporated. The purpose of this letter is to advise you of the results of our review. We are writing this to document our concerns that this project, as proposed, may have significant effects on the environment. The proposal includes the establishment of approximately 2 acres of cannabis cultivation on each of your described 4 tracts of land, along with accessory processing facilities, and parking areas for 40 cars on each tract. The cultivation areas are proposed to be located on far removed portions of this large ranch parcel, with large distances separating each from the others. The overarching issue is that our analysis of the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) indicates that the CMMLUO did not contemplate the wholesale conversion of a large tract of wildland area to industrial sized cannabis development, where the level of use and the level of impacts may not be consistent with what was envisioned by the CMMLUO; especially at locations without adequate access, public services, and fire protection. We are concerned that the proposed level of development, including establishing extensive human occupations where none currently exist, and the improvement of roads through wild land areas not previously developed to serve the level of development proposed by the project, can result in cumulative effects on the environment that cannot be reduced or mitigated to a level of insignificance.

Under the provisions of CEQA, the IS is the document that is relied upon to fully disclose the environmental effects of a project. If such effects are not fully disclosed and analyzed, and either avoided or mitigated to reduce the effect to a level of insignificance, the reviewing agency must require an Environmental Impact Report be

prepared for the project.

Additionally, the IS appears to limit the study areas to only the proposed cannabis cultivation areas, and does not discuss the entire ranch. It can be anticipated that impacts to the entire ranch property may result through the construction of roads and anticipated habitat alterations, and these effects must be fully discussed in the IS. It is noted that the IS does not include an approximate acreage of this ranch in the Project Summary section, and this basic piece of information should be included.

We have identified deficiencies in the Initial Study as discussed below.

TRANSPORTATION IMPACTS

-Ferry service safety

The project proposes the use of an existing County operated ferry service across the Eel River to service the proposed year-round cannabis cultivations, including in the winter months. This access presents clear and present dangers arising from ferrying employees, product, and supplies across the Eel River during high-water winter months. Impacts to water quality could also occur as a result of transporting chemicals and fertilizers in this proposed manner. The proposed use of a ferry is not an adequate solution to industrial sized cannabis development in wildland areas. The Initial Study discussion in the Transportation Section devotes only a few sentences to the projected winter ferry crossings, indicating, in summary, that in periods of high-water only a skeleton crew will be able to reach the site on the 2-person County boat. No discussion is provided on what a skeleton crew is and how the daily operations of a proposal of this size with vastly discontinuous cultivation sites can be performed by a skeleton crew. The proposed use of the County operated ferry, or the suggested option of providing new service by your own vessel to serve the project, points to a conclusion that is not adequately addressed in the IS. The proposed cultivation activities are of a size and scale that exceed the current transportation system capacity to accommodate. Improvements to the ferry, or construction of a new bridge are necessary to support this scale of development. Corresponding impacts have not been identified in the IS.

The IS identified 30 employees are needed to operate this facility (Population and Housing Section). The IS must discuss transportation options for these employees from likely out of the area locations, or identify the demographic pool of local residents committed to permanently work at the facility, and how all of these employees get to this property through all times of the year without overloading transportation systems.

-Alternative Road Access

The issue of improving Alderpoint Road for alternative access is discussed in the IS in one sentence. We anticipate significant improvements would be required to make this access a Road Category 4 access as required by the CMMLUO. A complete discussion of the locations and types of improvements together with potential environmental

impacts associated with completing these improvements that would be needed to bring this alternate access up to standard must be included in the IS.

Our office is in receipt of Part A of a Road Evaluation Report signed by David Rask dated 10/25/17, concluding that the entire road segment of Alderpoint Road is not developed to the equivalent of road category 4. This determination requires the completion of Part B of the Road Evaluation Report, to be completed by a Civil Engineer, and is to include the publicly maintained portions of Alderpoint Road as well as the privately maintained sections, including the roads connecting with the subject sites. The IS must conclude based on evidence that the roads are capable of supporting the proposed level of development.

-Ranch Roads

The use of existing ranch roads and consistency with Fire Safe access is a concern that is not adequately addressed in the IS. The statement that "improvement plans will be reviewed to verify compliance with County's Fire Safe Ordinance" is not an adequate discussion. A complete inventory of the interior road network with respect to width and improvement levels, both existing and proposed, and identification of improvements required to bring the road network into compliance, together with identification of impacts from completion of the improvements (construction impacts) are necessary to review the transportation effects on the environment in order to make a determination that the project will not have a detrimental effect on the environment.

BIOLOGICAL RESOURCES

-Adverse effects either directly or through habitat modifications on sensitive species

The IS determination that the project will have less than significant effects on sensitive species or candidate species by relying on a proposed mitigation measure for conducting 3 consecutive pre-construction surveys for species at each location is inadequate, and fails to meet the threshold of insignificant effects resulting from the project. The IS is required to identify all of the species that would be harmed by the project and detail how and what mitigation measures can be instituted to reduce such potential impacts to a level of insignificance. The submitted IS discussion on vegetation lists all the "possible sensitive plant species that could or have habitat in the project area". A table is included that lists the universe of species, but does not identify which ones actually occur on the site and their locations. It goes further to state that botany surveys have not yet been performed, and "if special status species are found they will be avoided or if avoidance is not possible mitigated for". CEQA requires that affected species be identified, by protocol level surveys for example, before permit issuance, and specific mitigation must be proposed to reduce the impact. CEQA allows presumption that a species is present as long as mitigation proposed includes seasonal appropriate surveys and adequate mitigation stating how any potential loss would be addressed. If we don't know the location and type of species or habitat, it would seem out of sequence to propose a development that would enlarge roads, introduce human activities to wildland areas, and convert open space areas to development without

knowledge if those areas are important to special status species. Establishing industrial sized cannabis development in wildland areas may result in significant intrusion into the environment with potential for significant effect on wildfire, especially with listed species.

-Riparian Habitat

The IS determination that project impacts on riparian habitat or any other sensitive community identified in local or regional plans, policies, and regulations or by the Californian Department of Fish and Wildlife and US Fish and Wildlife Service is less than significant appears to disregard the potential cumulative effects resulting from establishing new human activities at remote locations of this very large acreage, establishing industrial sized cannabis development in wildlands, and the potential environmental effects resulting from changing the use patterns of wildlife and habitat fragmentation on this remote ranch. These potential impacts must be completely discussed in the IS.

-Substantial effects on federally protected wetlands

The IS has determined that this project will have no impacts associated with wetlands. Given that the project fronts on the Eel River, a discussion of wetlands would appear to be necessary. Did a biologist, wetland scientist or other qualified professional conduct at least a wetland assessment? What is the evidence you have relied on to support the IS conclusion that wetlands will not be impacted from this project?

-Interfere substantially with the movement of any native resident or migratory fish or wildlife species

The IS identifies the existence of potential special status wildlife species, and refers to a report prepared October 16, 2017 by NRM. The IS indicates this report was prepared after a site visit to survey the project areas for all terrestrial species present. A table is included that lists the species, its habitat, and if potentially affected by the project. Of specific note is the northern spotted owl, where the proposed mitigation for affecting the habitat of this species is to perform surveys of each project site and the surrounding half-mile. This falls short of the requirements of CEQA where such surveys are necessary at this initial review stage to identify and discuss the habitat of all the species listed in the table, and how the project might affect these habitats, with specific mitigation proposals on how to reduce the effects of this project to a level of insignificance. Even if surveys are done now, this would not relieve the project of the need to do pre-project construction surveys, depending on the species and situation. A biologist will provide guidance on these necessary surveys.

Impacts to northern spotted owl populations are of specific concern based on a recent report by Kat Kerlin. The report, released Jan. 11, 2018 in the journal Avian Conservation and Ecology, showed that seven of the 10 northern spotted owls collected in this study tested positive for rat poison, while 40 percent of 84 barred owls collected also tested positive for the poison. The study is the first published account of anticoagulant rodenticide in northern spotted owls, which are listed as a threatened species under federal and state Endangered Species acts. The study area

encompasses Humboldt, Mendocino and Del Norte counties. It supports previous accounts that rat poison is contaminating the food web in this region, as the primary food source for owls — rodents — is being contaminated. The IS for this project must address the concerns raised in this report by identifying application protocol for use of rodenticides with particular attention to methods for reduction of the potential to contaminate the food chain or identify a range of non-rodenticide treatments to discourage animal destruction of cannabis plants.

It is noted that you have proposed extension of PG&E infrastructure to service all cultivation locations. These cultivation locations are proposed at vastly discontinuous areas, and a route for the power poles and lines has not been identified. It appears to be very possible that such installations could disrupt the habitat and habits of wildlife species and vegetation impacts, and a discussion of such effects must be included. Suggesting future studies to mitigate for unknown potential effects on native resident or migratory wildlife caused by the project is insufficient. The studies must be performed to identify the species at risk from development of the project and propose specific mitigation on how to avoid the identified effects or reduce them to a level of insignificance.

HYDROLOGY AND WATER QUALITY

-Depletion of groundwater supplies

The IS identifies 4,788,800 gallons of water are needed annually to serve the project, and this volume is to be supplied by 3 proposed wells. The IS states "The type and capacity of the ground water aquifer at these locations is unknown". The IS then determines that the proposed use will not substantially deplete groundwater supplies or cause a lowering of the local ground water table level. The conclusion of the IS with respect to impacts on ground water supplies cannot be supported with the facts provided. Consultation with an engineering geologist is needed to fully document the groundwater supply and impact from the proposed cultivation. It needs to be demonstrated that the wells are not hydrologically connected to the water flow of the river.

NOISE

-substantial increase in noise ambient levels in the vicinity above levels existing without the project

The IS states that "The project will cause an increase in the permanent ambient noise levels in the project and immediate surrounding areas". This comes from the establishment of industrial sized cannabis facilities and the human occupation of vastly discontinuous areas of this large ranch, heretofore undeveloped. Increases in noise levels and the human occupation of areas of this ranch that may well be habitat for wildland species which depend on remoteness, is an impact that must be discussed in the IS. Although power utilities are proposed to serve the cultivation areas for wells and lighting, it can be expected that power will be interrupted during winter events. The IS identifies generators to be the backup sources of power in such instances. The IS

should analyze the impacts of these new noise sources to wildlife, especially given the vast distances between the cultivation areas on this large ranch. It is noted you have proposed enclosure of generators within buildings in the IS to achieve a noise standard of 60 decibels as a day/night average (Ldn) and reduction to 50 decibels at 100 feet if northern spotted owls are present. Our concern is with the duration of these noise levels on sensitive species. It can be anticipated that this area would not be a priority for PG&E to restore power during winter events, and reliance on generators to continue necessary functions could result in longer term rather than temporary noise impacts. This may result in potential impacts on wildlife species. It is noted that the Ldn is not the listed practice for evaluating noise per Section 314-55.4.11(o) of the CMMLUO.

PUBLIC SERVICES

-Fire Protection

The IS determines the project will not result in substantial adverse physical effects associated with the need for increased fire protection services. It continues with a discussion of CALFIRE responsibilities for enforcement of Fire Safe Standards. It can be reasonably assumed that increases in human activity involving a variety of activities including the use of chemicals and fertilizers, placement of new power poles and lines, the ongoing drought conditions, vehicular use, and fuels to power generators during power interruptions could result in increased chance of conflagration. Of particular concern are:

1. the location of the nearest CALFIRE facility,
2. the response time to access the site to battle a fire event,
3. the route by which firefighting equipment may safely traverse to access the totally discontinuous cultivation locations proposed,
4. if this route meets fire safe standards for its entire length, and
5. if the interior ranch roads meet fire safe standards.

Without these and other related issues being addressed, the IS cannot conclude that the project will not result in the need for new or expanded governmental services. The apparent mitigation measure the IS has identified in addressing the fire aspects of the project is that the project will provide extra water storage for fire protection. Who is designated to access this water storage? What equipment is included in the project plans to battle fires given the anticipated long response times for CALFIRE?

The Safety Element of the County General Plan includes policy provisions related to "acceptable risk" in land development. The General Plan manages risk through the use of land use designations to limit exposure to hazardous areas and through policies tailored to specific hazardous conditions. An estimated 50 minute response time for sheriff and fire services is clearly not an acceptable risk. It is noted in the IS discussion of police protection that sheriff response time is upwards of 50 minutes. As recent fire events in California have demonstrated, fires in remote areas can result in serious loss of property and life. The IS must be responsive to this potential impact resulting from the development proposal.

With respect to governmental services, the IS must include a discussion of threats to health and safety. If an unforeseen accident occur on the site requiring medical attention, emergency personnel response times appear equally significant. There does not appear to be a timely method for transporting injured employees to hospital facilities in emergencies. The stated enrollment in Cal-Ore Life Flight is not a reliable method to address such emergencies, as determined by County decisions on other projects proposing such a service and the undocumented ability of Cal-Ore Life flight to immediately respond with helicopter service in an emergency. Increased potential of unexpected human interactions with wildlife could also expose employees to injuries which could be life-threatening due to the time and distance to medical facilities.

These are our initial concerns related to the two versions of the IS submitted for this project. Additional concerns and items of interest may arise as further review of the project proceeds.

Our office encourages you to continue working with your consultants in the preparation of the IS and further encourages a discussion of alternatives to the project, as proposed.

If you or your consultant have questions regarding the contents of this letter, please feel free to contact Michelle Nielsen of our office at (707) 445-7541 or nielsen@co.humboldt.ca.us (email is best).

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Werner", is written over a light blue rectangular stamp.

Steve Werner
Supervising Planner

c: Prairie Moore, NRM Corporation



Exhibit E

CDFW CEQA Referral Checklist for RMR Project, dated Jan. 24, 2018



California Department of Fish and Wildlife
CEQA Referral Checklist



| | | | |
|--|---|--|---|
| Applicant: Rolling Meadows Ranch (Tract 1) | | Date: 1/24/2018 | |
| APPS No.: 12529 | APN: 217-022-004 etc. | CDFW CEQA: 2017-0253 | Case No.: CUP16-720-723, 752 |
| <input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Existing | <input checked="" type="checkbox"/> Mixed-light (SF): 132,000 | <input type="checkbox"/> Outdoor (SF): | <input type="checkbox"/> Indoor <input checked="" type="checkbox"/> RRR |

| | | | |
|--|--|--|-------------------------------------|
| Applicant: Rolling Meadows Ranch (Tract 2) | | Date: 1/24/2018 | |
| APPS No.: 12536 | APN: 211-281-006 etc. | CDFW CEQA: 2017-0256 | Case No.: CUP16-726-729 |
| <input type="checkbox"/> New <input type="checkbox"/> Existing | <input type="checkbox"/> Mixed-light (SF): | <input type="checkbox"/> Outdoor (SF): | ***Need Revised Project Transmittal |

| | | | |
|--|--|--|---|
| Applicant: Rolling Meadows Ranch (Tract 3) | | Date: 1/24/2018 | |
| APPS No.: 12540 | APN: 217-181-017 etc. | CDFW CEQA: 2017-0254 | Case No.: CUP16-730-733 |
| <input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Existing | <input checked="" type="checkbox"/> Mixed-light (SF): 88,000 | <input type="checkbox"/> Outdoor (SF): | <input type="checkbox"/> Indoor <input checked="" type="checkbox"/> RRR |

| | | | |
|--|--|--|--|
| Applicant: Rolling Meadows Ranch (Tract 4) | | Date: 1/24/2018 | |
| APPS No.: 12542 | APN: 217-201-001 etc. | CDFW CEQA: 2017-0255 | Case No.: CUP16-734-737 |
| <input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Existing | <input checked="" type="checkbox"/> Mixed-light (SF): 88,000 | <input type="checkbox"/> Outdoor (SF): | <input type="checkbox"/> Indoor <input type="checkbox"/> RRR |

Thank you for referring this application to the California Department of Fish and Wildlife (CDFW) for review and comment.

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 comments are intended to assist the Lead Agency in making informed decisions early in the planning process.

Please provide and/or note the following information:

- ☐ Recommend Approval. The Department has no comment at this time.
- ☐ Recommend Conditional Approval. Suggested conditions below.
- ☒ Applicant needs to submit additional information prior to permit approval. Please see the list of items below.
- ☐ Recommend Denial. See comments below.
- ☒ If the applicant has submitted a Notification of Lake or Streambed Alteration (LSA) to CDFW, include the LSA project number (e.g. 1600-2017-XXXX-R1) or a copy of the Notification.
- ☒ Provide additional information on the water source(s) for the parcel(s) including both domestic use and irrigation.
 - a. If the source is a well(s), provide a copy of the well completion log.

- b. If the source is municipal water, provide documentation that municipality/CSD/etc. is willing to provide all water necessary for the subject parcel (include the specific amount that is approved).
 - c. If the source is surface water (spring, stream, or hydrologically connected pond or well) CDFW recommends that the applicant notify our Department, pursuant to Fish and Game Code Section 1602, of all unpermitted points of diversion located on the parcel or provide a copy of the non-jurisdictional letter issued by CDFW.
- ☒ The referral materials suggest that there is a plan to construct a pond onsite. CDFW requests, as a condition of Project approval, that a professional geologist assess and identify an appropriate site for a pond. In addition, CDFW requests that pond features contain measures to prevent wildlife harm or entrapment.
 - ☒ The referral materials suggest that there is a plan to construct a pond onsite. If a pond will be constructed, CDFW requests, as a condition of Project approval, that the applicant comply with the attached CDFW Bullfrog Management Plan (Exhibit A). Reporting requirements shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501, no later than December 31 of each year.
 - ☒ Include a topographic map that identifies all surface water, wetlands, or other sensitive habitats onsite and the appropriate buffer distances for each.
 - ☒ If new or existing road(s) cross streams, springs, seeps, wetlands, etc. on the parcel, provide detailed descriptions of each (e.g. culvert sizes, condition, etc.) and permits under which they were installed, if any. CDFW requires notification, pursuant to Fish and Game Code Section 1602, for all stream crossings or any other alteration of the bed, bank, or channel of any stream located on the parcel.
 - ☒ CDFW requests, as a condition of Project approval, all Mixed-light (greenhouses and generators) be relocated to stable surfaces with a minimum 200ft buffer from Class I and Class II streams (measured horizontally from the outer edge of the riparian).
 - ☒ If the project is within one mile of a mapped polygon for a California Rare Plant Ranked - species, include protocol level surveys for that species by a qualified botanist. See: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline=1>
 - ☒ Aerial imagery suggest that wetlands may occur onsite. CDFW requests that the applicant, prior to Permit approval, provide a wetland delineation conducted by a qualified person (i.e. at minimum, successfully completed a 40-hour training that satisfies the requirements for basic wetland delineation training as specified by the Army Corps of Engineers using the 1987 ACOE Wetland Delineation manual and appropriate regional supplements).
 - ☒ If the project proposes to remove vegetation, include description of project (type of vegetation/amount/location).
 - ☒ If the Project requires fill disposal, include the disposal location on the site plan/map.
 - ☒ Prohibition on Use of Monofilament Netting. To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
 - ☒ If a Retire Remediate Relocate (RRR) project, CDFW recommends, notification pursuant to Fish and Game Code Section 1602 (Lake or Streambed Alteration) for all jurisdictional points located on the Remediation site, whether currently or previously utilized.

- ☒ Include a copy of the Water Resource Protection Plan if one has been developed for the Project. If none has been developed, indicate this in the referral packet.
- ☒ All or part of the proposed Project is located within the County Streamside Management and/or the State Water Board and CDFW required setback areas. CDFW recommends that the applicant have a qualified biologist assess the property to delineate the appropriate setbacks (a minimum of 200 feet from the Eel River, 150ft from all other perennial streams/wetlands and 50ft from intermittent streams), measured from the outer edge of the riparian or top of bank, whichever is greater. These areas should be identified as no-disturbance buffers and future development. As currently proposed, many of the greenhouses are located between 30 and 70 feet from the riparian zone; in addition, several greenhouses appear to be proposed on top of or adjacent to potential wetlands.
- ☒ A biological survey of the property was conducted to determine whether rare species or sensitive natural communities are present on the proposed project site. Based on report findings CDFW has identified the following:
 - The report findings show that Grasshopper Sparrow (*Ammodramus savannarum*), was identified onsite however, it was not identified as a special status species. Grasshopper sparrow is a State Species of Special Concern and is currently undergoing significant declines throughout its range. CDFW requests that the scientist re-evaluate the potential impacts to this species.
 - Based on the photo documentation provided in the Report and known species range, it appears that the site contains potential habitat for Bryant's Savannah Sparrow (*Passerculus sandwichensis alaudinus*), a State Special Species of Concern. CDFW requests that the scientist re-evaluate the potential impacts to this species.
 - Report findings suggest that multiple bat species utilize the large building located on Project Tract 4, primarily as a night roost site. CDFW requests a qualified bat biologist survey the site during the maternity season and conduct a more comprehensive habitat assessment to provide more concrete findings of the type and duration of use. In addition, CDFW requests that the assigned biologist provide more information about the amount and type of guano found on site.
 - The Report states, "There have been no reported activity for NSO in the vicinity for 12 years, and the closest NSO AC (HUM 0523) has not been active for 17 years." This statement is misleading. Unless additional surveys have been conducted, it is inaccurate to state that the AC has been inactive for 17 years, as there are no data to determine whether the AC has been active or inactive. According to the information provided, the last surveys were completed 17 years ago, which resulted in a positive occurrence, and no data have been collected since then. A lack of data is not equivalent to species absence. Additional protocol level surveys are necessary to determine the current status of NSO in the project area.
 - The timeline to conduct protocol level surveys for Northern Spotted Owl is insufficient based on the proposed 2018 start date. As stated in the *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls (USFWS, 2012)*, six complete surveys over the course of two years shall be completed to determine the presence or absence of NSO.
 - Preconstruction surveys by a qualified wildlife biologist should be conducted to avoid disturbance to special status species including Fisher (*Pekania pennanti*), a state candidate threatened species. If Humboldt Marten or Fisher dens are found onsite, construction of project facilities and roads shall take place after August 31.

- ☒ Leave Wildlife Unharmd. If any wildlife is encountered during the Authorized Activity, Permittee shall not disturb the wildlife and shall allow wildlife to leave the work site unharmd.
- ☒ CDFW is concerned that the Project may result in potentially significant direct and cumulative adverse impacts to fish and wildlife resources. CDFW believes an environmental document such as a mitigated negative declaration or an environmental impact report is required for approval of this Project.
- ☒ This project has the potential to affect sensitive fish and wildlife resources such as Northern Spotted Owl (*Strix occidentalis caurina*), Grasshopper Sparrow (*Ammodramus savannarum*), Bryant's Savannah Sparrow (*Passerculus sandwichensis alaudinus*), Townsend Big-eared Bat (*Corynorhinus townsendi*), Bank Swallow (*Riparia riparia*), Fisher (*Pekania pennanti*), Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), Green Sturgeon (*Acipenser medirostris*), Pacific Lamprey (*Entosphenus tridentatus*), Foothill Yellow-legged Frog (*Rana boylei*), Pacific Giant Salamander (*Dicamptodon tenebrosus*), Northern Red-legged Frog (*Rana aurora*), Tailed Frog (*Ascaphus truei*), Western Pond Turtle (*Actinemys marmorata marmorata*), and amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

Thank you for the opportunity to comment on this Project. Please send all inquiries regarding these comments to kalyn.bocast@wildlife.ca.gov.

Please confirm that you have received this email.

Sincerely,

California Department of Fish and Wildlife
619 2nd Street
Eureka, CA 95501



Exhibit F

**Transcon Environmental, Memorandum re Peer Review, dated July
23, 2018 ("Memo #1")**



PLN-12529-CUP
PC Supplemental #1
January 7, 2021
Rolling Meadow Ranch, LLC



TRANSCON
environmental

MEMORANDUM

To: Michelle Nielsen, Planning and Building, Humboldt County

From: Nicole Catalano and Penny Eckert, Transcon Environmental, Inc.

Date: July 23, 2018

Subject: Application #12529, #12542 Rolling Meadows
California Environmental Quality Act (CEQA) Peer Review

Transcon Environmental, Inc. is providing this memorandum to support the results of our peer review of the applicant-prepared Initial Study-Mitigated Negative Declaration (IS-MND) for Application #12529 and Application #12542, Rolling Meadows. The purpose of this memorandum is to highlight the deficiencies in the current IS-MND that should be addressed by the applicant.

The following should be addressed in the IS-MND:

1. **Project Description.** The Project Description is currently inadequate and should be revised. Please refer to the attached Project Description Deficiency Memo for full list of items that need to be included in the Project Description.
2. **Site Plans.** The site plans are currently deficient and should be revised to include further detail about:
 - Remove all references to 'existing cultivation sites', since this project as proposed is only for permitting 'new cultivation'
 - 30-foot setbacks from property line to meet the County's Fire Safe ordinance
 - Setbacks to Streamside Management Areas, Class I, Class II and Class III streams, wetlands
 - Existing structures on the tracts
 - Structures planned to be removed
 - Location of generators
 - Location of water storage, including runoff collection
 - Existing and proposed ponds – for irrigation, for landscaping, for fire suppression
 - *Include an access/circulation map for internal roads on Ranch. Include emergency vehicle routes for medical and fire safety, including turnaround points. Include locations for pickup and drop off areas for bus that will be used to shuttle employees.
 - *Include an energy/utility map to show the utility layout of the proposed PGE lines that will be installed as part of the proposed project.
3. **Inadequate Analysis.** All questions in the CEQA checklist for each issue area needs to be addressed. Each CEQA Checklist question must be addressed, even if the there is no impact. Clearly state that there is no impact and demonstrate why there is no impact.



PLN-12529-CUP
PC Supplemental #1 January 7, 2021
Rolling Meadow Ranch, LLC



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 - *Include an access/circulation map for internal roads on Ranch. Include emergency vehicle routes for medical and fire safety, including turnaround points. Include locations for pickup and drop off areas for bus that will be used to shuttle employees.
 - *Include an energy/utility map to show the utility layout of the proposed PGE lines that will be installed as part of the proposed project.
3. **Inadequate Analysis.** All questions in the CEQA checklist for each issue area needs to be addressed. Each CEQA Checklist question must be addressed, even if the there is no impact. Clearly state that there is no impact and demonstrate why there is no impact.

4. **Setting.** Each resource area in the checklist should include a Setting section that describes the setting of the site as it relates to that resource.
5. **Cumulative Impacts.** The Mandatory Findings section of the ISMND still is inadequate in terms of describing cumulative impacts per CEQA issue area. Refer to County's Memo dated January 15, 2017 for guidance.
6. **Data Deficiencies.** Enclosed is a spreadsheet that includes specific data deficiencies that should be addressed by the applicant.
 - a. Note, the Biological Resources section requires extensive work, including work that needs to be done to ensure that the Biological Report is adequate to both the County and California Fish and Wildlife (CDFW) standards. The Biological Resources section will need to be redone once the new technical requirements are completed to CDFW and County standards.
 - b. Note, the Project Description requires extensive edits. See separate memo.

| Section | Page # | Data Request | Notes |
|---------------------|--------|---|---|
| General | | Please refer to attached example of a successful ISMND for organization, information, and completeness of analysis. | |
| General | | Carry a separate section on Construction and another on Operation all the way through the document, starting with the Project Description (which should include roadbuilding equipment, grading equipment, any additional needed construction equipment, estimated hours of use, etc.) and continuing through every segment of the analysis. | |
| General | | Add setting information as a separate component for each resource. Include the existing environmental setting as well as the regulatory setting where appropriate. See example. | |
| General | | Reformat each section to include, after the environmental setting section, an analysis section, to include a "Findings" subsection and "Discussion" subsection. See example of successful ISMND. | |
| General | | Proofread the entire document and fix all grammatical and spelling errors. | |
| Project Description | | The PD is very incomplete and needs revision. See separate document/memo on what's missing from the PD and revise accordingly. | Project Description should also include project site history information (information about the Ranch and historic uses). |
| General | | Refer to attached example of a successful ISMND for level of detail in data and information as well as support for any conclusions drawn. The Rolling Meadows ISMND makes many assertions unsupported by evidence that must be either removed or supported. | |
| General | | Answer ALL questions in the CEQA Checklist. Several CEQA sections have incomplete analysis. Do not skip questions. Even where you believe there will be no impact, state so, and provide evidence for the assertion. Refer to attached example. | |
| General | | Use numerals when referring to Tract numbers. | This was County specific note. |
| Project Summary | 1 | Please include full name of County Agency that is the Lead Agency, including address, phone, fax. | |
| Project Summary | 1 | Project Title. Add APNs, Case Numbers for all CUPs. Remove reference to the CMMILUO. You can break it down by Tracts 1 and 4; and Tracts 2 and 3 if you prefer. | |
| Project Summary | 1 | Contact Person should be the contact person for the Lead Agency | |
| Project Summary | 1 | Create new label "Project Contact" and place Prairie Moore contact information here. | |
| Project Summary | 1 | Project Description should be separate section than Project Summary. Project Description should be separate section/chapter entirely describing in more detail what the project plans are, including any connected actions (i.e., <u>PGE utility development plans</u>). Project Summary should include more detail on location of the project area. | |

Rolling Meadows CEQA Review

| Section | Page # | Data Request | Notes |
|---|----------------|---|-------|
| Add Map: Circulation | App A | Include a circulation and access map that depicts the routes that will be used to get to each site; where the drop off/pick up bus stops will be located; any dedicated project parking, fire and emergency vehicle routes on the property and required turnaround areas. Identify any new roads that to be constructed and any existing roads that are proposed for widening, water crossing improvement, grading, or alignment change or extension. | |
| Add Map: Emergency Access | App A | All parcels associated with the site are located in a Very High Fire Hazard Severity zone. A map that shows how emergency vehicles can access the site in case of an emergency would be helpful; and a map that identifies water storage for fire suppression. The project involves employing 34 individuals. An emergency evacuation route should be identified. | |
| Add Map: Powerlines and PGE and energy | App A | Include map showing the proposed PGE power plan for the project site: locations of proposed power lines, where vegetation would be removed for placement of such infrastructure, where power lines will cross the Eel River, etc. | |
| Replace Figure 2, Figure 3 and Figure 4 with topographic maps | 26-28 | Per CDFW, please submit a topographic map that identifies all surface water, wetlands, or other sensitive habitats onsite and the appropriate buffer distances for each. We recommend that you replace Figures 2, 3, and 4 with these topographic maps with CDFW's required information. | |
| Maps - Figure 2, 3, 4 | 26-28 | Please label the cultivation areas as either "Cultivation Area 1 or 2 or 3 or 4" or Site Operator 1, 2, 3, 4". Make sure to include any accessory development such as wells, parking areas, storage tanks, generator locations, ponds, etc. | |
| Maps - Figure 2 | 26-28 | Include Parcel numbers on figures or notes /legend | |
| Maps - Figure 3 | 27 | This is mislabeled. The title within the figure states "Tracts 2 and 3 southern area", but it should be Tracts 1 and 4 southern area" | |
| Maps - Figures 2, 3, 4 | missing Figure | The ISMND is missing a figure showing the proposed cannabis development and setbacks to wetlands and streams for APN 211-284-009. Please include. | |
| Maps Figure 2 | 27 | The stream is labeled a Class II stream on Page 27 of the ISMND. This is potentially a Class III stream, please double check and edit accordingly. | |
| AESTHETICS | 9 | Eliminate the use of the term 'as the crow flies'. Just state the direction (i.e. north, south, east, west) the highway is located from the project site. | |
| AESTHETICS | 9 | Add Setting: Describe nearest likely viewers (people recreating on the Eel River and living or working or traveling from viewpoints across the Eel River is important) | |
| AESTHETICS | 9 | Determine if the portion of the Eel River that forms the southern boundary with Tract 2 and 3 is designated under the 1968 Wild and Scenic Rivers Act. If designated, is it designated as 'recreational' or 'scenic'. State the closest portions of the river that are designated as 'scenic' (i.e. 4 miles east, west, north, south) under the Act. Describe if there are any recreational areas located within the vicinity of the project area/ Eel River (i.e. boat ramps, picnic areas, etc.). If the Eel River is considered a 'scenic resource' discuss how the project would result in less than significant impacts. Identify any mitigation measures to reduce impacts. | |

| Section | Page # | Data Request | Notes |
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| AESTHETICS | 9 | Describe the existing visual character of the site. Discuss the surrounding area land uses. Describe the temporary affects of construction equipment staging (duration, location, phases of construction). | |
| AESTHETICS | 9 | Describe how the proposed development will alter the site from current conditions. For example, "Development of the site for the proposed project would alter the site's visual character by introducing additional buildings, rainwater catchment ponds, agricultural crops, paved access roads, park-ing areas, stormwater facilities, and fencing (See Proposed Site Plan)." Will any populations notice the development? Describe any public views of the site (i.e. from public roads, from even from the Eel River). Are any mitigation measures needed to lessen the visual impacts from public viewpoints? Is the portion of McCann Road that crosses the property accessible for public use as well? If so, discuss the visual impacts. Discuss how riparian corridors of the Eel River will remain protected and not disturbed by the proposed project. | |
| AESTHETICS | 9 | Lighting. Discuss mitigation measures for the impacts associated with the security lighting. Will security lights be shielded? One mitigation measure should be a development of a Lighting Plan. The Lighting Plan should demonstrate that all indoor and outdoor lighting will not cause light pollution. Include discussion on lighting impacts to NSO. | See County's notes in their initial review. |
| AESTHETICS | 9 | Please include the light wattage that is anticipated to be used and estimated number of lights; and the estimated number of hours per day they would be used. Discuss the cumulative impacts of the year round Mixed Light Operation. Discuss the lighting impacts to the rest of the ranch area and existing wild lands. Since it is not just seasonal use, the impacts are anticipated to be greater. This warrants a more indepth discussion. | |
| Ag & Forest | 10 | Add Setting. Describe Prime Ag Soil . If there is mapped farmland available via the Farmland Mapping and Monitoring Program, please discuss. Discuss the areas that are TPZ on the Tracts. Discuss the AE Zoning and AG and T land use designations. Discuss surrounding land uses. | |
| Ag & Forest | 10 | Depending on the number of trees to be removed, it is possible that applicant may have to complete a less-than-3-acre conversion exemption. | |
| Ag & Forest | 10 | In Discussion - discuss the prime ag soils and locations of proposed development (CMMLOU's prime ag soil requirements); discuss the technical report (and cite the reference) that provided information on prime ag soils on the tracts, since the County's GIS system does not show prime ag soils for these parcels. Discuss the site plans that show the prime ag soils and the proposed development locations. And discuss how the project would be located on Prime Ag Soils on the parcel and no more than 20% of the area of Prime Ag soils on the parcel will be used for the proposed mixed light operation. Discuss how none of the greenhouses will have impervious surface area. | |
| Ag & Forest | 10 | Are any of the proposed development - ponds, parking areas, processing buildings to be built on Prime Ag Soil? Will it decrease the amount of prime ag soil on the parcels? | |
| Ag & Forest | 10 | Discuss how the land is not under Williamson Act Contract. For example, "According to the Humboldt County Web GIS mapping, there is no Williamson Act contract applicable to the project site." | |
| Ag & Forest | 10 | Discuss growth including or cumulative impacts. Discuss the type of land development proposed and the number of persons that the project will employ. Discuss impacts related to the development of new commercial facilities for processing. | |
| AIR | 10 | Add Setting. | |

Rolling Meadows CEQA Review

| Section | Page # | Data Request | Notes |
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| AIR | 10-11 | Air Quality impacts should be discussed both in short term (construction period) impacts (machines, dust, use of dirt roads, constructing new roads) and long term (operational) impacts (vehicle trips for employees/staff, generator use, etc. | |
| AIR | 10-11 | Discuss short term construction period impacts and long term operational air quality impacts | |
| AIR | 10-11 | Include a brief sentence describing what the 'Air Quality Control 104 Prohibitions' is. Describe how compliance with that will reduce impacts to less than significant levels . | |
| AIR | 10-11 | Provide CalEEMOD modeling for construction related air quality impacts, including those for 'connected actions'. Include results as part of the analysis as part of IS. | |
| AIR | 10-11 | Discuss construction related emissions and measures to prevent fugitive dust emissions. Site all possible sources of dust emissions. | Recommend to consult with air quality experts. |
| AIR | 10-11 | Discuss operational related emissions associated with the project. | |
| AIR | 10-11 | For the new processing structures, please provide more detail about the ventilation/air filtration system that will be used to limit potential adverse odor and emission impacts to employees | |
| AIR | 10-11 | Discuss impacts to Sensitive Receptors - nearest sensitive receptors and distance to location. | |
| BIO-Env Set | 6 | The description of the environmental setting in the Introduction/Project Description section does not provide sufficient detail to evaluate the habitat potential for species dependent on mature and old-growth forest. The term mid-mature is used but not defined. Please provide average DBH of trees and information on the depth of various riparian areas. | |
| Bio | 12 | Add Setting - see above for information that needs to be included. | |
| Bio | 12-17 | The information provided on vegetation does not respond to the County of Humboldt's request for vegetation surveys prior to conducting CEQA. | |
| Bio | 12-17 | The information provided on vegetation does not respond to the CDFW's request for a CNDDB review of California Rare Plant Ranked within 1 mile of the site, and accompanying protocol surveys for any recorded species. | |
| Bio | 12-25 | The bio analysis does not respond to the County of Humboldt's request for discussion of cumulative impacts on riparian habitat, and does not respond to the County's request for a discussion of wetlands. | |
| Bio | 17-25 | The bio analysis does not respond to the County of Humboldt's request for NSO surveys prior to CEQA review. | |
| Bio | 17 | Please include a discussion of potential impacts to the seed bank from all planned ground disturbing activities in the discussion of impacts on rare plants. | |
| Bio | 19 | Please provide a full discussion of potential impacts to Cooper's hawk, sharp-shinned hawk, American peregrine falcon, golden eagle, and osprey; "no impact" cannot be assumed due to reduction and change in foraging habitat, as a minimum. | |
| Bio | 20 | Townsend's big-eared bat, long-legged myotis, and Yuma myotis are included in the special status species table; roosting habitat is assumed to be present in the area, but no project impacts are assumed. Given that there is a known roost on site that is scheduled for demolition, a full discussion of potential impacts to these species is warranted. Loss of a roost should be considered as an adverse impact. If the site plan is revised to avoid demolition of the potential roosts, discuss the sensitivity of Townsend's big-eared bat to noise disturbance and potential for them to abandon their young if disturbed during the maternity season. | |

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| Bio | 20 | In the special status species table, Yuma myotis are noted to have potential nesting habitat on the parcel. This species forms maternity colonies to raise their pups but do not nest. This language should be updated to reflect this. Please identify all potential habitat for Yuma myotis maternity colonies on the ranch parcel. | |
| Bio | 18-21 | Please add evaluation of potential impacts to Chinook salmon, Coho salmon, steelhead trout, green sturgeon, lamprey, and Pacific giant salamander per CDFW request. Identify extent of fish-bearing streams in and downstream of project area. | |
| Bio | 21 | For western pond turtle, nesting habitat is noted to be present but not in the project area. A radio-tracking study on western pond turtles at Boggs Ecological Preserve found that 50% of nests fall within 40 m (131 ft) of water, and 90% fall within 100 m (328 ft) of water. This is greater than the proposed setbacks of 50-150 feet from potential waterbodies. Discussion of potential impacts to this species is warranted, and the assertion that nesting habitat does not occur in the project area should be revisited. | |
| Bio | 21 | Northern red-legged newt, red-bellied newt, and southern torrent salamander are included in the special status species table. Habitat is noted to be present in the Eel River watershed and or ephemeral waters, but the suitability of the project site for these species is not directly analyzed. Please analyze the suitability of the project site for these species, and include a discussion of potential impacts as necessary. | |
| Bio | 23 | Indirect impacts of noise and construction activity and the potential for disrupting nesting behavior should be considered during the breeding season for grasshopper sparrow and Bryant's savannah sparrow. | |
| Bio | 24 | The location of the culvert with temporary water where foothill yellow-legged frog was observed should be mapped and explained in relation to the project. | |
| Bio | 24 | Mitigation Measure 1 should be removed, and botanical surveys for special status plants should be conducted and results should be included in the ISMND to aid in analysis of potential impacts. Per the County's comments, mitigation methods should be explicitly defined in the ISMND. | |
| Bio | 24 | Include a survey buffer of least 800 feet for raptor nests in Mitigation Measure 2. | |
| Bio | 24 | Mitigation Measures 2, 3, and 4, should provide an approved date range for construction activities, rather than a single date. In the event that construction does not complete by the beginning of a sensitive period, this needs to be accounted for. | |
| Bio | 24 | Mitigation Measure 3 states, "...generator noise levels shall not exceed 50dB at 100 ft." This should be restated to clarify within 100ft of what? | |
| Bio | 24 | Mitigation Measure 3 should be revised to accommodate the request from CDFW's referral that NSO protocol level surveys should occur over the course of two years. | |
| Bio | 24-25 | Mitigation Measures 2, 3, 4, and 5 should be modified to state that all surveys should be undertaken by a qualified biologist. | |
| Bio | 25 | Per the County of Humboldt's comments provided on January 15, the biological analysis should be revised to include a discussion on cumulative impacts to riparian habitat and conversion of wildlands. | |

| Section | Page # | Data Request | Notes |
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| Bio | 25 | If a pond is scheduled for construction, mitigation measures regarding the timing of construction and potential for impacts to special status species of turtles and amphibians should be considered. If the pond is scheduled for construction during the rainy season, an exclusion fence should be installed around the construction perimeter to prevent take of any migrating amphibians and their eggs. If a pond is scheduled for construction, adherence to the CDFW's Bullfrog Management plan should also be included as a mitigation measure. | |
| Bio | 25 | Need a Mitigation Measure for Water Storage Design, Approvals, and Maintenance Standards for Ponds. | |
| Bio_Rpt | 6 | The comment regarding NSO activity at NSO AC (HUM 0523) should be revised in accordance with the referral from CDFW. | |
| Bio_Rpt | 8 | The biological report states that no impacts to birds are expected as no vegetation will be removed; on page 13 the biological report states that removal of apple trees are unlikely to have any adverse effects. The biological report should be revised for consistency, and the impacts of vegetation removal on nesting birds should be incorporated into the ISMND. If trees need to be removed in association with road improvements, this should also be included in the ISMND. | |
| Bio_Rpt | 13 | Per the CDFW referral, a qualified bat biologist should conduct a survey of the site during the maternity season and conduct a more comprehensive habitat assessment to provide concrete findings regarding the type and duration of use of the building. | |
| Bio_Rpt | 13 | The description of the bank is unclear and sounds like a bare bank that would be potential habitat for bank swallows. Site pictures and more description should be included for better analysis on the suitability of habitat for this species. | |
| Cultural Resources | 29 | Add Setting. Describe historic uses of the ranch (area, site). Describe the existing structures on the site and their historic uses. Add more detail in the historic uses and settlements of the area. This area was occupied for millennia before settlement and the likely presence of evidence of that occupancy must be presented. Were any "Indian Villages" noted in the vicinity on the GLO maps? Previous surveys found artifacts where? Settlement history of this and adjacent parcels should be included. | |
| Cultural Resources | 29 | A large building is proposed to be removed on Tract 4, per the Biological technical study. Disclose the age of this building and what it was historically used for. Discuss existing historic resources on the site. | |
| Cultural Resources | 29 | Discuss paleontological resources and/or unique geological features on or near the site. Is there a potential for fossils to be discovered and inadvertently damaged during project construction? | |
| Cultural Resources | 29 | Discuss Consultation with Tribes AB 52 (consultation on the Nick Angeloff survey of the site?) | |
| Geological Resources | 31 | Add Setting. Describe topography, slope stability, slope ranges, historic landslides. | |
| Geological Resources | 31 | GIS shows historic landslides on the parcels (but no on the proposed locations for cultivations) - and surrounding area has historic landslides. Need to include a discussion. It is possible the County will want all sites proposed for development to be investigated by a Geologist /Geoenineer. SEE COUNTY'S NOTE ON ORIGINAL DRAFT - PLEASE INCLUDE DISCUSSION ON GEOLOGICAL FACTORS THAT ARE IN PLAY ON THE PROJECT SITE | Question for the County: Perhaps a Limited Scope Geologic Hazards Assessment is needed? -- for proposed ponds, processing facilities (where employees will be) and onsite septic. |
| Geological Resources | 31 | Sites for ponds will need to be assessed by a geologist, per CDFW recent comments dated January 2018. | |

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| Geological Resources | 31 | Does the project include Fill Disposal? CDFW wants to know. It is recommended that a preliminary engineering analysis of the proposed greenhouse locations with regard to total cut and fill, or cut and disposal, needed to level the sites. These are huge buildings and leveling ground for them is likely to move hundreds of cubic yards of material. | |
| Geological Resources | 31 | Need a septic site suitability report (or geologic hazards assessment) for all locations for septic. Specify that onsite septic is currently not available, but is proposed as part of the project. A septic potential /site suitability report would provide information for this section. | |
| Geological Resources | 31 | "A minimal amount of Agricultural soil will be covered with greenhouses and buildings". Please quantify/provide estimates. | |
| GHG | 31 | Add Setting. Describe existing and proposed infrastructure. Is PGE covering all sites? Provide a letter or communication from PGE describing how they plan to provide power to each site. Provide a letter or communication from Redwood Coast Energy Authority that they will provide the renewable energy source for your project. | |
| GHG | 31 | Discuss renewable energy. Use data from Air Quality Analysis for GHG analysis. | |
| GHG | 31 | Need to consider generator usage as well (back up generator usage) | |
| Hazards | 33 | Add setting. | |
| Hazards | 33 | Describe the local fire response district and access routes to the site. | |
| Hydrology and Water Quality | 33 to 35 | Add Setting. Describe natural water courses and wetlands on the site- streams, channels, watersheds, ponds, the Eel River, etc. And setbacks. | |
| Hydrology and Water Quality | 33 to 35 | Need more information on how agriculture runoff will be contained. Describe the infrastructure that will be in place to manage runoff. | |
| Hydrology and Water Quality | 33 to 35 | p. 34 state , paragraph 3 (c-e) and f) states that Greenhouses will have concrete pads. Please clarify, as the County does not provide permission for the use of concrete flooring types within greenhouses, especially on prime ag soil. Please describe more details about the greenhouse floors on how the project will not result in impervious greenhouse floors. | |
| Hydrology and Water Quality | 34 | Need to address questions g -i) correctly. The facilities proposed to be constructed on the most southerly portion of the parcel 3 is located in the FEMA identified 100-year Flood Zone. Even though the project is not proposing residential uses, the project is proposing commercial uses that include processing structures and cultivation greenhouses in which employees will be located as well as septic field. There needs to be a discussion about what measures are being taken to comply with the County's Flood Damage Prevention Regulations. | |

| Section | Page # | Data Request | Notes |
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| Hydrology and Water Quality | 34 | b)Specify the location of wells (include a map or refer to site plans), initial amount that will be drawn from the well, peak pumping rate, how much will be drawn per year, and how frequently the well will be used. How will year round operations not have an impact on the groundwater table or impact existing or planned uses which already have been granted? Will water be stored on site? If so, please map location of proposed storage, specify type of storage and capacity, specify reason for storage. | Please refer to County's letter dated January 15, 2018 regarding substantiating the claim that they wells are not hydrologically connected to the water flow of the river. We see the letter in the Appendix from Fisch Drilling, however, the County will want to see testing or a technical study to document the existing groundwater supply and anticipated impacts as a result of the new wells and anticipated usage; and to demonstrate that all of the wells are not hydrologically connected. The letter from Fisch drilling needs to be substantiated. CDFW is the Agency that determines if the proposed wells will have connectivity with onsite water sources. |
| Hydrology and Water Quality | 34 | Include processing facilities as part of the group of structures that would be considered potential source of runoff. Need to discuss both construction period and operational period impacts. | |
| Hydrology and Water Quality | 34 | Need to describe all setbacks to natural water courses and wetlands for each area that will be developed. Include setbacks to El River, wetland areas, Class I, Class II and Class III streams. Include septic proximity to wetlands and natural water sources. Coordinate response similar to what is required for biology section. Describe mitigation measures used during the construction period to ensure that water quality of onsite water sources will not be degraded. | |
| Hydrology and Water Quality | 34-35 | Section c-e) per County's notes - asks for description/inclusion of stream crossings and description of how streams will be protected from construction period or operational period work being done on stream crossings. | |
| Land Use and Planning | 35 | Add setting. Need to describe land use setting. What are the land use designations for the parcels? What are the allowable uses? | |
| Land Use and Planning | 35 | Discuss Prime Ag soil requirements for new cultivation and how project meets those requirements. See County's notes describing how the project (as it currently is stated) is in conflict with the County's requirements regarding prime ag soils and the use of concrete flooring. | |
| Land Use and Planning | 35 | Question a): describe how there are no existing established communities that are on site or in surrounding area; how the site is private and access provided by private routes throughout the project areas; Please identify if any new roads are proposed as part of the project, if so identify location and length. Describe how the project will not physically divide an established community. | |
| Land Use and Planning | 35 | Question b): describe how the proposed project conforms to the General Plan goals and policies and the Zoning Ordinance. | Need to incorporate discussion how the project is changing from wildland area to large industrial cannabis development and how the level of use and level of impacts may not be consistent with what was envisioned with the General Plan, Zoning, or CMMLUO, especially in areas without adequate access, public services, and fire protection |
| Land Use and Planning | 35 | Need to provide evidence that the project is not in conflict with any habitat conservation plans or natural community plans. For instance, was a records search done? If so, cite the sources - CDFW, USFWS EOS program, etc. | Note the SPI and adjacent landowners may have HCPs that restrict road use. This could be crucial if northern access needed. |

| Section | Page # | Data Request | Notes |
|------------------------|--------|---|--|
| Mineral Resources | 36 | Include brief setting. Use the Humboldt County GIS system to determine if any of the project sites are located within SMARA parcels, and state the results in the setting, citing the GIS system. | |
| Noise | 37 | Include discussion focused on construction and operational noise impacts to NSO species. | |
| Noise | 37 | Include setting; describe surrounding land uses, sensitive noise receptors (any residents located near the project areas?). For instance, the information provided in section d) regarding residences and commercial uses in the vicinity of the area and the nearest residence should be included in the setting. Describe potential species affected by noise. | This should also apply to any needed road improvement to meet fire safe standards, because that may happen off site. |
| Noise | 37 | In general, describe short term temporary noise impacts related to construction activities including duration; and long term operational noise impacts (i.e. usage of generators, etc.) | |
| Noise | 37 | a) describe existing sensitive receptors in the area, if any, how there is no existing population on the parcel that will be impacted by construction noise or operational noise, etc. For the Operational period of the project, describe how backup generators are also proposed to be used and include a mitigation measure that enforces the applicant to comply with the County's noise standard in the CMLUO Section 55.4.11 (o). Include Generator Noise Mitigation Measure. | see example |
| Noise | 37 | For c) Describe - how the noise generated by the operations will be more than the noise generated currently as a vacant forested parcel. It must be stated that the noise generated will be more than the existing setting. And, if the noise generated is not anticipated to be significant, please explain why. Describe the new sources of noise once operational. Describe what measures are being taken to ensure that the change in ambient noise level will have no impacts. Describe how the noise produced when operational will not exceed the County's General Plan Noise Element. | See County's letter dated January 15, 2018. Please describe the scenario in which PGE does not provide power, and the project is reliant on generators during winter events and the reliance on generators could potentially end up being a longer term impacts as opposed to temporary. Please evaluate new noise sources to wildlife, given the setting. |
| Noise | 37 | d) cross connect this section with BIO section. If there are specific bio requirements stating that construction cannot be done during certain periods of the year due to impacts to a certain species, this needs to be stated here as well. | Noise needs to be discussed, in terms of impacts to sensitive species such as the NSO. Describe the findings in the CDFW spider diagram and the findings of the bio study that was done (Activity Center versus Observations) and what this means for noise generated on the site and potential impacts on NSO. |
| Noise | 37 | d) Turn the information regarding complying with the County's 60dBA requirement into a Mitigation Measure. | |
| Noise | 37 | In general, this section should have Mitigation Measures for noise produced during the construction period (i.e. limited hours of construction, use of noise mufflers on certain equipment, etc.; and mitigation measures for noise during the operational period (generator use) | |
| Population and Housing | 37 | Add Setting. Are new roads proposed to be constructed? Are roads proposed to be extended? | |
| Population and Housing | 37 | Describe how the area has been vacant, forested wildlands, and will change with the introduction of new people on site working the operation. Will need to describe how the addition of persons to the area won't result in negative impacts (i.e. consider noise, traffic, litter/pollution, human waste, etc). | If the area was pristine wild lands, there is definitely going to be a change with implementation of the proposed project over current conditions. This needs to be described, and defended to as why the impacts would be less than significant. |
| Public Services | 38 | Add Setting | |

| Section | Page # | Data Request | Notes |
|-----------------|--------|--|---|
| Public Services | 38 | Fire Protection: Any land use or development which requires a use permit, and any construction requiring a building permit, is NOT exempt from the County Fire Safe Ordinance. Modify project description to include compliance with Fire Safe Ordinance, including but not limited to internal ranch road standards for width, surface, and grade, water crossings to the minimum load standards, as well as minimum water supply requirements. Add these elements to the environmental analysis in all sections. | |
| Public Services | 38 | Fire Protection section. Describe how the project is located in a Very High Fire Hazard Severity Zone and what measures are included to mitigate against fire hazards. The project will introduce new elements that could become ignition or fuel sources. Include these in the project description and in the analysis of fire danger | |
| Public Services | 38 | Fire Protection section. The statement "Cannabis grown on the farm will be dried and trimmed in the agricultural buildings. No commercial processing will take place on site. Processing of the product will take place off site in a commercial processing building" is inaccurate. Trimming is commercial processing. Please specify what additional processing will take place off-site, how and with what frequency product will be transferred to the off-site processing facility. Include this in the project description and in the transportation analysis. | |
| Public Services | 38 | Fire protection section. Please describe more detail about the 'extra water storage; for fire protection. Most projects at this point in the process have proposed water storage quantities measured out. Need to know what type of storage (tanks? Ponds?) , what fills the storage? , what is the gallon capacity? Who is designated to access this water storage? Where is this storage located? What equipment will be included in the project plans to battle fires given anticipated long response times from CAL FIRE? | |
| Public Services | 38 | Fire protection section. Statement says " The nearest Cal Fire facility is located in Weott, CA". Please add the number of miles and estimated minimum response time. | |
| Public Services | 38 | Fire protection section. Please describe how the interior ranch roads will be improved to meet fire safe standards. Existing roads analysis indicates that fire safe standards are not met. | |
| Public Services | 38 | Fire protection section. Demonstrate that off-ranch access routes (McCann Road and Alderpoint Road as well as roads on adjacent property) meet fire safe standards on all portions, including river crossings, that may be required for fire suppression by CalFire firefighting resources. | |
| Public Services | 38 | Site plan needs to include fire safe routes internally throughout the ranch, and access routes for emergency vehicles, including fire response, as well as turn-around spots. Also discuss emergency access in the winter months if the bridge to McCann Road is flooded. | Consider creating a separate circulation map for fire and emergency response. |
| Public Services | 38 | Police Protection. Security plan details don't seem adequate. Please ensure all details from Security Plan in revised Ops Plan is included (i.e. security lighting, escorted access, video surveillance, background checks?) | |
| Public Services | 38 | Schools. Describe the distances of the nearest school facilities. | |
| Public Services | 38 | Response times. Please address County's request to describe impacts resulting from high risk response times (greater than 50 minutes) for police protection and fire response. The current explanation provided by the applicant references other projects that have been approved by the County. This response is not adequate as it does not demonstrate alternative solutions or options regarding high risk response times. Both police protection and fire protection should be either 'less than significant with mitigation incorporated' or 'potentially significant impact' | |

| Section | Page # | Data Request | Notes |
|---------------------------|--------|--|-------|
| Recreation | 39 | Add setting. | |
| Tribal Cultural Resources | 42 | Add setting. | |
| Transport/ Traffic | 40 | Add setting. | |
| Transport/ Traffic | 40 | Are internal roads safe enough for construction vehicles to access to the discontinuous sites? | |
| Transport/ Traffic | 40 | Employees (34) that will be coming to the site. Describe what locations will they be coming from? Which roads would be impacted by this anticipated traffic? | |
| Transport/ Traffic | 40 | section e) - this question should be answered in the context of 'emergency access' - why is there a discussion of the bus in this section? The description regarding main access for employees and using a company owned bus to go from property boundary to project site - should be discussed in different section, maybe section a). | |
| Transport/ Traffic | 40 | Details on which existing roads are scheduled to be improved need to be included in the IS. | |
| Transport/ Traffic | 40 | d) please provide a summary of the results of the Road Evaluation for internal roads that were studied. | |
| Transport/ Traffic | 40 | d) Add discussion on road compatibility for emergency vehicles needing to use internal roads in the event of an emergency. The report states "due to steep road grades in some locations, measured to be over 20% , and not measured but estimated to be up to approximately 30% for short distances, it is recommended that appropriate type vehicles be used when using the roads". Need to describe what qualifies as 'appropriate type vehicles'. | |
| Transport/ Traffic | 40 | e) Need a discussion on how the project will comply with the Humboldt County Fire Safe Ordinance. Even though the emergency medical services is discussed in terms of an 'emergency air ambulance' - a discussion needs to be included to discuss a) how emergency vehicles can access the various cultivation sites in case an air ambulance is not feasible and b) how Cal Fire/Emergency Fire Vehicles and personnel can access the site, especially given the area is an Very High Fire Severity Zone. | |
| Utilities | 43-44 | Add Setting. Describe existing setting - any existing utilities serving the site? Describe rural location and what services are or are not provided. | |
| Utilities | 43-44 | In general, for each finding - need to format the findings into statements, such as the following: "the project will not require or result in the construction of xyz"; and, for discussion, need to format the statement like the following example - "There are no public water or wastewater treatment systems serving the project site." | |
| Utilities | 43-44 | a) remove sentence about stormwater runoff. Discuss number of persons that will be employed and how proposed septic systems will have sufficient capacity to accommodate the total number of persons on site (highest estimate at peak operation) | |
| Utilities | 43-44 | b) discuss potential construction period impacts associated with the development of new septic and water infrastructure on the project area | |
| Utilities | 43-44 | c) describe the infrastructure that is proposed to collect runoff and store it. Discuss whether or not the installation of the infrastructure would have environmental effects or not. | |

Rolling Meadows CEQA Review

| Section | Page # | Data Request | Notes |
|--------------------|--------|--|---|
| Utilities | 43-44 | d) need to describe the estimated amount of water use for cannabis irrigation; and for domestic supply for employee use. Describe water sources = the wells- what is their anticipated output and frequency of use? Ponds – how many are existing, how many are proposed, what are gallon capacities of each? Does the project plan to include hard tank storage, if so, how many tanks and gallons?. Is their sufficient water for both irrigation and to supply the potable water for employees on the site? | |
| Utilities | 43-44 | d) need to include discussion about wells - are they hydrologically connected (need communication or assessment from CDFW). Will there be impacts to groundwater supplies? | See County's note in letter January 15, 2018 requiring an engineering geologist to document the groundwater supply and anticipated impact from proposed cultivation. |
| Utilities | 43-44 | e) describe septic potential to accommodate the 34 employees. Any details on the proposed septic systems that will be installed? | |
| Utilities | 43-44 | f) discuss sources of solid waste as a result of the project. How frequently will the waste be hauled to the Eel River Recology? | |
| Mandatory Findings | 44 | Setting/Intro - include first paragraph that describes how short term construction period and long term operational impacts were evaluated | |
| Mandatory Findings | | Add subtitle 'Mitigation Measures' above the list of Mitigation Measures. Add sentence in Mitigation Section- "Proposed mitigation includes AES-1, BIO-1, BIO-2, BIO-3, BIO-4, CUL-1, GEO-1, NOI-1, and NOI-2" | |
| Mandatory Findings | 44 | b) This section is inadequate. This section needs more discussion and analysis for cumulative discussion. Need to go topic by topic (i.e. Air Quality, Aesthetics, Bio, etc.). | |
| Mandatory Findings | 44 | b) Discuss any related or nearby projects in the cumulative discussion | Cumulative impacts should specify the distance considered for "nearby" and should include other road uses that are changing. Projects to consider include adjacent property (SPI) planned management activities, including road maintenance as well as logging, Humboldt County road maintenance and repair, and other cannabis cultivation proposals. |
| Mandatory Findings | | b) refer to County's letter dated January 15, 2018 - a cumulative discussion needs to be addressed for 1) introduction of population (34 individuals) into an area where there is no population (wildlands), and 2) the improvement of roads through wild land areas not previously developed to serve the level of development proposed by the project | Need to consider the big issues including access, public services, and fire protection. Also the induced growth potential of providing PG&E distribution power on the north side of the Eel River--adjacent properties can develop more with power available and likely will. Also if roads are improved to fire safe standards this could also induce development on adjacent parcels. |
| Mandatory Findings | 44 | Per the County of Humboldt's comments provided on January 15, the biological analysis should be revised to include a discussion on cumulative impacts to riparian habitat and conversion of wildlands. | see bio section above for reference |
| Mandatory Findings | 44 | c) The mitigation measure proposed (detailed security plan) does not seem to fit here. Rather, this section should focus on Noise, Air quality (construction period), Bio (pond design and development), Geo (stability), Hazards, Transportation mitigation measures. Need discussion on geo stability, fire hazards and emergency response, potential noise impacts, (generators, construction related noise), transportation impacts (roads) | see example |



Exhibit G

**Transcon Environmental, Memorandum re Peer Review – Project
Description Deficiencies, dated July 23, 2018 (“Memo #2”)**



MEMORANDUM

To: Michelle Nielsen, Planning and Building, Humboldt County

From: Nicole Catalano and Penny Eckert, Transcon Environmental, Inc.

Date: July 23, 2018

Subject: Application #12529, #12542 Rolling Meadows
*California Environmental Quality Act (CEQA) Peer Review - Project
Description Deficiencies*

Transcon Environmental, Inc. is providing this memorandum to highlight the deficiencies in the current Project Description associated with the Rolling Meadows (Application 12529 and 12542) ISMND.

The Rolling Meadows Project Description is inadequate. This makes the entire ISMND inadequate since it is impossible to assess impacts from a project without knowing what is proposed. Please entirely revise the project description to include the following. Note that this is not an exhaustive list and the applicant is responsible for developing a robust and complete project description:

- Project Site History. Describe the site and the neighboring properties, including full parcel sizes. Describe the site prehistory and history in a paragraph or two.
- Divide the project description into sections.
- General Project Description—what is proposed, where it is proposed, including road access, water sources, and development of grid power.
- Grading—Describe actual existing slope for each building and the amount of grading estimated to be needed to level site. Provide detailed description of grading requirements, cut and fill, needed to place buildings, where spoil will be disposed of, etc.
- Identify and describe, including age, dimensions, prior uses, all existing structures on site. Specify which will be removed as part of the project.
- If trees will be removed as part of the project, identify the number of trees, species, DBH, and height of each tree, identify the location of trees to be removed on one or more figures and call out the figures in the text. This must include any trees to be removed for road improvement to meet fire safe standards.
- Road improvement—specify how ranch roads will be improved to meet fire safe ordinance requirements. Show that each road, including its water crossings, are able to support a 75,000 pound apparatus. Include all routes that could be used for access during an emergency. Include any needed changes to water crossings (replacement or upgrade of bridges or culverts).
- Building detail—beyond just the square footage, describe each proposed building including dimensions, materials to be used, and in the case of the trimming/bathroom buildings, the location and size of the bathroom(s), their ADA compatibility, and the estimated daily waste water to be generated from them. Show building floor plans for trim/bathroom building. Show ADA parking.

- Construction practices. How will you get heavy equipment to the site? What size and type of equipment will be used and approximately how long will each be in use? How many employees will be present during construction? How do they get there? What bathroom facilities and drinking water supplies will be available during construction? What are the hours of construction? How will you manage dust control and where will the water come from? How many trips per day will be needed to either bring in fill material or dispose of cut material? If a disposal site is needed, where will it be located?
- Water use and storage—amount of water needed for irrigation, for employee use, and for dust control during operations. Include water needed for dust control on ranch roads. Specify water source and size of proposed water storage. Include water storage to meet fire safe ordinance.
- Identify and describe, including dimensions and seasonal volume, any existing ponds or water features that are to be used for the cannabis operation on each tract. If none, so state.
- Provide detail on groundwater proposed use, including probable depth to water (based on similar wells in similar strata) and pumping rate per day during peak use (not just annual estimates).
- Onsite wastewater systems—approximate size (volume).
- Number of Employees, likely residences of employees and plans for parking at “park and ride” shuttle pickup locations, number of shuttles per day, parking for shuttles on-site, etc.
- Other traffic: specify route, estimated size of truck and frequency of delivery of soil, fertilizers, and any other inputs (trips per day or per month). Specify route, estimated size of truck, and frequency of delivery of dried and trimmed product.
- Hours of Operations. Include hours of operation on site as well as typical commute times with and without the McCann Bridge available. Specify commute routes for each scenario.
- PG&E power—Even though PG&E will do the environmental and permitting, PG&E would not construct these lines “but for” the project. Therefore, PG&E line construction is a connected action and must be reviewed at least at the planning level in this ISMND. The route, approximate number of new poles, time of construction, vegetation clearing including tree removal, grading, temporary road construction to access each pole site, etc., needs to be disclosed and analyzed in this ISMND.
- Backup power—describe generator including noise specifications and provide documentation. Describe how generators will be run weekly to maintain readiness and describe fuel use for maintenance and for emergency use. Specify location and size of propane tanks serving generators. Specify route and frequency of propane deliveries for each generator location.
- Other items:
 - Structures to be removed. Need to describe any structures that will be removed as a result of the project. Are any of these structures historic resources?
 - Describe surrounding land uses.
 - All parcels associated with this project are located in a High Fire Rating zone and in a Very High Fire Hazard Severity Zone. Discuss fire hazards and emergency access in the project description – include information about how much water will be available for fire suppression in an emergency? Where are the water tanks? How many gallons?
 - Describe how each site is accessed, describe access routes. Describe internal road network, parking areas (existing and proposed), turn around areas (existing and proposed), conditions of existing roads, etc.
 - Page 4 of the Project Summary/Description Statement says 'Cultivation will occur in greenhouses with natural floors'. However, page 34 of the ISMND (Hydrology section) states that all greenhouses will have 'concrete pads'. Please be consistent and note that greenhouse are not allowed to have improved/concrete flooring; floors must be pervious. See Planner's notes - re: no concrete pads can be used as part of the proposed project. Please change project so that concrete pads are NOT used.

- Discuss how runoff from irrigation is 'contained in the greenhouses'. What measures are proposed to minimize cannabis related runoff? Current project summary/description and Operations Plan is vague on this. What is the design of this that ensures that 'no runoff is created' or what are the 'strict protocols' that are referred to in the Operations Plan?
- Water Use. Please include a Table that includes a Water schedule for each tract -broken down by month, assuming water use will fluctuate.
- Discuss existing and proposed ponds. Identify existing or proposed ponds that will be used as part of the project. There was a statement about 'retention ponds' to be constructed to store rainwater or rooftop runoff - identify how many, size, gallon capacity, locations, etc. Storage tanks - how many will be added as part of the project. For all retention ponds, there should be mention of the CDFW's bullfrog management plan in the biological analysis.
- Provide more details about the operation. Discuss how Mixed Light operation complies with International Dark Sky Standards. Include the number of cycles per year. The Operations Plan currently states "There is no fixed calendar schedule that applies to any single greenhouse". This is quite vague. A monthly schedule and seasonal description of activities throughout the year is required.
- Add discussion about Prime Ag soils, how the proposed development will be on prime ag soils (you can reference the Prime Ag soil maps that should be in the Appendix).
- Project Description should include discussion about connected actions (PGE utility lines). At minimum, provide at least a planning level estimate of line length, location, number of poles, likely vegetation removal, and the one place where they think PG&E will cross the Eel River - need to see more detail on. The "induced growth" part of the ISMND will have to reflect the sudden availability of grid power on this side of the river for future residential, and commercial cannabis, development.
- The project description does not mention any plans for vegetation removal, but the biological report makes passing reference to removal of apple trees. The number and location of the trees should be detailed in the project description.
- The project description does not specify whether or not any methods that will be used for erosion control. If erosion control is to be used, the project description and mitigation measures should comply with the CDFW's referral request to prohibit the use of monofilament netting around wattles.
- The setbacks from waterways described in the project description should be revised to match the setbacks described in the biological report and to adhere to the setbacks requested in the CDFW referral.
- The slope of greenhouse sites is defined as areas which are relatively flat (<20% slope) in the ISMND, and as less than 5% slope in the biological report. The project descriptions should be revised to match.



Exhibit H

**NRM Response to County Comments on Draft Revised IS/MND, dated
Jan. 22, 2020**



1434 Third Street • Eureka, CA • 95501-0682
707 442-1735 • fax: 707 442-8823
Email: nrm@nrmcorp.com
Web: www.nrmcorp.com

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12536

January 22, 2020

County of Humboldt
Planning and Building Department Cannabis Services Division
3015 H Street
Eureka, CA 95501
Phone: 707-445-7541



Dear Megan Ryan,

The following pages comprise the NRM response (in green) to your letter, dated February 21, 2019, and addressed to Mr. Andrew Machata. The letter consisted of your review of the Initial Study of Rolling Meadow Ranch LLC submitted by NRM on December 21, 2018.

NRM has attempted to address each concern raised by the County of Humboldt and described in the February letter to Mr. Machata. In conjunction with this response, NRM is submitting a revised Initial Study for Rolling Meadow Ranch LLC. Page numbers and descriptions in the NRM response are taken from and refer to the Revised, January 2020 Initial Study.

Sincerely,

Breeanna Kalson
Environmental Planner
Natural Resources Management Corporation
bkalsen@nrmcorp.com





COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT CANNABIS
SERVICES DIVISION

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

February 21, 2019

Mr. Andrew Machata
3060 Airport West Drive
Vero Beach, FL 32960

Sent via email

RE: Permit Application No.: 12529
APNs: 217-022-004 et al
Case Numbers: CUP 16-720 et al

Permit Application No.: 12536 APN:
211-281-0016
Case Number: CUP 6-726

Dear Mr. Machata:

Thank you for the revised draft Initial Study (IS) for the Rolling Meadows Ranch project received on December 21, 2018. A review of the IS found that the project as proposed does not meet the requirements of the Humboldt County Commercial Medical Land Use Ordinance (CMMLUO) and there is a lack of sufficient detail provided in the draft IS for the Humboldt County Planning Department to determine that the proposed project is Less Than Significant with Mitigation and, unless additional information is provided, an Environmental Impact Report (EIR) is required for the Rolling Meadow Ranch project.

Ordinance No. 2559 - Commercial Medical Marijuana Land Use Ordinance (CMMLUO)

The Humboldt County Commercial Medical Land Use Ordinance (CMMLUO) Section 55.4.8.2. I Approvals for New Outdoor and Mixed-Light Cultivation Areas requires the following criteria for new cultivation:

"...on slopes of 15% or less, and with documented current water right or other non- diversionary source of irrigation water (e.g., municipal, public utility, or permitted well), subject to the conditions and limitations set forth in this section. The cultivation area shall be located on the Prime Agricultural Soils on the parcel and no more than 20% of the area of Prime Agricultural soils on the parcel may be permitted for commercial medical marijuana cultivation "

Based on the Humboldt County WebGIS, slopes at proposed project location are variable ranging from less than 15% to over 50%. A review of the draft Initial Study (IS) received on December 21, 2018, found that cultivation areas are proposed on slopes over 15% in slope. The draft Initial Study, Geology and Soils, Page 81, states that "over half of the proposed greenhouses are located on slopes less than 15%. The other greenhouses will be located on slopes less than 30%." Both Figures 18a and 18b show the greenhouses proposed on slopes over 15%.

The project will limit cultivation to areas that are 15% slope or lower. Lidar maps are available in Appendix A and Figures 8.-12. Discussion is available in Geology and Soils, subsection 'Setting,' p. 135.

Draft IS, Agriculture and Forest Resources Section, Page 22, states " the proposed greenhouses are partially located on prime agricultural soils... " The CMMLUO requires new cultivation to be located on prime agricultural soils and no more than 20% of the area of prime agricultural soils on the parcel may be permitted for cannabis cultivation. The location of the proposed greenhouses will need to be revised so the cultivation areas are located entirely within the prime agricultural soils.

The project will limit cultivation area to 20%. Discussion is available in Agricultural and Forestry Resources, subsection 'Setting,' p. 46-47.

"Dirty Business determined that, in total, Parcel 1 (combining Tracks 1, 2, 3, 4) has 1,257,468 square feet of prime agricultural soil. . . . Twenty percent of the total prime agricultural square footage results in 251,493 square feet of usable area (See Prime Agricultural Soil Worksheet, Appendix G). The total proposed square footage for all cannabis facility space (Facilities #1-#16 combined) is 268,128 square feet (6.16 acres). The total area dedicated to cannabis cultivation (factors out areas, like pathways, that are within the greenhouse but are not planted) will be approximately 245,961 sq. ft. This complies with Humboldt County's CCLUO no. 2559 as the total area of prime agricultural soil that will be used for cannabis cultivation will be less than 20% of the total prime agricultural soil available on Parcel 1.

Initial Study

At this time there is insufficient evidence to determine if the project has the potential to change the environment thus adversely affecting the habitat of State and Federally listed species. The bar for requiring an Environmental Impact Report (EIR) is whether a fair argument of a potentially significant impact exists. This document does nothing to present evidence on the record that there is not the potential of a significant impact or that a potentially significant impact has been identified and can be mitigated to a less than significant level. This document will require substantial revision in order to adequately assess whether or not there are potentially significant impacts associated with the construction and operation of the project. Alternatively, you may choose to prepare an EIR if the impacts of the proposed project cannot be mitigated to a less than significant level.

The following sections provide specific details requesting additional information to continue evaluation on this project, including a description of the items required for the site plan:

Project Description

- Access is stated as "off Mccann Road." However, in the *Public Services* section of the Initial Study, Page 110, states that, if Mccann Road is not accessible, employees would be evacuated north to Alderpoint Road. The project description should be updated to include all existing and proposed accesses to the subject parcel. Also, please include the improvements required for the Alderpoint Road access to utilize this route as secondary access;

As per the updated project description the Alder Point access is being repaired and brought up to current standards for ongoing ranch and timber operations. This will happen regardless of the results of the Cannabis permit. Any impacts from this road maintenance are not therefore attributable to the cannabis permit. The road does exist (as part of baseline) and therefore should be able to be used as secondary access.

- State specific date range (e.g. October 15 - March 31) for site closure prior to installation of a permanent bridge at Mccann. Describe winterization activities and site security measures when no one is on site. Describe number of people accessing the site in the off season, if any, and how the person (people) will access the site;

Info regarding winter site closure has been added in project description, subheading 'Water Quality,' page

14 and Hydro/Water quality section -discussion, part a), p.150

- The project description states generators will only be utilized in case of power failure for basic security requirements. However, in the Air Quality section, it states generators will be used to power water pumps and security lighting throughout the operation. Please clarify the use of generators; Generators are for use only when there is a fire and the electricity is out. They will then be used only to run the water pumps to fight the fire. See Generator section of Project Description, p. 12.
- Describe the hydrological connectivity of the wells proposed for irrigation use; Found in Hydrology and Water Quality section, Discussion, part b), p.151.
- Noise is not described in the Project Description; A Noise subheading has been added to Project Description see page 13.
- The project description should be updated to reflect the additional information and revised mapping submitted on February 18, 2019. It has been updated to reflect all the changes this past year.

Aesthetics

- Provide 3D Visual Assessment of impacted views. Portion of Eel River used recreationally in addition to neighboring properties across the river; viewshed analysis of the greenhouses – p.40, 41
- Specific details regarding lighting - number of lights (per structure and location), bulb types, wattage; Page 42, subsection d): high powered sodium lamps.
- Description of how black out traps will be operated - including automation, timing, etc. and what is the back-up plan if the automation is not functioning properly; Black out tarps have a backup plan per a conversation with manufacturer and other greenhouse owners. p.41
- Temporary/construction lighting not described; and No temporary or construction lighting- Discussed in project description, subheading 'Construction Phase,' p. 11.
- Discuss measures for the impacts associated with the security lighting. Security lighting described on p.41 and in subsection d), p.42

Agriculture and Forest Resources

- Prime agricultural soils were tested and mapped on the property. The IS states 30 locations were identified, however, the area of prime agriculture soils (square feet or acres) is not discussed; The project will limit cultivation area to 20%. Discussion is available in Agricultural and Forestry Resources, subsection 'Setting,' p. 46-47.
- Timber removal (18 trees) is not allowed for new cultivation pursuant to the CMMLUO; and New facility locations will remove 3 trees (Table 1., p.74) – 3:1 mitigation proposed: p.50
- No discussion of THP operations on the subject parcel and how uses will interact. THP operations are theoretical. No interaction anticipated apart from traffic are anticipated. Radio contact with electric bus will eliminate potential for negative traffic interactions. Discussion in Transportation, subsection c), pages 177.

Air Quality

- Volume of water required for dust suppression not quantified nor is it clear if sufficient water supply exists to mitigate for fugitive dust and support cannabis cultivation;
Volume of water required for dust suppression is quantified. Utilities and Service systems, subsection b), page 183.
- Frequency of road and stockpile watering not described;
construction Phase road and stockpile watering is described. Air Quality, subsection a-b), page 52-53.

The roads will be sprayed between one and three times a day depending on meteorological conditions (i.e.: fog, rain, high temperatures, etc.). Stockpiles will be sprayed 15 minutes before anticipated use and covered when not in use and if conditions are windy. The water trucks will also spray any grading sites, dry spoils piles and gravel piles during the grading stage that may contribute fugitive dust. All trucks carrying materials (gravel) onto or through the project site will be covered or sprayed with water to avoid materials becoming airborne. The dirt roads will be rocked with clean road rock to further reduce airborne particulate. The project will employ BMPs for limiting track out of soil onto graveled roads and protect sites from wind erosion on windy days by selecting protected work sites or limiting work.

- The applicant is proposing to use lignin sulfonate to oil roads. Chemical makeup, quantity and frequency of use regarding lignin sulfonate not described. This section nor the Biological Resources or Hydrology sections discuss the effect on biological resources, run-off potential and impacts to watercourses.
Lignin sulfonate has been removed – deemed unnecessary. Clean gravel, a conservative speed limit (15mph) and reduced traffic (bus and not individual) will be adequate for dust control. See Air Quality, subsection b), p. 54.
- The applicant may consider proposing off-site mitigation, such as paving an area with higher fugitive dust emissions as mitigation for any increases in emissions resulting from the proposed project;
Clean gravel, a conservative speed limit (15mph) and reduced traffic (bus and not individual) will be adequate for dust control. See Air Quality, subsection b), p. 54.
- Maintenance of the Alderpoint Road (secondary/emergency access) not discussed;
As per the updated project description the Alder Point access is being repaired and brought up to current standards for ongoing ranch and timber operations. This will happen regardless of the results of the Cannabis permit. Any impacts from this road maintenance are not therefore attributable to the cannabis permit. The road does exist (as part of baseline) and therefore should be able to be used as secondary access.
The road will be evaluated and upgraded to FireSafe; all stream crossings and bridge repairs will be included in CDFW LSA application.
- The report states, "Operational emissions will also include the use of five 45KW Generac emergency generators to power the water pumps and security lighting..." The emissions from these generators is not quantified:
See Air Quality subsection a-b), p. 53.
Each processing building will have a 45 kilowatt, Generac propane emergency generator that will be used in fire emergencies to run water pumps for fire suppression. These generators are only for emergency use. To keep the generators ready for operation in case of an emergency, the generators will perform a periodic "exercise." In the "exercise mode," as described in the

generator specification sheet (Appendix I), the amount of fuel burned over one year would be only 1.5 gallons of propane. If there is no fire, and the generators only run in exercise mode (as described in the Project Description), then each generator will only burn 1.5 gallons a year; that is 7.5 gallons a year for all five generators. For perspective, a typical gas grill comes with a 20lb tank, which is about 4.7 gallons of propane. . . . The NCUAQMD's review concluded (May 2019) that "an air quality permit is not required for the five emergency standby propane fueled generators detailed in [the] application." The NCUAQMD application and response is available in Appendix I.

- Provide a statement from the North Coast Air Quality Management District that they are not concerned about emissions from propane generators;
A letter has been issued. The NCUAQMD does not find their potential emissions significant. Appendix I.
- Vehicle trips and car and fugitive dust emissions for construction phases not quantified; and Fugitive dust emissions for construction is qualified (less than significant) and discussed in Air Quality, p.52 -- compliance with the North Coast Unified Air Quality Management District (NCUAQMD) Rule 104, Section C will result in a less than significant impact from construction related fugitive dust.
Vehicle trips and resulting emissions for Construction are quantified in GHG, subsection a), p. 142, Table 12.
- Page 27 states rural residences and the Northern Spotted Owl are sensitive receptors and concludes the impacts on rural residents and recreationalists are not significant, however, potential impacts to Northern Spotted Owl are not described.
Owl removed from AIR Quality section discussion. See Biological Resources, Effects on Sensitive Wildlife subsection: p.67-108.

Biological Resources

- Page 37 states vegetative species could be impacted through vegetation removal and grading. The significance of this potential impact is not defined;
Language was confusing, purpose was just to talk about the two different phases of the project (construction and then operations). Potential impacts are defined later in the section. Language has been edited to be clearer. See Discussion – Effect on Sensitive Vegetation, p.59.
- Page 37 states wildlife species could be impacted through habitat removal and construction related noise and activity. The significance of this potential impact is not defined;
Language was confusing, purpose was just to talk about the two different phases of the project (construction and then operations). Potential impacts are defined later in the section. Language has been edited to be clearer. See Discussion – Effect on Sensitive Wildlife: p.67.
- Wildlife assessment states there is no suitable habitat of several listed fish species, while the Hydrology and Water Quality section state Class I and Class II streams are located in the project vicinity and there is potential to increase sediment to tributaries of the Eel River. Specially two creeks that are tributaries to the Eel River, Beatty Creek and Cameron Creek, are fish-bearing streams. No analysis regarding special status fish species, habitat or potential effects of the project is described.

There is no suitable habitat within the project impact areas for any fish species. As described in the IS the Project is following both the Water Board and the County SMA setbacks. The water quality section states "The project will not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality". the Proper BMPs for the construction phase which will be covered un the General Construction Permit from water quality and enrollment in water

qualities cannabis order will ensure sediment does not reach water courses. See Biological Resources, p. 108, 'Discussion – Effect on riparian and other sensitive natural communities.' Also see Hydrology and Water Quality, subsection a), p.95.

- Page 40 states 20 acres will be directly impacted by the project footprint and the footprint will be no longer available as habitat. This may be considered a significant impact.
Footprint impacts on Habitat is analyzed by species. Level of Significance was determined by considering for each individual species: the quality of the current habitat, the probable use of that habitat and the amount of like habitat available in the area.
- According to Page 40, noise levels during the construction phase will exceed 60 dBA at 50 feet for all sound sources and does not reach levels under 60 dBA until 1000 feet away. There is no rationale provided to describe why short term construction (8 - 12 weeks) are considered less than significant impacts. This may be considered a significant impact.
See new analysis, short term impacts to do not permanently remove any habitat. Also baseline at this site includes timber operation and road noise, both very similar to the construction noise. See Construction Phase noise analysis in 'Effect on Sensitive Wildlife' p.71-72.
- Provide additional information regarding lighting and failure of automated systems.
Added, can be found on Page 72
- Noise levels described on Pages 41 - 43 may be considered a significant impact on listed species.
Project has changed the type of fans it will use and as a result fan noise has been reduced, see new analysis of Project Operations, "noise;" begins on p.73.

- **Golden Eagle**

Analysis/Discussion of Golden Eagle p.94-97.

- Page 55 states a Golden Eagle was observed during the final survey on July 16, 2018, however, no follow-up surveys were conducted. Additional surveys are required to determine the presence of Golden Eagles at the site;
A second year of eagle surveys was done in 2019.
- No scientific studies or Golden Eagle expert findings were discussed in this section. For example, Page 55, states it is assumed nesting habitat occurs in the same general area as foraging habitat, however, no information is provided to substantiate the accuracy of this information;
Potential for occurrence, page 95
- Mitigation Measure (MM) 6 states if a Golden Eagle nest is found, a 500-foot no work buffer will be flagged around the nest. There is no supporting documentation to suggest that 500 feet is an acceptable distance to ensure the noise from the construction will have a less than significant impact on Golden Eagles.
500 ft is what we have traditionally seen on Raptors nests, However we changed it to: "If construction takes place during the nesting season, then preconstruction surveys for golden eagle nests will occur in the more densely forested areas that occur within 1000 feet of facilities #7-#9. If a nest is found, CDFW will be contacted and the agency will determine the appropriate no work buffer to remain around the nest until it has fledged. This is standard practice and often CDFW considers specific local factors when making buffer size decisions. In the past when working with CDFW on road construction projects a buffer of 500 feet has been placed on active raptor nests. If work takes place outside of the nesting season, no surveys

are necessary." P.96, short term project impacts determination.

- **Northern Spotted Owl**

NSO discussion/analysis on pages 79-83

- o There are four (4) Activity Centers located within 1.3 miles project area, which may cause a significant impact;

We attempted to clearly lay out the following in the IS (we have updated the language to try and clarify.)

- 1) no habitat removal so NSO will not be impacted by losing habitat.
- 2) Noise disturbance could potentially impact NSO but All ACs are at distances that standard protocol says they would not be impacted by project noise (Attachments A and B and USFWS 2006 guidance)
- 3) No closer ACS were found in two years of surveys.
- 4) NSO may forage in the forested areas around the projects. However, noise at the edge of foraging habitat will be less than 50dB (47 dB at 20 feet from greenhouses).
- 5) the vast majority of the ranch will remain undisturbed habitat.

All of this taken together shows the project will not significantly impact NSO.

- o Closest AC is 3,168 feet from a proposed cultivation site. There is not sufficient detail to substantiate this claim that is an acceptable distance for no impacts to occur;
As discussed in the IS, Take Avoidance, i.e. no significant impacts to NSO, are outlined in the survey protocol for NSO Activity Centers in interior habitat (US Fish and Wildlife Service, Revised 2012 and attachment A and B). These were used to establish thresholds for NSO. Logging noise (equal to construction and greater than ongoing cannabis operations) is not considered to impact NSO if it is more than 1320 ft from an AC. Therefore, an AC that is more than twice that distance away would not be impacted by the project.
- o Foraging habitat within 50 feet of Tract 2/3, a loss of foraging habitat may be considered a significant impact on NSO;
Attachment B of the NSO Protocol clearly lays out how much foraging area is needed around an AC to avoid impacts. Amount required is 250 acres nest roost and 1085 acres foraging habitat and no more the 1/3 the remaining habitat can be removed. As you can see in Table 10 (page 80), between 1667 and 2417 acres of foraging or higher quality habitat exists around the known ACs. With the new fans no foraging habitat will be impacted.
- o "Noise could also make potential habitat in the vicinity of the project unusable (Page 44). This may be considered a significant impact on NSO. Noise setting, impacts and mitigation should describe the extent noise travels, not only in the immediate vicinity of the project;
See new noise analysis in biological section and NSO analysis on p.81 and p.82
- o "The construction could impact NSO." (Page45);
This is an introduction to the issue and a set up for the issue to be included in the analysis.. If you read further you will come to the conclusion - which is that construction will not impact NSO.
- o Direct and indirect impacts to Northern Spotted Owl are not adequately addressed. The report states that if no AC's are located within 0.25 miles than no impacts will occur (Page 45). There is not sufficient detail to substantiate this claim that 0.25 miles is an acceptable distance for no impacts to occur;
These details were given and the come from both the NSO protocol and the 2006 USFWS paper regarding noise and NSO. 0.25 miles is absolutely the accepted distance at which no impacts occur. The County has similar analysis and comes to the same conclusion in its own EIR for ordinance 2. Oddly though a 50dB threshold is found in the ordinance itself. Nowhere could we find the

justification for where that 50dB comes from.

- o Long term potential impacts are not analyzed.
We are unclear it what is meant by this... there will be no long or short term impacts to NSO.
- Cumulative Impacts
p.83
 - o Page 65 states the project will not effect riparian habitat. While the Humboldt County General Plan requires a minimum setback of 100 feet from the stream transition line, The State Water Resources Control Board Cannabis Cultivation Policy requires a 150-foot setback from streams. (This is incorrect, it is 150 from class 1, 100 form class II and 50 form class III) Describe how the project will conform to both State and local regulations governing cannabis cultivation; and This is described on page 108-111. Here maps (figure 35-38) can be found showing stream setbacks
 - o Figure 15 shows a corner of a greenhouse in the Streamside Management Area.
See above answer
- Mitigation Measures
 - o There is a lack of information provided to demonstrate that 0.25-miles is an acceptable buffer between NSO Activity Centers and on-going construction. This is not acceptable mitigation and may be considered a significant impact on NSO.
See above answer to this same comment.
 - o It appears many of the mitigation measures establish a 500-foot no work buffer will be established if certain species (e.g. Sharp-skinned hawks, American peregrine falcon, etc.) are detected and maintained during construction. There is no evidence provided to substantiate why 500 feet is an acceptable buffer area is. Additionally, adequate evidence describing the effect (or lack of) on species with the 500-foot buffer is provided;
We have altered this. See comment below.
 - o Consulting with CDFW to determine next steps or appropriate protective buffers for Fishers is not adequate mitigation;
Most of the "mitigation measures" are really the traditional preconstruction surveys that would be part of any construction project. As I have stated above CDFW often tailors the buffers based on site factors at the time the specie is found. I don't think CDFW will give us the buffer they want until we can give them the specifics of the individual animal found. And we can't do that until we get to the pre-construction phase. We put these pre-construction surveys as mitigation measure because then they are legally binding... We could however have them just be part of the project description. This would be up to the County.
 - o The potential effects on Townsend's big-eared bats on removing the barn is not discussed;
This is addressed on page 101-102, short term project impacts – construction
 - o The proposed mitigation for Western pond turtles is inadequate. No buffer is provided and there is no description of how Western pond turtles will be surveyed outside of the nesting season. See comment above about mitigation measures. The project is not taking place within the Eel or its riparian so the only time the project could impact western pond turtle is when they are nesting. Surveys outside this time would be unnecessary.

Energy

The CEQA checklist was updated in 2019 to include review of energy use for the proposed project. This section covers wasteful energy consumption and conflicts with State or local

energy efficiency plans. The draft IS needs to be updated to include this analysis.
Checklist has been updated: p.125

Geology/Soils

- Amount of prime agriculture soil on subject parcels not quantified;
Discussed in Ag/Forestry section and again as soils summary p.46-47
- Figure 18a shows at least one greenhouse proposed for construction on slopes more than 15%;
- Figure 18b shows all greenhouses proposed for construction on slopes more than 15%;
- Soils in both Tracts 1/4 and 2/3 are described as occurring on slopes 15 - 30%;
Slopes for all Greenhouses and processing buildings are provided; liDAR imagery from third party investigation and discussion. Page 134
Greenhouses will be constructed on slopes less than 15%
- No proposed grading plans are prepared that quantify cut and fill in cubic yards;
- Locations of proposed grading for site development, including greenhouses, processing facilities and road improvements not described or mapped; and
Visual Assessment from Oscar Larson included in Appendix B and referenced in this section, p. 135. All cut/fill can be balanced.
- No site suitability reports for placement of Onsite Wastewater Treatment Systems (OWTSs) provided.
Soil analysis by Dirty Business and Web soil Survey data (HumGIS) show surface soil as sandy loam (average) – sandy loam is an ideal soil type for standard onsite wastewater treatment systems. See p.181, Utilities and Service Systems.

Hydrology/Water Quality

- The proposal does not sufficiently analyze the quantity of water storage required to support the proposed cultivation if the wells are hydraulically connected to surface waters. Due to the lack of detail regarding well productivity and recharge rates, staff is unable to determine if sufficient water supply exists to support the proposed project
The question of sufficient water is discussed in the project description and in Hydrology and Water Quality, subsection b), p. 151.
- Oil for dust mitigation for roads (6 miles) proposed. Lack sufficient detail to determine effect of run-off from the oil.
Oil has been stricken from project design.

Page 93 - The Initial Study states that instream work related to stream crossing improvements may contribute a temporary input to the sediment of the tributaries of the Eel River. This impact is not quantified; therefore, it cannot be determined if mitigation is required.

The inputs are qualified – as generally acceptable trade off for the long term benefit of the repair. The inputs will be quantified as part of the LSA 1600 application for CDFW and the 401 permit that is managed by the NCRWQCB. The improvements to the crossings on the site will ultimately be at the discretion of CDFW.

Page 150

- Page 94 - Potential sources of water quality degradation are discussed (storm water run-off, roads, greenhouses and irrigation run-off). The values are not quantified. Although BMPs are proposed to be used and obtaining agency permits - specific details on how the objective will be achieved is lacking.

Engineered grading plans will be prepared and submitted to the county when the applicant has received approval of the project. The grading plans will include a Storm Water Protection Plan (SWPP) and specific detail of how water quality will be protected at this site. Section a) Page 150-151

Noise

- Pages 103 states the project will rely on PGE during normal operations while other sections of the document state generators will operate security lighting and water pumps. Please clarify; The language has been updated for clarification: the generators are to be used in fire emergencies only. In a fire emergency where the projected has not electrical power, the generators will run emergency water pumps for fire suppression. They will not run lights or irrigation pumps at any time. P.161
- Page 103 - "Infrequent and unpredictable noise when emergency Generac 45KW propane generators are in used." Noise impacts should be quantified; Setting, Generator section, Table 13, p.161
- Page 104 - "A Schaefer 54" Galvanized Light Trap Box Exhaust Fan is rated at 70 db at 25 feet. Each greenhouse would need 5 of these fans." No additional sound measurements provided nor is this impact described cumulatively; .
- Potential impacts associated with emergency power outages are not discussed;
- Page 105 - Noise levels for ongoing project operations 75.8 @ 100 feet (Tract 2/3);
- Additional noise information was submitted on February 18, 2019. The information and impacts should be analyzed using the new information submitted; New QuietAire fans are analyzed.
- Noise levels and sensitive receptors for noise at Tract 1 / 4 is not analyzed; p.163:
The conclusions made in this section about the nearest neighbor at 800-feet across the river should be applied to all property line neighbors as this nearest neighbor scenario is the scenario that describes the largest possible impact.
- Impacts on all sensitive noise receptors, including wildlife species are not described. Alternatively, you may refer to other sections where this information may be listed.
Noise impacts on sensitive receptors will be less than significant. Addressed in Bio section.
- No description or quantification of noise impacts beyond the cultivation sites. For example, what are noise contours, how far could noise travel beyond the project location and how those impacts would be mitigated to a Less Than Significant Level.
Adequate extrapolation of sound attenuation in Tables #14 &15

Public Services

- Page 109, Fire Protection, states, "During the winter when the Mccann Bridge the project will not operate, It will only be operated year-round once the year-round bridge is completed on Mccann Road." Please revise accordingly. The sentence appears to be incomplete.
Noted and corrected.

Transportation

- The *Public Services* section of the Initial Study, Page 110, states that, if Mccann Road is not accessible, employees would be evacuated north to Alderpoint Road. The use of Alderpoint Road is not discussed in this section.
As per the updated project description the Alder Point access is being repaired and brought up

to current standards for ongoing ranch and timber operations. This will happen regardless of the results of the Cannabis permit. Any impacts from this road maintenance are not therefore attributable to the cannabis permit. The road does exist (as part of baseline) and therefore should be able to be used as secondary access.

- Road improvements to meet CAL FIRE Firesafe standards are not describe nor is the amount of earthwork and importation of materials quantified;
See Project Description -Roads and Access, p.10. Internal Access roads have been upgraded. The project will not import materials for building, the cut and fill will be balanced on site (appendix B); the rock comes from onsite borrows – See borrow locations in Figure 14,p.28,
- Page 115 states the applicant believes the majority of road improvements will take place within the road prism, however, there is no determination of how much work is required outside the road prism, what those activities or how importation of equipment and materials will effect transportation; and
Road improvements have been made – see comment above. The transportation section has been updated to include estimates for construction truck traffic (concrete and materials) p.196.
- Construction description and earthwork quantities for the new parking areas are not described. Parking areas will be graded and graveled. The gravel is from onsite borrows. The grading will take place concurrently with greenhouse and processing building flats. Parking areas delineated on Plot Plans. Figures 8-12 and 14.

Wildfire

The CEQA checklist was updated in 2019 to include review of wildfire hazards for lands located near or within State Responsibility Areas (SRA) for fire protection. The draft IS needs to be updated to include this analysis.

Section has been added. P.186

Site Plan Revisions


After review of the most recent site plans, additional information is required to further evaluate the proposed project. Please submit a revised site plan with the following information:

- Show areas of parcel zoned Agriculture Exclusive (AE) and areas zoned Timberland Production (TPZ);
- Setbacks of proposed cultivation areas to property lines;
- Primary and secondary (emergency) property access;
 - Existing and proposed roads, including roads required to connect proposed structures;
- All perennial & intermittent water courses (rivers, creeks, etc.) and/or wetland areas. Include buffers as defined by Chapter 10.3 *Biological Resources* of the Humboldt County General Plan 2017, setback distances from proposed cultivation areas, structures and property lines;
- Driveway, turnouts, and turnaround areas (indicate width, steepness, and type of roadway surface, include any required SRA turnouts; label as existing or proposed);
- Proposed utility lines (electric) and extent of vegetation to be removed to accommodate installation of utility lines;
- Proposed location and capacity of water storage structures;
 - Water infrastructure dedicated to fire suppression per CAL FIRE requirements (e.g. tanks);
- Borrow pit locations;
- Show all existing and propose stream crossings (20 stream crossings and 1 bridge per the project description);
- Parking and loading areas for employees entering site and for each processing location (show individual parking spaces, including handicapped parking and ramps);
- Hazardous materials storage (as applicable);
- Propane storage tanks.
- Generator and fuel storage location.
- Regulated substances (fertilizers, pesticides, and herbicides) storage location.
- Hazardous areas (indicate on map if the project site has the following, or is located within four hundred feet (400') of the following):
- Areas subject to inundation or flooding, including showing extent of 100-year flood zone);
- Slopes over 15%;
- Historic landslide are as;
 - Earthquake faults.
- Topographic mapping;
- Delineation of proposed or existing grading, graded flats, and fill in estimated cubic yards of volume;
 - Signs (indicate size, illuminated, and design); and
- Landscaped areas (include proposed exterior lighting).

Please note: Any revisions to the project will require the cultivation and operations plan to be revised to be consistent with the Initial Study and site mapping.

If you have any questions or need any additional information, please contact me at (707) 445-7541 or mryan2@c.o.humboldt.ca.us.

Cordially,



Meghan Ryan

Senior Planner Cannabis Services

Exhibit I

**Letter from CDFW re Draft LSAA required Mattole River Cannabis
Project**





State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
619 Second Street
Eureka, California 95501
(707) 445-6493
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 5, 2019

Dejan Petrusevski
730 7th Street Suite C
Eureka, CA 95501
707-683-6686
Hsom16@hotmail.com



Subject: Draft Lake or Streambed Alteration Agreement
Notification No. 1600-2018-0795-R1
Petrusevski Water Diversion and Stream Crossing Project

Dear Dejan Petrusevski:

The California Department of Fish and Wildlife (Department) has determined that your project requires a Lake or Streambed Alteration Agreement (Agreement) because it could substantially adversely affect an existing fish or wildlife resource. Enclosed is a draft Agreement that includes measures the Department has determined are necessary to protect existing fish and wildlife resources.

Within 30 days of receipt of this draft Agreement, you must notify the Department in writing whether the measures to protect fish and wildlife resources are acceptable (Fish and Game Code section 1603). If you agree with the measures set forth in the draft Agreement, you or your authorized representative **must return the draft Agreement with original signature to the above address.**

If you disagree with any measures in the draft Agreement, please contact the Department staff identified below. In the event that mutual agreement is not reached, you may follow the dispute resolution process described in Fish and Game Code section 1603(a), Part III of the "Notification Instructions and Process." If you fail to respond in writing within 90 days of receiving the draft Agreement, the Department may withdraw the draft Agreement.

After you receive a final Agreement executed by the Department, you may only begin the project the Agreement authorizes provided you have obtained all other necessary local, state, and federal permits or other authorizations.

For more information on the process described above, please refer to Part IV in the "Notification Instructions and Process" included with your notification materials, which is also available at <https://www.wildlife.ca.gov/Conservation/LSA/Notify-CDFW>.

Conserving California's Wildlife Since 1870

Please be advised the Department may not execute the Agreement until it has complied with the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 *et seq.*) as the lead or a responsible agency. Please note that the draft Agreement may be subject to change upon receipt and review of the environmental document for the overall project and that the Department may have additional comments or concerns during the CEQA review process.

This Agreement only covers projects subject to Fish and Game Code sections 1600 *et seq.*, but there may be other aspects of the overall development project that invoke the Department's role as trustee and responsible agency under CEQA. Therefore, the Department may submit additional comments, requests for information, and recommend requirements for mitigation or monitoring in order to avoid significant impacts to fish and wildlife or their habitat. Furthermore, this Agreement does not authorize "take" of any state or federal listed threatened, endangered, or candidate species. No direct or indirect impacts shall occur to any threatened or endangered species as a result of implementing the project or the project's activities. If the project could result in the "take" of a state listed threatened or endangered species, the Permittee has the responsibility to obtain an Incidental Take Permit from the Department, as required by the California Endangered Species Act.

If you have any questions regarding this letter, please contact Environmental Scientist Cheri Sanville at cheri.sanville@wildlife.ca.gov.

Sincerely,



Cheri Sanville
Senior Environmental Scientist Supervisor

Ec:

Chris Carroll
Timberland Resource Consultants
carroll@timberlandresource.com

North Coast Regional Water Quality Control Board
NorthCoast.Cannabis@Waterboards.ca.gov

State Water Resources Control Board, Division of Water Rights
cannabisreg@waterboards.ca.gov, Stormer.Feiler@waterboards.ca.gov

Humboldt County Planning and Building Department
Cliff Johnson, CJohnson@co.humboldt.ca.us

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
REGION 1 – NORTHERN REGION
619 Second Street
Eureka, CA 95501



STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. 1600-2018-0795-R1
Unnamed Tributary to the Mattole River and the Pacific Ocean

Dejan Petrusevski
Petrusevski Water Diversion and Stream Crossings Project
2 Encroachments

This Lake or Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Dejan Petrusevski (Permittee).

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on December 14, 2018 and revised on July 08, 2019 that the Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, the Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, the Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project to be completed is located within the Mattole River watershed, approximately 1.7 miles SW of the town of Whitethorn, County of Humboldt, State of California. The project is located in Section 6, T05S, R02E, Humboldt Base and Meridian; in the Briceland U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel Number 108-161-034; latitude 40.0591 N and longitude -123.9814 W at the point of diversion (POD).

PROJECT DESCRIPTION

The project is limited to two encroachments (Table 1). One encroachment is for water diversion from the Mattole River. Water is diverted for domestic use and irrigation. Work for the water diversion will include use and maintenance of the water diversion infrastructure. The other proposed encroachment is to upgrade a failing and undersized

culvert. Work for this encroachment will include excavation, removal of the failing culvert, replacement with new properly sized culvert, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion.

No other projects that may be subject to FGC section 1602 were disclosed. This Agreement does not retroactively permit any ponds, stream crossings, water diversions, reductions in riparian buffers or other encroachments not described in Table 1.

Table 1. Project Encroachments with Description

| ID | Latitude/Longitude | Description |
|------------|--------------------|--|
| Crossing-2 | 40.0592, -123.9804 | Replace undersized 30" diameter culvert with minimum 48" diameter culvert. |
| POD-1 | 40.0563, -123.9797 | Use and maintenance of water diversion infrastructure in accordance with the measures in this Agreement. |

Table 2. Points of Disclosure that are Not covered under this Agreement and may require separate Notification

| ID | Latitude/Longitude | Description |
|------------|--------------------|---|
| Crossing-1 | 40.0583, -123.9802 | Existing 7-foot diameter by 50-foot long CMP culvert crossing on potential Class I tributary to Mattole River. The Notification states the crossing is functioning correctly, properly sized, is not perched and on 4% grade and does not appear to be a barrier to fish. This Agreement does not authorize any maintenance, repair or replacement of this crossing. When work is warranted this crossing shall be fully evaluated for compliance with FGC section 5901 – It is unlawful to construct or maintain in any stream any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish (wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn or ovum of any of those animals) up and down stream). |
| Pond | 40.0609, -123.9817 | Notification describes a rain catchment pond used for commercial irrigation. CDFW has not conducted a site inspection to verify the pond is not hydrologically connected and does not pose a risk to downstream resources. |

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), Western Brook Lamprey (*Lampetra richardsoni*), Pacific Lamprey (*Entosphenus tridentatus*), Southern Torrent Salamander (*Rhyacotriton variegatus*), 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.

The adverse effects the project could have on the fish or wildlife resources identified above include:

Impacts to water quality:

increased water temperature;
reduced instream flow;
temporary increase in fine sediment transport;

Impacts to bed, channel, or bank and direct effects on fish, wildlife, and their habitat:

loss or decline of riparian habitat;
direct impacts on benthic organisms;

Impacts to natural flow and effects on habitat structure and process:

cumulative effect when other diversions on the same stream are considered;
diversion of flow from activity site;
direct and/or incidental take;
indirect impacts;
impediment of up- or down-stream migration;
water quality degradation; and
damage to aquatic habitat and function.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

The Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. The Permittee shall notify CDFW if the Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact the Permittee to resolve any conflict.
- 1.4 Project Site Entry. The Permittee agrees to allow CDFW employees access to any property it owns and/or manages for the purpose of inspecting and/or monitoring the activities covered by this Agreement, provided CDFW: a) provides 24 hours

advance notice; and b) allows the Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW enforcement personnel.

- 1.5 Adherence to Existing Authorizations. All water diversion facilities that the Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights.
- 1.6 Other Agency Permitting Requirements. The U.S. Army Corps of Engineers (Corps) has permitting requirements for certain instream projects under Section 404 of the Federal Clean Water Act. If this project features the placement of dredged or fill materials into the channels of streams (below the ordinary high water mark) that are waters of the United States, a permit may be required by the Corps. If your project needs a permit from the Corps, you will also need to obtain a Water Quality Certification pursuant to Section 401 of the Federal Clean Water Act from the Regional Water Quality Control Board (Regional Water Board). In addition, if your project will involve disturbance within or discharges of pollutants to Waters of the State of California, the Regional Water Boards may require a permit, whether or not the Corps requires a permit. If there is any question regarding the possibility of the project meeting the above limitations, the Permittee should contact the Corps and the Regional Water Board prior to beginning work. This Agreement in no way represents permitting requirements by the Corps or the Regional Water Board. It is the responsibility of the Permittee to contact the Corps, and to comply with the provisions of any Section 404 permit issued, if required by the Corps. Similarly, it is the responsibility of the Permittee to contact the Regional Water Board and to comply with the provisions of any Section 401 Certification, Regional Water Board Waste Discharge Requirements or waiver of Waste Discharge Requirements issued by the Regional Water Board.
- 1.7 Change of Conditions and Need to Cease Operations. If conditions arise, or change, in such a manner as to be considered deleterious by CDFW to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information becoming available that indicates bypass flows, diversion rates or other measures provided in this Agreement are not providing adequate protection to keep aquatic life downstream in good condition or to avoid "take" or "incidental take" of federal or State listed species.
- 1.8 CDFW Notification of Work Initiation and Completion. The Permittee shall contact CDFW within the 7-day period preceding the beginning of work permitted by this Agreement. Information to be disclosed shall include Agreement number, and the anticipated start date. Subsequently, the Permittee shall notify CDFW no later than seven (7) days after the project is fully completed. **Notification of completion will include photographs of the completed work, erosion control measures, waste containment and disposal, and a summary of any CNDDB submissions as required below.**

- 1.9 Notification to the California Natural Diversity Database. If any special status species are observed at any time during the project, a qualified Biologist shall submit California Natural Diversity Data Base (CNDDB) forms to the CNDDB within five (5) working days of the sightings. A summary of CNDDB submissions shall be included with the completion notification. Forms and instructions for submissions to the CNDDB may be found at:
<https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data>.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, the Permittee shall implement each measure listed below.

- 2.1 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with Permittee Notification, together with all maps, Best Management Practices (BMPs), photographs, drawings, and other supporting documents submitted with the Notification and received on 12-14-2018 and revised on 07-08-19.
- 2.2 Listed Species. This Agreement does not allow for the take, or incidental take of any state or federal listed threatened, endangered, or candidate species. No direct or indirect impacts shall occur to any threatened or endangered species as a result of implementing the project or the project's activities. If the project could result in the "take" of a state listed threatened or endangered species, the Permittee has the responsibility to obtain from CDFW, a California Endangered Species Act Permit (CESA section 2081).
- 2.3 Foothill Yellow-Legged Frog (FYLF) Avoidance. To avoid take of FYLF during its CESA candidacy period, the Permittee shall:
- A. Conduct a Pre-Construction Survey. Within 3-5 days prior to entering or working at the Project Site, a qualified biologist shall examine the project site to determine the presence/absence of standing or flowing water, and the presence and/or the potential for presence of FYLF adults, juveniles, tadpoles or egg masses within the project area and 150 feet upstream and downstream. Prior to commencing work, Permittee shall provide to CDFW for review preconstruction survey notes and observations.
1. If FYLF are found during the pre-construction survey, Permittee shall:
- a) Consult CDFW immediately by either telephone or e-mail and provide a short description of observations, including a count of individuals and the life stage(s), conditions at the site, and other aquatic species observed; and

- b) Either propose site-specific mitigation measures that will be utilized to avoid take, or obtain an Incidental Take Permit (ITP) if take of FYLF cannot be avoided. Instream work shall not commence until CDFW has provided written approval of the proposed avoidance measures or an ITP has been issued.
- 2. If no FYLFs are found during the pre-construction survey and no surface water is present in the project area, work may commence without further surveys.
- 3. If no FYLFs are found but surface water is present during the pre-construction survey, *or if surface water becomes present at any time during the work period*, a qualified biologist shall survey the work site each day before commencement of work activities where equipment and/or materials may come in contact with FYLFs, streams, or riparian habitat.
- 4. If FYLFs are observed at any time during the construction season, work in the immediate area shall be halted, CDFW immediately consulted, and conservation measures developed and agreed to by CDFW prior to recommencing work.

B. Qualified Biologist. A qualified biologist is an individual who is experienced in construction level biological monitoring, knowledgeable in the biology, natural history, habits and behaviors of the FYLF, and who is able to recognize all age classes of FYLF relative to other amphibians in the project area. A qualified biologist shall have academic and professional experience in biological sciences or resource management activities. At least 15 days prior to commencement of Project-related surveys for FYLFs, Permittee shall provide to CDFW for review and approval the names and qualifications of individuals requesting qualified biologist status.

C. Decontamination. The Permittee is responsible for ensuring all project personnel adhere to the latest version of the Northern Region California Department of Fish and Wildlife Aquatic Invasive Species (AIS) Decontamination Protocol for all field gear and equipment that will be in contact with water or FYLFs. Heavy equipment and other motorized or mechanized equipment that comes in contact with water should generally follow watercraft decontamination protocols found in the AIS Decontamination Protocol.

D. Night Lighting and Water Drafting. Night lighting and drafting of water (other than what is authorized) is not authorized by this Agreement.

- 2.4 **Nesting Birds.** Actively nesting birds and their nests shall not be disturbed by project activities. If construction, grading, vegetation removal, or other project-related improvements are necessary during the nesting season of protected

raptors and migratory birds (**March 1 through August 15**), the Permittee shall notify CDFW of proposed work and a focused survey for bird nests and/or nesting behavior shall be conducted by a qualified biologist within seven (7) days prior to the beginning of project-related activities. Surveys should encompass the area up to 50 feet from disturbance to account for songbirds, and up to 250 feet from disturbance for raptors. If a nest is found or suspected to be present, Permittee shall consult with CDFW regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and FGC. If a lapse in project-related work of seven (7) days or longer occurs, another focused survey, and if required, consultation with CDFW shall be required before project work can be reinitiated.

Project Timing

- 2.5 Work Period. All work, not including diversion of water, shall be confined to the period **June 15 through October 15** of each year. Work within the active channel of a stream shall be restricted to periods of **dry weather**. Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Construction activities shall cease and all necessary erosion control measures shall be implemented prior to the onset of precipitation.
- 2.6 Extension of the Work Period. If weather conditions permit, and the Permittee wishes to extend the work period after October 15, a written request shall be made to CDFW **at least 10-working days before the proposed work period variance**. Written approval (letter or e-mail) for the proposed time extension must be received from CDFW prior to activities continuing past October 15.
- 2.7 Work Completion. The proposed work shall be completed by no later than **October 15, 2020**. Failure to complete work by this date may result in suspension or revocation of this Agreement. A notice of completed work, including photographs of each site, shall be submitted to CDFW within seven (7) days of project completion.

Vegetation Management

- 2.8 Minimum Vegetation Removal. No native riparian vegetation shall be removed from the bank of the stream, except where authorized by CDFW. Permittee shall limit the disturbance or removal of native vegetation to the minimum necessary to achieve design guidelines and standards for the Authorized Activity. Permittee shall take precautions to avoid damage to vegetation outside the work area.
- 2.9 Vegetation Maintenance. Permittee shall limit vegetation management (e.g., trimming, pruning, or limbing) and removal for the purpose of Authorized Activity to the use of hand tools. Vegetation management shall not include treatment with herbicides.

General Stream Protection Measures

- 2.10 Fish and Aquatic Amphibians. If possible, work shall be conducted when the affected stream channel is void of surface water. If surface water is present during construction, the Permittee shall: a) have a biologist or other qualified professional survey the site and adjacent area for fish, amphibians, and turtles three (3) days or less before commencing project activities and b) if fish, amphibians, or turtles are detected, CDFW will be contacted and work shall not commence until authorized by a CDFW representative.
- 2.11 Stream Protection. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other material deleterious to fish, plant life, mammals or bird life shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the stream.
- 2.12 No Dumping. Permittee shall not deposit, permit to pass into, or place where it can pass into a stream, lake, or other Waters of the State any material deleterious to fish and wildlife, or abandon, dispose of, or throw away within 150 feet of a stream, lake, or other Waters of the State any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.
- 2.13 Maintain Aquatic Life. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, Permittee shall allow sufficient water at all times to pass downstream to maintain aquatic life below the dam pursuant to FGC section 5937.
- 2.14 Maintain Passing of Fish Up and Down Stream. It is unlawful to construct or maintain in any stream any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish (*wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn or ovum of any of those animals*) up and down stream pursuant to FGC section 5901
- 2.15 Equipment Maintenance. Refueling of machinery or heavy equipment, or adding or draining oil, lubricants, coolants or hydraulic fluids shall not take place within stream bed, channel and bank. All such fluids and containers shall be disposed of properly off-site. Heavy equipment used or stored within stream bed, channel and bank shall use drip pans or other devices (e.g., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.
- 2.16 Hazardous Spills. Any material, which could be hazardous or toxic to aquatic life and enters a stream (i.e. a piece of equipment tipping-over in a stream and dumping oil, fuel or hydraulic fluid), the Permittee shall immediately notify the California Emergency Management Agency State Warning Center at 1-800-852-7550, and immediately initiate clean-up activities. CDFW shall be notified by the

Permittee within 24 hours at 707-445-6493 and consulted regarding clean-up procedures.

- 2.17 Clean-up. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the ordinary high water mark before such flows occur or the end of the yearly work period, whichever comes first. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.

2.18 Erosion Control Measures

2.18.1 Seed and Mulch. Upon completion of construction operations and/or the onset of wet weather, Permittee shall stabilize exposed soil areas within the work area by applying mulch and seed. Permittee shall restore all exposed or disturbed areas and access points within the stream and riparian zone by applying local native and weed free erosion control grass seeds. Locally native wildflower and/or shrub seeds may also be included in the seed mix. Permittee shall mulch restored areas using at least two (2) to four (4) inches of weed-free clean straw or similar biodegradable mulch over the seeded area. Alternately, Permittee may cover seeding with jute netting, coconut fiber blanket, or similar non-synthetic monofilament netting erosion control blanket.

2.18.2 Erosion and Sediment Barriers. Permittee shall monitor and maintain all erosion and sediment barriers in good operating condition throughout the work period and the following rainy season, defined herein to mean October 15 through June 15. Maintenance includes, but is not limited to, removal of accumulated sediment, replacement of damaged sediment fencing, coir rolls/logs and/or straw bale dikes and ensuring drainage structures and altered streambeds and banks remain sufficiently armored and/or stable. If the sediment barrier fails to retain sediment, Permittee shall employ corrective measures, and notify CDFW immediately.

2.18.3 Cover Spoil Piles. Permittee shall have readily available erosion control materials such as wattles, natural fiber mats, or plastic sheeting, to cover and contain exposed spoil piles and exposed areas in order to prevent sediment from moving into a stream or lake. Permittee shall apply and secure these materials prior to rain events to prevent loose soils from entering a stream, lake, or other Waters of the State.

2.18.4 Prohibition on Use of Monofilament Netting. To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without

welded weaves.

- 2.19 Waste Containment and Disposal. Permittee shall contain all operation associated refuse in enclosed, wildlife proof, storage containers, at all times, and relocate refuse to an authorized waste management facility, in compliance with State and local laws, on a regular and ongoing basis. All refuse shall be removed from the site and properly disposed of, at the close of the cultivation season and/or when the parcel is no longer in use. Photo documentation of newly installed storage containers shall be included in the Work Completion Report.
- 2.20 Site Management Plan. Permittee shall submit to CDFW the initial preparation and subsequent updates to the project's Site Management Plan that is prepared in conformance with the State Water Board's Cannabis Cultivation Policy and Guidelines.

Water Diversion

- 2.21 Maximum Diversion Rate. The maximum instantaneous diversion rate from the water intake shall not exceed **ten (10) gallons per minute (gpm)** at any time.
- 2.22 Bypass Flow. The Permittee shall pass **90% of the flow** at all times to keep all aquatic species including fish and other aquatic life in good condition below the POD.
- 2.23 Seasonal Diversion Minimization. No water shall be diverted during the low flow season from **May 15 to October 31** during any year. Water shall be diverted only if the Permittee can adhere to the maximum diversion rate and bypass flow conditions of this Agreement.
- 2.24 Measurement of Diverted Flow. Permittee shall install and maintain an adequate measuring device for measuring the instantaneous and cumulative rate of diversion. This measurement shall begin as soon as this Agreement is signed by the Permittee. The device shall be installed within the flow of diverted water. The Permittee shall maintain records of diversion, and provide information including, but not limited to the following:
- 2.24.1 A log including the date, time and quantity of water diverted from the POD.
- 2.24.2 The amount of water used per day for cannabis cultivation separated out from the amount of water used for other irrigation purposes and other uses of water (e.g., domestic use or fire protection).
- 2.24.3 Permittee shall make available for review at the request of CDFW the diversion records required by the State Water Resources Control Board (Board) in Attachment A to the Board's Cannabis Cultivation Policy (October 17, 2017), No. 84, pages 40-41 (see Cal. Code Regs., tit. 23, §

2925).

2.25 Water Management Plan. The Permittee shall submit a Water Management Plan no later than **sixty days** from the time this Agreement is made final that describes how compliance will be achieved under this Agreement. The Water Management Plan shall include details on water storage, water conservation, or other relevant material to maintain water needs in coordination with forbearance and bypass flow requirements. The Water Management Plan shall include a brief narrative describing water use on the property, photographs to support the narrative, and water use calculations to ensure compliance with this Agreement.

Water Diversion Infrastructure

2.26 Intake Structure. No polluting materials (e.g., particle board, plastic sheeting, bentonite) shall be used to construct or screen, or cover the diversion intake structure.

2.27 Intake Structure Placement. Infrastructure installed in the streambed (e.g., cistern or spring box) shall not exceed 10% of the active channel width and shall not be located in the deepest portion of the channel. The depth of the intake shall be no greater than one foot (12 inches) below the streambed.

2.28 Intake Screening. The Permittee shall regularly inspect, clean, and maintain screens in good condition.

2.28.1 The water intake screens shall be securely attached (e.g., threaded or clamped) to the intake line and have a minimum wetted area of 0.25 square feet.

2.28.2 The intakes screen shall be designed so that approach velocity is no more than 0.1 foot per second (fps). Approach velocity is the velocity of the water perpendicular to the screen face measured three (3) inches in front of the screen surface.

2.28.3 A water intake screen with round openings shall not exceed 3/32-inch diameter; a screen with square openings shall not exceed 3/32-inch measured diagonally; and a screen with slotted openings shall not exceed 0.069 inches in width. Slots must be evenly distributed on the screen area.

2.28.4 The water intake screen may be constructed of any rigid material, perforated, woven, or slotted and should have a minimum of 27% open area. Stainless steel or other corrosion-resistant material is recommended to reduce clogging due to corrosion. Care should be taken not to use materials deemed deleterious to aquatic species.

2.28.5 The screen shall be designed to distribute the flow uniformly over the entire

screen area.

- 2.28.6 The water intake screen shall be placed in fast moving water with the long axis of the screen parallel to the streamflow. The water intake shall not be placed in pool habitat.
- 2.29 Intake Shall Not Impede Aquatic Species Passage. The water diversion structures shall be designed, constructed, and maintained such that they do not constitute a barrier to upstream or downstream movement of aquatic life.
- 2.30 Intake Maintenance. Intakes shall be kept in good repair. Intakes shall be inspected periodically and kept clean and free of accumulated algae, leaves or other debris, which could block portions of the screen surface and increase approach velocities at any point on the screen. No part of screen surfaces shall be obstructed.
- 2.31 Exclusionary Devices. Permittee shall keep the diversion structures (e.g. cistern) covered at all times to prevent the entrance and entrapment of amphibians and other wildlife.
- 2.32 Diversion Intake Removal. Permittee shall plug, cap, block (e.g., with a shut-off valve), or remove all intakes at the end of each diversion season.
- 2.33 Heavy Equipment Use. No heavy equipment shall be used in the excavation or replacement of the existing water diversion structure. The Permittee shall use hand tools or other low impact methods of removal/replacement. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.
- 2.34 Diversion Infrastructure Plan (DIP). The Permittee shall submit a DIP for CDFW review and approval prior to diverting water. The DIP shall include a narrative describing the different elements of the water diversion infrastructure, supporting photographs and/or diagrams, and justification of how compliance with the **Water Diversion Infrastructure** conditions will be achieved under this Agreement.

Diversion to Storage

- 2.35 Water Storage. All water storage facilities (WSFs) (e.g., reservoirs, storage tanks, mix tanks, and bladders tanks) must be located outside the active 100-year floodplain and outside the top of bank of a stream. Covers/lids shall be securely affixed to water tanks at all times to prevent potential entry by wildlife. Permittee shall cease all water diversion at the POD when WSFs are filled to capacity.
- 2.36 Water Storage Maintenance. WSFs shall have a float valve to shut off the diversion when tanks are full to prevent overflow. Water shall not leak, overflow, or overtop

WSFs at any time. Permittee shall regularly inspect all WSFs and infrastructure used to divert water to storage and use and repair any leaks.

- 2.37 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.38 Limitations on Impoundment and Use of Diverted Water. The Permittee shall impound and use water in accordance with a valid water right, including any limitations on when water may be impounded and used, the purpose for which it may be impounded and used, and the location(s) where water may be impounded and used.
- 2.39 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 *et seq.* as appropriate for the water diversion and water storage. The application for this registration is found at:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/sdu_registration.pdf.

Reservoirs

- 2.40 Reservoirs. Shall be appropriately designed, sized, and managed to contain any diverted water in addition to precipitation and storm water runoff, without overtopping. The Permittee shall install an overflow spillway that will withstand a 100-year flood event, designed with a dispersal mechanism, or low-impact design, that discourages channelization and promotes dispersal and infiltration of flows to prevent surface overflow from reaching Waters of the State. The spillway shall be designed and placed to allow for a minimum of two-feet of freeboard.
- 2.41 No Stocking. Stocking of fish, wildlife, or plant of any kind, in any Waters of the State, including reservoirs, shall be prohibited without written permission from CDFW pursuant to FGC section 6400.
- 2.42 Invasive Species Management for Reservoirs. Permittee shall implement an invasive species management plan prepared by a Biologist for any existing or proposed reservoir. The plan shall include, at a minimum, an annual survey for invasive aquatic species, including the American bullfrog (*Lithobates catesbeianus* = *Rana catesbeiana*). The Biologist, if appropriate, shall implement eradication measures if invasive aquatic species are identified as part of the survey.
- 2.43 Wildlife Entrapment Prevention. The Permittee shall install several exit ramps to prevent wildlife entrapment. Exit ramps shall meet the following requirements: installed at no greater than 2:1 slope, securely fixed at the upslope end, made of solid material (e.g. wood), and be a minimum length of 1.5 times the radius of the pond.

Stream Crossings

- 2.44 Road Approaches. The Permittee shall treat road approaches to new or re-constructed permanent crossings to minimize erosion and sediment delivery to the watercourse. Permittee shall ensure road approaches are hydrologically disconnected to the maximum extent feasible to prevent sediment from entering the crossing site, including when a Stream Crossing is being constructed or reconstructed. Road approaches shall be armored from the crossing for a minimum of *50 feet in both directions*, or to the nearest effective water bar or point where road drainage does not drain to the crossing, with durable, clean, screened, angular rock.
- 2.45 Excavated Fill. Excavated fill material shall be placed in upland locations where it cannot deliver to a watercourse. To minimize the potential for material to enter the watercourse during the winter period, all excavated and relocated fill material shall be tractor contoured (to drain water) and tractor compacted to effectively incorporate and stabilize loose material into existing road and/or landing features.
- 2.46 Runoff from Steep Areas. The Permittee shall make preparations so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential or contained behind erosion control structures. Erosion control structures such as straw bales and/or siltation control fencing shall be placed and maintained until the threat of erosion ceases. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.
- 2.47 Crossing Maintenance. The Permittee shall provide site maintenance for the life of the structures, including, but not limited to, re-applying erosion control to minimize surface erosion and ensuring drainage structures, streambeds and banks remain sufficiently armored and/or stable.
- 2.47.1 The placement of armoring shall be confined to the work period when the stream is dry or at its lowest flow.
- 2.47.2 No heavy equipment shall enter the wetted stream channel.
- 2.47.3 No fill material, other than clean rock, shall be placed in the stream channel.
- 2.47.4 Rock shall be sized to withstand washout from high stream flows, and extend above the ordinary high water level.
- 2.47.5 Rock armoring shall not constrict the natural stream channel width and shall be keyed into a footing trench with a depth sufficient to prevent instability.
- 2.48 Isolation of Work Site. No work is authorized in a live flowing stream. All work shall be conducted when the stream channel is dry.

2.49 Culvert Installation.

2.49.1 Permanent culverts shall be sized to accommodate the estimated 100-year flood flow [i.e. ≥ 1.0 times the width of the bankfull channel width or the 100-year flood size, whichever is greater], including debris, culvert embedding, and sediment loads.

2.49.1 Where diversion potential exists, a critical dip shall be installed to direct flood flow over the crossing fill and back into the channel. Critical dips shall be constructed to accommodate the entire estimated 100-year flood flow and may be installed by lowering the existing fill over the crossing or by constructing a deep, broad rolling dip over the crossing surface to prevent flood flow from diverting down the road.

2.49.2 If the project is located in a high to very high Fire Hazard Severity Zone as designated by CAL FIRE, CDFW recommends culvert materials consist of corrugated metal pipe (CMP). Use of High Density Polyethylene (HDPE) pipe is discouraged.

http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_zones_maps

2.49.3 Existing fill material in the crossing shall be excavated down vertically to the approximate original channel and outwards horizontally to the approximate crossing hinge points (transition between naturally occurring soil and remnant temporary crossing fill material) to remove any potential unstable debris and voids in the older fill prism.

2.49.4 Culvert shall be installed to grade (not perched or suspended), aligned with the natural stream channel, and extend lengthwise completely beyond the toe of fill. If culvert cannot be set to grade, it shall be oriented in the lower third of the fill face, and a downspout or energy dissipator (such as boulders, rip-rap, or rocks) shall be installed above or below the outfall as needed to effectively control stream bed, channel, or bank erosion (scouring, headcutting, or downcutting). The Permittee shall ensure basins are not constructed and channels are not be widened at culvert inlets.

2.49.5 Culvert bed shall be composed of either compacted rock-free soil or crushed gravel. Bedding beneath the culvert shall provide for even distribution of the load over the length of the pipe, and allow for natural settling and compaction to help the pipe settle into a straight profile. The crossing backfill materials shall be free of rocks, limbs, or other debris that could allow water to seep around the pipe, and shall be compacted.

2.49.6 Culvert inlet, outlet (including the outfall area), and fill faces shall be armored where stream flow, road runoff, or rainfall energy is likely to erode fill material and the outfall area.

2.49.7 Project Inspection. The Project shall be inspected by a licensed professional to ensure that the stream crossings were installed as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 CDFW Notification of Work Initiation.** The Permittee shall contact CDFW within the seven-day period **preceding the beginning of work** permitted by this Agreement. Information to be disclosed shall include Agreement number, and the anticipated start date.
- 3.1.1** Prior to commencing work, Permittee shall provide to CDFW for review preconstruction FYLF survey notes and observations.
- 3.2 Work Completion.** The proposed work shall be completed by no later than **October 15, 2020**. Failure to complete work by this date may result in suspension or revocation of this Agreement. **Notification of completion will include photographs of the completed work, erosion control measures, waste containment and disposal, and a summary of any CNDDB submissions** and shall be submitted to CDFW, LSA program at 619 Second Street, Eureka, CA 95501 **within seven (7) days** of project completion.
- 3.3 Project Inspection.** The Project shall be inspected by a licensed professional to ensure that the stream crossing was installed as designed and the diversion and related infrastructure complies with the terms of this Agreement. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project. The Permittee shall submit the **Project Inspection Report** to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501.
- 3.4 Measurement of Diverted Flow.** Copies of the **Water Diversion Records** shall be submitted to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501 no later than **February 1** of each year beginning in **2020**.
- 3.5 Water Management Plan.** The Permittee shall submit a **Water Management Plan** within **60 days** from the effective date of this Agreement. The Water Management Plan shall be submitted to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501.
- 3.6 Diversion Infrastructure Plan.** The Permittee shall submit **Diversion Infrastructure Plan** within **60 days** from the effective date of this Agreement. Permittee shall **allow 60 days for CDFW review and approval** after submittal of

a Diversion Infrastructure Plan. This document shall be submitted to CDFW at the 619 Second Street, Eureka, CA 95501.

- 3.7 **Site Management Plan**. The Permittee shall submit to CDFW the project's **Site Management Plan within 30 days of submittal to the Water Board**. Permittee shall submit subsequent revisions and updates to the Site Management Plan that is prepared in conformance with the State Water Board's Cannabis Cultivation Policy and Guidelines.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Dejan Petrusevski
730 7th Street Suite C
Eureka, CA 95501
707-683-6686
Hsom16@hotmail.com

To CDFW:

Department of Fish and Wildlife
Northern Region
619 Second Street
Eureka, California 95501
Attn: Lake and Streambed Alteration Program
Notification #1600-2018-0795-R1

LIABILITY

Permittee shall be solely liable for any violation of the Agreement, whether committed by the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require the Permittee to proceed with the project. The decision to proceed with the project is the Permittee's alone.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety this Agreement if it determines that the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide the Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide the Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to the Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against the Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or obtaining any other permits or authorizations that might be required under, other federal, state, or local laws or regulations before beginning the project or an activity related to it. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 5948 (obstruction of stream).

Nothing in the Agreement authorizes the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

The Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and the Permittee. To request an amendment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by the Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605, subdivision (b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after the Permittee signature; 2) after CDFW complies with all applicable requirements under CEQA; and 3) after payment of the applicable FGC section 711.4 filing fee listed at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

TERM

This Agreement shall **expire five (5) years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. The Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605, subdivision (a)(2) requires.

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

FOR DEJAN PETRUSEVSKI

Dejan Petrusevski

Date

FOR DEPARTMENT OF FISH AND WILDLIFE

Cheri Sanville
Senior Environmental Scientist Supervisor

Date



Exhibit J

Email from Greg Mc'Connell at CDFW to County planner Meghan Ryan, dated September 10, 2020

From: [O'connell, Gregory@Wildlife](mailto:O'connell.Gregory@Wildlife)
To: [Ryan, Meghan](#)
Cc: [Planning Clerk](#)
Subject: Rolling Meadows; HumCo PLN-12529-CUP; IS/MND SCH# 2020070339
Date: Thursday, September 10, 2020 10:56:23 AM
Attachments: [RollingMeadows_AppendixWellInfo.pdf](#)
[CEQA_2020-R1-HUM_RollingMeadows_MND_LTR_FINAL.docx.pdf](#)



Hi Meghan. I'm writing for two reasons: 1) to get an update on any project or CEQA changes that will be presented at the Sept 17, 2020 Planning Commission hearing, and 2) to provide a suggestion regarding the use of the project's three water wells.

1. I saw that the Rolling Meadows was not heard at the Sept 3 Planning Commission hearing and it was pushed to Sept 17. CDFW submitted a comment letter (attached) for the MND on August 17. Can you provide an update on where the project stands regarding any project or CEQA changes that address CDFW's prior comments?
2. I've attached excerpts from the MND regarding the use of water wells. I recognize that CDFW did not make formal comments on this topic in our Aug 17 letter, but I think it's important to follow up on this topic with some suggestions prior to the first public hearing. Based on available information, CDFW is not likely to require the wells be included in a Lake or Streambed Alteration (LSA) notification. This does not imply that the use of these wells may not indirectly effect surface waters, but rather that they are not direct surface water diversions. CDFW considers potential impacts associated with these wells a CEQA issue and not an LSA topic. I'm glad the MND addressed the use of these wells, but I'm concerned the evidence and analysis in the MND may be insufficient. The MND states the 5.77 acres of proposed new mixed light cultivation would use approximately 4,628,200 gallons of water (14+ acre feet of water) per year. The MND relies on statements from a Feb 15, 2018 letter from David Fisch of Fish Drilling. I do not see any professional certifications or licenses for David Fisch listed on his letter. I understand that there may be certain licensing requirements in California to practice geology and related groundwater interpretations. In light of the project's geologic setting and mapped springs (see attached image), and based on the high volume of proposed groundwater extraction, CDFW recommends the applicant retain a qualified professional licensed to practice in California (e.g. CA Certified Hydrogeologist) to conduct an evaluation of the project's potential impacts to local surface water flows, and to provide recommendations that ensure project activities will not substantially affect aquatic resources. CDFW would normally expect this comment to be addressed prior to completion of CEQA, but given that this is coming to you after the official MND comment period has ended, please consider the addition of a Certified Hydrogeologist assessment as a condition of project approval if there is not enough time to address this prior to completing CEQA. Some relevant literature is included below:

- i. Streamflow Depletion by Wells—Understanding and Managing the Effects of Groundwater Pumping on Streamflow:

https://pubs.usgs.gov/circ/1376/pdf/circ1376_barlow_report_508.pdf

- ii. Ground-Water-Level Monitoring and the Importance of Long-Term Water-Level Data: <https://pubs.usgs.gov/circ/circ1217/pdf/circular1217.pdf>
- iii. Basic ground-water hydrology: <https://pubs.usgs.gov/wsp/2220/report.pdf>

Please save this email to the project file and provide a copy to the Planning Commissioners prior to the scheduled Sept 17 hearing.

Thank you,

Greg O'Connell
Environmental Scientist
Coastal Conservation Planning
California Department of Fish and Wildlife
619 Second Street
Eureka, CA 95501
Gregory.OConnell@Wildlife.ca.gov

Exhibit K

**Cumulative Impacts Analysis from Revised IS/MND for the Hills
Commercial Cannabis Project.**

- b) Finding: The project will not have impacts that are individually limited, but cumulatively considerable. ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects). *Less than significant impact with mitigation.*

Discussion: An analysis of cumulative impacts considers the potential impacts of the project combined with the incremental effects of other approved, proposed, and reasonably foreseeable similar projects in the vicinity. The area considered for this cumulative analysis (study area) is the area within a three-mile radius from the project site. Within a three-mile radius, there are 40 approved projects, 36 canceled/closed projects, 15 incomplete projects, 14 approved support facilities, and 29 projects in referrals. The majority of these projects are cannabis-related drying, curing, manufacturing, and distribution projects seeking conditional use permits, zoning clearance certificates, or special permits. In total, these projects amount to 972,724 square feet of cannabis, of which 404,365 square feet are within approved projects and 568,359 square feet are within proposed projects. The total estimated water usage is 9,648,285 gallons, of which 3,169,663 gallons are at approved projects and 6,468,622 gallons are at proposed projects. The table provided in Appendix F summarizes the projects in the three-mile radius, which collectively are referred to as the "cumulative projects."

The proposed project would result in no impact to agriculture and forestry resources, mineral resources, or recreation and would therefore not contribute to cumulative impacts to those resources. Consequently, those resources are not discussed further in this section.

Aesthetics

As discussed in Section 5.1 – *Aesthetics*, due to topography, distance, or intervening forested landcover, the proposed project is generally not visible from US-101, the nearest eligible scenic highway, nor is it easily visible from sensitive viewers. The proposed project would therefore not contribute to cumulative aesthetic impacts on scenic resources.

The proposed project and the cumulative projects would incorporate minimum lighting and would be required to comply with County lighting standards and ordinances. Therefore, the project's contribution to light and glare would not be considerable, and the cumulative projects would not combine to result in a significant impact.

Air Quality

As discussed in Section 5.3 – *Air Quality*, the proposed project would have a less than significant impact on cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment. Emissions from construction would be minimal due to compliance with NCUAQMD regulations. Emissions from operations would not be substantial due to relatively low vehicle miles traveled and the project is consistent with the AG land use designation. The cumulative projects would not result in a significant impact to air quality. The applications for the other cumulative projects are at varying levels of completion. Consequently, the projects would have a staggered implementation schedule, and the construction impacts to Air Quality would not be cumulatively considerable. Potential effects from individual projects would be mitigated to less than significant, and the cumulative effects would be less than significant. The proposed project's contribution to air quality resource-related impacts would not be considerable, and the cumulative projects would not combine to result in a significant impact.

Biological Resources

As discussed in Section 5.4 – *Biological Resources*, no special status species were identified during surveys of the proposed cultivation sites. Although not observed, foothill yellow-legged frog could potentially be at the project site.

Considering the various cumulative projects, it is possible that special status species and habitat occur could be cumulatively affected. The proposed project's contribution to these impacts, however, would be less than significant with implementation of Mitigation Measures BIO-1 through 9. The proposed project would not result in a considerable contribution to cumulative effects on biological resources.

Cultural Resources

As discussed in Section 5.5 – *Cultural Resources*, an archaeological site was located within the project site. Avoidance of the site would reduce impacts to less than significant (Mitigation Measure CUL-1). The project has potential to affect previously undiscovered cultural resources that may be revealed during ground disturbance activities associated with construction. The inadvertent discovery protocols required would reduce any such impact to less than significant (Mitigation Measure CUL-2). Because each cultural resource is unique to a physical location, and inadvertent discovery protocols require notification and documentation of any cultural resource inadvertently discovered, no cumulative impact to cultural resources is possible from similar potential project-level impacts on other project sites.

Energy

As discussed in Section 5.6 – *Energy*, off-grid electricity is currently provided by solar systems for all cultivation and domestic uses and use of an on-site generator is limited to emergency power outage events and when the solar energy system is limited by weather conditions. The applicant plans to eventually connect the site to PG&E electricity while maintaining the use of renewable energy. Based on the planned continued use of renewable energy, the proposed project's contribution to cumulative energy impacts would be less than significant.

Geology and Soils

As discussed in Section 5.7 – *Geology and Soils*, the proposed project has potential to expose people using the project site to geologic hazards from seismic-related movement. Implementation of the site-specific design requirements recommended in the soils report to be prepared as part of the building permit process would reduce impacts to less than significant. The project would create these hazards only for people using the project site, and no component of the project would affect the geologic hazard to any other property. Consequently, the project could not contribute to any cumulative impact to geology and soils.

Greenhouse Gas Emissions

As discussed in Section 5.8 – *Greenhouse Gas Emissions*, the proposed project would result in less than significant impacts related to GHG emissions. The cumulative projects are consistent with the County's 2012 Draft Climate Action Plan strategies for reducing greenhouse gas emissions. As previously mentioned, the NCUAQMD has not adopted thresholds of significance for greenhouse gas emissions. The project would not result in a considerable contribution to greenhouse gas impacts, and the projects would not combine to result in a cumulatively significant impact.

Hazards and Hazardous Materials

The cumulative projects would not use large amounts of hazardous materials nor would their proximity create a threat by concentrating these materials in one area. The area is designated for agricultural uses in the area, and improvements at the site would not obstruct emergency services, nor create new hazards. Operation of the proposed cannabis facilities under the cumulative projects would involve the use of fertilizers, pesticides, and solvents. Hazardous materials associated with construction include fuels, lubricants, and paint. The County has ordinances applicable to cannabis operations that address impacts from the storage and use of hazardous materials. The projects would be required to comply with the regulations. With individual projects conforming to all standards for handling hazardous materials, there would be no additive effect of the cumulative

projects. The proposed project would not result in a considerable contribution to hazards and hazardous materials impacts, and the cumulative projects would not combine to result in a significant impact.

Hydrology and Water Quality

As described in Section 5.10 – *Hydrology and Water Quality*, the proposed project would result in less than significant impacts with mitigation incorporated related to hydrology and water quality. The project would obtain regulatory approvals and permits for LSAA and SMA remediation actions and construction activities would be conducted in accordance with the County's grading regulations and BMPs, including temporary erosion and runoff control measures in accordance with the General Plan, and would be implemented during construction to minimize the potential for erosion and storm water runoff.

Cumulative project would each be required to comply with water quality regulations and obtain permits, as applicable. Based on the proposed project's and cumulative projects' compliance with regulatory requirements, cumulative impacts on hydrology and water quality would be less than significant with mitigation.

Land Use and Planning

As discussed in Section 5.11 – *Land Use and Planning*, the proposed land use for the project would be agricultural, which is compatible with the AG land use designation because it allows for non-prime agricultural lands. The proposed project does not fall under the principal permitted uses for lands classified AE or TPZ; however, other uses not specified in the principal permitted uses may be permitted upon the granting of a CUP. As part of the proposed project, the County would issue a CUP to allow for the proposed project operations. Upon County issuance of the CUP, the proposed project would not conflict with any goals, policies, or objectives in the County's General Plan or zoning ordinance. The proposed project does not include any change to the land use designation or zoning of the project site, and therefore any impacts to land use and planning on the site would be unique to the project site and not affect land use and planning on adjacent properties. Consequently, the proposed project could not contribute to any cumulative impacts to land use and planning.

Noise

As discussed in Section 5.13 - *Noise*, construction activities would result in a temporary increase in noise levels in the area. This noise increase would be short-term and would occur during daytime hours. Nearby noise sensitive receptors include the residence at the project site and residences 200 feet north and 350 feet east of the property line. Mitigation Measure NOI-1 is proposed to reduce potential impacts from construction noise to a level of less than significant. Mitigation Measure NOI-2 is proposed to reduce noise from onsite generators when in use. During operation, the project is not expected to generate significant noise levels that would exceed the Humboldt County General Plan Noise Element standards. Outdoor operations would be consistent with the sorts of activities that occur on the agricultural and rural residential uses, such as deliveries, personal vehicle travel, and routine maintenance. Processing operations would take place inside buildings which would not increase exterior noise levels. Furthermore, other cumulative projects would be required to mitigate noise impacts to less than significant; therefore, the cumulative projects would not have a significant cumulative impact.

Population and Housing

As discussed in Section 5.14 – *Population and Housing*, the proposed project would not substantially induce population growth or require the construction of replacement housing. The proposed project is anticipated to have up to 21 staff members at peak season. Further, the project proposes employee housing on-site. The construction workers and operational workers for the proposed

project and cumulative projects are expected to be drawn from the existing labor pool in the region and would not directly result in population growth.

The cumulative projects are served by existing roads and would not result in the extension of roads or major utilities to lands not currently served. There would be no displacement of housing or population. The proposed project would not contribute to population and housing impacts, and the cumulative projects would not combine to result in a significant impact.

Public Services

The proposed project would not result in the need for unanticipated new or expanded facilities.

The potential demand for Sheriff's Department services at the project site may increase due to the project type. The proposed and cumulative projects would be required to implement Safety Plans in accordance with the CMMLUO, which would avoid the need for additional Sheriff's Department services. Individually, the projects would result in less than significant impacts and would not cumulatively result in the need for new or expanded facilities.

There would be little or no demand for other County services from the proposed project and cumulative projects, and thus would not cumulatively result in the need for new or expanded facilities. The proposed project would not result in a considerable contribution to public services, and the cumulative projects would not combine to result in a significant impact.

Transportation/Traffic

As discussed in Section 5.17 – *Transportation*, the proposed project would result in less than significant impacts related to transportation. Construction traffic would be minimal and temporary. Construction traffic from other cumulative projects would not combine to result in a cumulative transportation/traffic impact.

Operation of the proposed project would generate up to 42 vehicle trips per day. All of the cumulative projects are a relatively short distance (4.5 miles) from US-101. In Garberville, the average annual daily traffic at US-101 is 7,700 to 7,500 vehicles. The cumulative projects would create traffic volumes that are within the historical and designed limits.

The project would result in no impacts to traffic patterns and adopted policies, plans, and programs. The project would not result in a considerable contribution to transportation/traffic impacts, and the projects would not combine to result in a cumulatively significant impact.

Tribal Cultural Resources

As discussed in Section 5.18 – *Tribal Cultural Resources*, a cultural resource in the project site was identified during preparation of the cultural study. Additionally, the project has potential to affect previously undiscovered tribal cultural resources that may be revealed during ground disturbance activities associated with construction. Mitigation Measure CUL-1, requiring avoidance of the known cultural resource, and Mitigation Measures CUL-2, regarding inadvertent discovery protocols, would reduce impacts to less than significant. Because each tribal cultural resource is unique to a physical location, and inadvertent discovery protocols require notification and documentation of any tribal cultural resource inadvertently discovered, no cumulative impact to tribal cultural resources is possible from similar potential project-level impacts on neighboring properties.

Utilities and Service Systems

As described in Section 5.19 – *Utilities and Service Systems*, the project-level impacts to utilities and service systems from the proposed project would be less than significant. The proposed on-site septic system would be in compliance with County requirements. The proposed project would not

contribute to any cumulative impact, as all effects of the proposed project on wastewater and storm water treatment would be confined to the project site.

Successful permitting of cumulative projects requires assurances from the provider of water and sewer services that they have the capacity to serve these additional projects. The proposed project has received such assurances. If the capacity is not available to serve subsequent projects, then the service provider will inform the applicant of that, and the project will not be permitted.

Solid waste in Humboldt County is transported to landfills outside the County; therefore, cumulative effects of the project on solid waste disposal would depend on County-wide growth and development, which is outside the scope of this analysis.

Wildfire

As discussed in Section 5.20 – *Wildfire*, potential project impacts to the risks of wildfire would be less than significant. The proposed project is located in an SRA and is in a “High” to “Very High” hazard severity zone, as is the majority of the community of Garberville. Emergency response services would be provided by the CalFire from a station located at 324 Alderpoint Road, approximately 0.25 miles north of the project site. The proposed project would include improvements on site to meet CalFire SRA requirements, including designating a fire turn-around and pull-out area for emergency vehicles, and management of trees and vegetation around existing structures to maintain the required 100-foot defensible space setback. Due to the fact that the cultivation on-site is existing, proposed development would be focused in areas with mild slopes and compliance with SRA requirements the risks of wildfire impacts on project occupants would be less than significant. Therefore, no cumulative impact to the risk of wildfire would occur.

- c) Finding: The project would not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. *Less than significant impact with mitigation.*

Discussion: The proposed project’s potential to result in environmental effects that could adversely affect human beings, either directly or indirectly, has been discussed throughout this document. In the instance where the proposed project has the potential to result in direct or indirect adverse effects to human beings, a mitigation measure has been identified to reduce the impact to below a level of significance. With implementation of Mitigation Measure NOI-1 and NOI-2 identified in this document, construction and operation of the proposed project would not involve any activities that would result in environmental effects which would cause substantial adverse effects on human beings. Therefore, impacts that could adversely affect human beings would be less than significant with mitigation.

Mitigation:

Mitigation Measures AFR-1, BIO-1 through BIO-8, CUL-1 through CUL-2, NOI-1, and NOI-2 discussed in this document shall apply (see Chapter 6, Discussion of Mitigation Measures, Monitoring, and Reporting Program).

Mitigation Measure NOI-1 discussed in this document shall apply (see Chapter 6, Discussion of Mitigation Measures, Monitoring, and Reporting Program).

Findings:

- a) The project would not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory: **Less than significant impact with mitigation.**

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 2:14 PM
To: 'Marbled Murrelet'; Planning Clerk; Johnson, Cliff
Subject: RE: Rolling Meadows CUPs, SCH 2020070339

Dear Friends of the Marbled Murrelet - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Marbled Murrelet <marbledmurreletfriends@gmail.com>
Sent: Wednesday, December 30, 2020 1:41 PM
To: Planning Clerk <planningclerk@co.humboldt.ca.us>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>; Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Rolling Meadows CUPs, SCH 2020070339

We urge the county to deny this project. In the alternative, should the county persist in attempting to approve the project, it should be recirculated, and an NOP & EIR must be prepared because there are multiple significant environmental impacts. Nothing in county code requires approval of the project, and the county has complete discretion to deny the project.

Issues of grave concern:

1) Golden Eagle

An active Golden Eagle territory completely overlaps the project, and a mapped nest site is within 1000 yards of the primary development area. The US Fish and Wildlife Service (USFWS) requires a one mile "no disturbance" buffer around Golden Eagle nests. The developers have conducted some surveys but none have occurred in the critical eagle courtship timeframe (January & February) when observers are most likely to see Eagles and potential nest sites. This means that they failed to follow established protocols, either deliberately or because the consultants at NRM are incompetent. If the project is built as proposed it will likely result in the loss of this Eagle territory. And no, Eagles don't just move somewhere else, because those other areas are occupied by Eagles already.

The county has already approved the Adesa project in the Maple Creek area of the Mad River, over the objections of a retired USFWS Eagle expert and without consultation with the USFWS. The county is currently evaluating at least 40 commercial cannabis projects that occur within known Golden Eagle territories, but has failed to analyze these cumulative impacts.

This is a significant issue, and once again the county has totally failed to protect the resources and comes to a false conclusion. If the county persists in approving projects in Golden Eagle territories, we shall work diligently to involve the Enforcement branch of the US Fish and Wildlife Service, US Attorneys and federal courts in order to uphold the federal Bald and Golden Eagle Protection Act. This is an issue of region wide significance that must be evaluated in an EIR.

2) Water wells connected to the Eel River

The water wells are absolutely “connected” to the Eel River, and the county has the obligation to evaluate the public trust impacts of water extraction for commercial cannabis cultivation. A letter from the well driller is not sufficient evidence (merely his opinion) as he is not qualified to make such statements about the wells. The well driller further has financial incentive to state his wells are not connected to streams. Only a CA licensed engineering geologist or hydro geologist may evaluate the hydraulic connectivity of wells to surface waters. The county should require an independent evaluation of the wells from a licensed and qualified professional that is not bought and paid for by the developers. In not doing so here and across the county for the many hundreds of wells supplying commercial cannabis, the county has failed in its basic duties under CEQA and the Public Trust Doctrine as put forth by the California Supreme Court.

3) Prime Ag Loophole

This project’s location and the fact that it’s a brand new large scale cultivation enterprise is completely counter to the county’s own policies for siting new commercial cannabis development. The use of “prime agricultural” soil to justify this new development turns logic on its head. The county’s first ordinance (CMMLUO) allowed for new cannabis on prime ag soils, but only to minimize environmental impacts by getting cultivation areas out of remote locations. At the time the county passed the first ordinance, it could have only evaluated the currently mapped prime ag soils, all of which occur in traditional farmland, down in the flat valleys and coastal plains. This, of course, made sense to locate cannabis on actual farmland. However, the county never analyzed the impacts of a loophole in the ordinance that creates a path for developers to hire consultants that map “new” prime ag soils. This loophole has been exploited throughout the county, where questionable methods and consultants have produced soil reports miraculously finding new prime ag soils in places that were never analyzed under the CMMLUO and its MND. Thus, that is why this Rolling Meadows project is even being considered, based entirely on a loophole in the law that was never analyzed under CEQA. This is a farce and shall not continue. We shall push to expose this damaging loophole in the county code because it is offensive to basic tenets in CEQA, and counter to policies in place for siting new commercial cannabis development.

4) Predetermined Outcome frustrates CEQA’s purpose and public involvement

The county has already set a hearing for this project on January 7, 2021 to move for approval before the planning commission. The deadline for comments on the MND is set as December 30, 2020. This leaves only a few days between the New Years Holiday and the weekend, for county staff to compile, organize, and respond to public and agency comments. This absurd timeframe only leads to a single conclusion for members of the general public that have an interest in this project: that the county planning department has already made up its mind, and will be pushing through the MND and the project for approval regardless of any comments received. The complete lack of transparency and respect for CEQA’s public process has become a hallmark of the Humboldt county planning department. This type of disregard for public comments and input is not new, and has grown out of the complete disaster of a public process that was the damaging TerraGen wind project. It is extremely discouraging and insulting to see it continue under county leadership. Therefore, should the county persist with this damaging proposal, it should propose a new hearing date that is more realistic and in keeping with the spirit of public engagement under CEQA. However, we have zero confidence in the county’s process after observing the deceitful actions that took place over the Adesa hearings and with the total disaster that was TerraGen.

Respectfully submitted,

- Friends of the Marbled Murrelet

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 2:21 PM
To: 'Jim Redd'
Cc: Planning Clerk
Subject: RE: Rolling Meadow Ranch, LLC PLN-12529-CUP

Hi Jim - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Jim Redd <jim@ranchagent.com>
Sent: Wednesday, December 30, 2020 1:29 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Cc: Planning Clerk <planningclerk@co.humboldt.ca.us>
Subject: Rolling Meadow Ranch, LLC PLN-12529-CUP

Meghan,

Please find attached my comments to the Rolling Meadow Ranch project.

Thanks!

Jim Redd
The Ranch Specialist
www.ranchagent.com
O: 707-444-9234
C: 707-496-3022



JIM REDD COMMENTS FOR THE ROLLING MEADOW RANCH PROJECT PLN-12529-CUP

Dear Planning Commission,

I am in favor of this project being approved. I have followed this project for the last four years and know that the owner has done everything that the planning department has asked. It meets the criteria for approval.

Social media and others that are opposed to this project like to paint Rolling Meadow Ranch, Inc as a big bad Florida Corporation. Rolling Meadow Ranch, Inc is one person, Andy Machata who happened to choose a corporation as his form of ownership. I first met Andy SIXTEEN YEARS AGO when he purchased the ranch in McCann. I just finished a 43 year career as a Ranch Broker and have sold hundreds of thousands of acres in those years.

Many large ranches were purchased and sold off in smaller parcels using old patent maps. Andy did the exact opposite. He originally bought a little over 5,000 acres. He then proceeded to buy inholdings and other contiguous parcels increasing the size to over 7,000 acres. This project uses only a very small percentage (less than 1%) of that 7,000 plus acres. Andy has always shown to me during the last SIXTEEN years that he cares about the environment. This project will give him some income from the ranch to support it.

I know first hand that special care was taken to site the project out of wetlands and stream buffers. I facilitated soil studies consultants to make sure the greenhouses were sited on prime ag soil as per the code. Wildlife studies took place to make sure that the impact on wildlife was kept to a minimum. Road studies have been performed to make sure that all the roads meet current standards. There are three legal accesses to the ranch. One is from Alderpoint Road and has been used for winter access when the McCann Bridge is under water. There are two accesses from the McCann Road. One is directly from the McCann Road and the second is via a prescriptive easement that has been used as the main access to the ranch for at least the last 50 plus years.

This ranch has a lot of water. Cameron Creek is a major tributary to the Eel River. It originates completely on the Rolling Meadow Ranch. Andy has kept this stream pristine during his sixteen years of ownership unlike most other streams in the area that have been sucked dry by all the straws in those streams. He has drilled three wells up on ridges to stay away from any aquifers of the Eel River or Cameron Creek. The well driller has verified that they are in bedrock.

I believe that Andy has been very thorough and done everything to comply with the code to get the support of the planning department to approve this project.

I would ask that you approve this project.

Jim Redd
50 year resident of Eureka

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 7:14 PM
To: Toni/Kurt Stoffel
Subject: RE: Rolling Meadow Ranch, LLC

Good evening, Toni and Kurt - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Toni/Kurt Stoffel <toniandkurtstoffel@gmail.com>
Sent: Wednesday, December 30, 2020 2:27 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Rolling Meadow Ranch, LLC

Date: December 30, 2020

To: Humboldt County Planning Commissioners and Meghan Ryan, Senior Planner, Planning Department

From: Toni and Kurt Stoffel, P.O. Box 488, 185 Cathey Ranch Road, Miranda, CA 95553 (707)943-3025.

Re: Rolling Meadow Ranch, LLC, Conditional Use Permits; APNs:217-201-001; 217-181-027,217-181-028,217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001;Record Number: PLN-12529-CUP.APPLICANT:RollingMeadow Ranch, LLC

We would like to voice our opposition to the proposed cannabis growing operation on McCann Road. We do not need MORE marijuana operations in Humboldt County. We have lived here since 1982, and have witnessed the destruction they have caused to our habitat, roads, society, and security.

What highly troubles us about the escalating number of "grows" in Southern Humboldt, is the increased traffic and reckless drivers on our rural roads. With the "estimated" thirty employees needed to operate this proposed business, (even sporadically throughout the year), the extra traffic would create extremely dangerous situations; not only for the local residents, but for the thousands of tourists who use Dyerville Loop Road every day. What is not mentioned in any of your official reports is that the main southern entrance to this property is accessed by Avenue of the Giants, along Dyerville Loop Road, and through Humboldt Redwoods State Park's Founder's Grove, (which is narrow and one-lane.) At the height of the tourist season there are hundreds of vehicles visiting this popular grove. Our family used to drive four miles of this route for many years when we worked for John LaBoyteaux at Camp Grant Ranch. It is curvy, prone to landslides, one lane in many places, and has absolutely no visibility around some corners.

Other concerns we have are:

- Downward facing security lights may affect the night skies in this remote location, especially when the lights reflect off of low-lying fog.

- Your department has a LEGAL obligation to post public notices, and contact each of the property owners who are directly adjacent to, (or have granted right-of-way easements to), this project. On August 30, 2018 we wrote a letter to the Planning Department mentioning the lack of public notification regarding another application for a cannabis operation on Cathey Road, (Re: Case Number SP16-525; Application Number 1244). Several adjoining property owners were NOT aware of the application. This is what we wrote to you back then....." To whom it may concern, A neighbor of ours informed us that she had received a notice in the mail about a cannabis cultivation permit meeting that is taking place on August 30th. She had no idea who or where the property was located. It turns out it is over a mile away from her home. Only a few residents were sent a letter informing them about this, with no rhyme or reason for the proximity to the site....." NOT properly alerting the public is unacceptable, and illegal, for you to move forward with any permits that will impact the community! Hopefully, you have changed your unwritten strategy of ignoring those rules. It seems that the county could be held liable for any adverse impacts from this enterprise.

- There is a church camp near Camp Grant that hosts several large days-long events every year. It is, also, the site of the annual "Special Olympics" that hundreds of participants attend. When we used to drive that road, we always tried to time our trips for when we knew the traffic would be lightest during those occasions. If we didn't, inevitably ONE of the vehicles would have to back up to an open pull-out.

It is incomprehensible that every day dozens of additional passenger vehicles, heavy equipment, and soil trucks would be given the go-ahead to travel to this remote property. There is no doubt that if you approve of this project, you will be increasing the number of accidents and creating additional pavement damage on this county road, which is already substandard. As individuals who represent the public, please drive out there to experience the adventure yourselves, then consult with your road maintenance crews before you decide to approve this application!

Toni and Kurt Stoffel

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 7:16 PM
To: 'Debra Lake'; clerk@co.humboldt.ca.us
Subject: RE: Comment letter for Rolling Meadows Cannabis permit

Good evening, Debra - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Debra Lake <lake_95554@yahoo.com>
Sent: Wednesday, December 30, 2020 2:27 PM
To: clerk@co.humboldt.ca.us; Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Comment letter for Rolling Meadows Cannabis permit

Please enter our letter into the record.
Thank you,
Debra Lake
Board Chair
Fruitland Ridge Volunteer Fire Protection District



Fruitland Ridge Volunteer Fire Protection District
75 KELSEY LN
PO BOX 87
MYERS FLAT CA 95554
707-932-1484 message only

Humboldt County Planning Commission Planning
clerk@co.humboldt.ca.us

Humboldt County Planning Department
ATTN: Meghan Ryan, Senior Planner
3015 H St. Eureka CA 95501
mryan2@co.humboldt.ca.us

Dear Ms. Ryan,

We represent the Fruitland Ridge Volunteer Fire Protection District (FRVFPD).

We are writing this letter in response to the article published in the Redheaded Blackbelt news blog about the Rolling Meadow Ranch, LLC Humboldt County Commercial Cannabis Land Use Application that was published on 12/28/2020.

This is the first our fire district has heard about this project. We are disappointed with the lack of communication to our fire district concerning this project. Cannabis plans are lacking an Emergency Services module.

Rolling Meadow Ranch, LLC Humboldt County Commercial Cannabis is within our fire district's sphere of influence. It is not within our formal district boundaries. If there are any forms of emergency, we are the initial responders. There is nothing in this plan that addresses any emergency response except for wildfire. FRVFPD is not compensated for any response.

This project is in SRA (state responsibility area) with CALFire being the responsible entity for Wildfires. But should a wildfire break out, FRVFPD will be the first called and first arriving at said incident. CALFire will be the commanding agency.

Time out to any incident is historically 22 minutes to the McCann bridge. There is additional time added for any location on the east side of the Eel River. The project states the farthest location to be over 5 miles from the bridge. Depending on road conditions, that can take a fire engine or a water tender anywhere from 20 minutes to one hour to navigate to the incident. So now we are dealing with a total

arrival time for a medical emergency or fire from 42 minutes to 1 hr. 22 minutes. Mind you, this is one way. Patient transport is equally time consuming.

The report states there will be an estimated 22 to 30 people at the scene seven days a week. There is a likelihood that some sort of medical emergency will occur.

The roads from Fruitland Ridge to McCann are Class 2 roads, gravel/dirt, with steep slopes and hairpin turns. The private roads across the river are marginal, narrow, and dangerous for large emergency vehicles. We are greatly concerned about the report's estimated 488,000 miles driven annually on these under maintained roads. We respond to about 4 incidents per year, averaging 3 medical and 1 fire in McCann. We are the responding agency for traffic collisions.

Water storage is also a concern regarding wildland fire. The 300,000+ gallons of water are not adequate. Due to the road conditions, the turn around time for a water tender is 45 minutes minimum. The use time for the 2500 gallons carried in a water tender is about 20 minutes. One million stored gallons would be an approximate need at scene for a major wildland fire.

Winter access from the Alderpoint Road side presents an even more difficult access issue that would need to be communicated to Bridgeville Fire Protection District and Alderpoint Volunteer Fire. They would be the initial responders at that time.

I am sure I have more to address. Time constraints are hindering the subject.

Fruitland Ridge Volunteer Fire Protection District requests a delay in approving this project pending mitigation of emergency issues addressed in this letter.

Sincerely,

Debra Lake
Board Chair

Tina Hensley
Board Treasurer

Katherine Coleman
Board Secretary

Jimi Hensley
Chief 6200

Fruitland Ridge Volunteer Fire Protection District
707-943-3402 personal phone Debra Lake

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 7:18 PM
To: andrei hedstrom
Subject: RE: Comment on Rolling Meadow Ranch Proposal

Good evening, Andrei - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: andrei hedstrom <andrei.hedstrom@gmail.com>
Sent: Wednesday, December 30, 2020 5:30 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Comment on Rolling Meadow Ranch Proposal

Hello Meghan,

As a Humboldt County resident, I am very concerned about this project. Looking it over, it does not seem in keeping with the way land based projects so interconnected with wilderness space should be progressing. I am concerned about the precedence this sets and the sort of projects that will likely follow.

Growers that I know who have worked hard to transition with legalization and maintain the cannabis quality our region offers in terms of brand integrity, should be supported above out of state and new to the industry interests. These local growers have barely had the time to adjust to legalization, and unleashing this sort of scale in their midst will likely only make it harder for them to continue to scale up their own operations while maintaining product integrity and environmental standards.

When I first moved to Humboldt over ten years ago, I asked a local well known contractor what most of the economy was based on if logging and fishing had taken such big hits. He replied "Cannabis". Over the years I have seen that many restaurants, galleries, stores and construction operations have been held up or operated by the then illegal industry. Finally, these entrepreneurs and agriculturalists can be out in the open, but anyone who has opened a legal business knows it takes a few years just to break even and many more to be able to scale and take full advantage of all your years of prep. Watching friends in this industry make this transition has been troubling, with so many good people, hard working, finally being given a shot to do their thing above board, only to face significant setbacks as legalization, regulation, inspection after inspection all take their piece of the pie. This is part of running a business however, but to see what would be approaching these folks with massive outside interests cannonballing into their midst, well I just don't think it will bode well for anyone who truly cares about Humboldt or our local growers.

My hope is that you will see this project disadvantages our community and will look to encourage outside folks looking to make good on the Humboldt brand, operate in a way that is in keeping with the best of our region. We have model farmers, whose operations should be given every advantage to thrive in the years ahead. Keeping the brand alive, not diluting it with massive outside interests, seems like a smart thing to do for our region.

Good Things,

Andrei Hedstrom

www.andreihedstrom.com

[Facebookishness](#)

650.291.0387

Heidi Carter

Comments on rolling meadow MND

I oppose the Rolling Meadows project. The County of Humboldt has been a third world county due to timber mining and we don't want to continue extracting our resources, we don't want to be like a third world country or a third world county. A big marijuana grow by a legal company will have the same impact of a similar sized grow by the cartel. What will this do to the Eel River and the fish?

Please consider carefully what is the real value of the tax money the county might receive from a project of this magnitude, and what does real value mean?

Provided via phone conversation on 12.30.2020 at 445pm.

McClenagan, Laura

From: McClenagan, Laura
Sent: Thursday, December 31, 2020 3:27 PM
To: Ryan, Meghan; Johnson, Cliff
Cc: Lippre, Suzanne
Subject: Rolling Meadows PLN-12529-CUP

I received a phone message as a comment for the above mentioned project being heard on the 7th.
I called and left a message with Heidi letting her know that we have received her comment. I have included it below.

I am making a public comment regarding the Florida grow at the headwaters of the Eel. Are we a third world county? A third world country is a place where resources are extracted and greater profits are made some place else. So I urge you to NOT okay the application for the big Florida based company grow in exchange for whatever the tax benefit the county gets. There is the big potential to contaminate the Eel River. There are three big springs up there you know. Big company pollutes the river, they pay a fine, it goes on and on. So, I urge you to, in the interest of the greater good and integrity of the county and citizens in the county to deny the application. It's a legal entity, unlike the cartel grows, but it is going to be pretty much the same thinking, where the welfare of our community and county is not part of the plan. Thank you, Heidi Carter 298-7690.

Thanks,



Laura McClenagan
Executive Secretary
County of Humboldt Planning & Building Dept.
3015 H Street • Eureka, CA 95501
(707) 445-7541

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 7:42 PM
To: Smith, Diane@Wildlife
Cc: state.clearinghouse@opr.ca.gov; Planning Clerk; Dougherty, Mona@Waterboards; Grady, Kason@Waterboards; Babcock, Curt@Wildlife; Bauer, Scott@Wildlife; Harnsberger, Laurie@Wildlife; O'connell, Gregory@Wildlife; Sanville, Cheri@Wildlife; Wildlife CEQA Comment Letters
Subject: RE: CEQA_2020-R1-HUM_RollingMeadows_ISMND_LTR_FINAL

Good evening, Diane - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I anticipate I will be putting together a comprehensive response to comments early next week.

Best,
Meghan

From: Smith, Diane@Wildlife <Diane.Smith@wildlife.ca.gov>
Sent: Wednesday, December 30, 2020 4:02 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Cc: state.clearinghouse@opr.ca.gov; Planning Clerk <planningclerk@co.humboldt.ca.us>; Dougherty, Mona@Waterboards <Mona.Dougherty@waterboards.ca.gov>; Grady, Kason@Waterboards <Kason.Grady@waterboards.ca.gov>; Babcock, Curt@Wildlife <Curt.Babcock@wildlife.ca.gov>; Bauer, Scott@Wildlife <Scott.Bauer@wildlife.ca.gov>; Harnsberger, Laurie@Wildlife <Laurie.Harnsberger@wildlife.ca.gov>; O'connell, Gregory@Wildlife <Gregory.OConnell@Wildlife.ca.gov>; Sanville, Cheri@Wildlife <Cheri.Sanville@wildlife.ca.gov>; Wildlife CEQA Comment Letters <CEQACommentLetters@wildlife.ca.gov>
Subject: CEQA_2020-R1-HUM_RollingMeadows_ISMND_LTR_FINAL

Hello:

Please see the attached document. All distribution has been completed electronically.

Regards,

Diane Smith
Administrative Officer I
California Department of Fish and Wildlife
Region 1 - Northern
diane.smith@wildlife.ca.gov
Cell: (530) 945-0755
Ph: (530) 225-2851
Fx: (530) 225-2055

Every Californian should conserve water. Find out how at:

<http://saveourwater.com/>

McClenagan, Laura

From: Ryan, Meghan
Sent: Wednesday, December 30, 2020 7:49 PM
To: 'Patrik Griego'
Subject: RE: Letter re McCann Project.pdf Re: (PLN-12529-CUP; SCH# 2020070339)

Good evening, Patrik - Thank you for your comments on the Rolling Meadow Ranch project near the community of McCann. Your comments will be forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

From: Patrik Griego <pgriego@janssenlaw.com>
Sent: Wednesday, December 30, 2020 2:59 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Letter re McCann Project.pdf Re: (PLN-12529-CUP; SCH# 2020070339)

Dear Ms. Ryan,

Please see attached letter regarding (PLN-12529-CUP; SCH# 2020070339)

VIA EMAIL AND HAND DELIVERY

Humboldt County Planning Department
Attn: Meghan Ryan, Senior Planner
3015 H St.
Eureka, CA 95501
Email: mryan2@co.humboldt.ca.us



Re: Comments Concerning Revised Initial Study / Mitigated Negative Declaration for the Rolling Meadow Ranch, LLC; Six Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH# 2020070339)

Dear Ms. Ryan:

I am writing to comment on the proposed project in my individual capacity as a local resident who currently lives in Humboldt County and had resided in McCann from 2001 through 2015. I am intimately familiar with the access to McCann from Dyerville Loop Road over the Eel River bar onto McCann Road.

I drove on McCann road almost daily for more than a decade. McCann road can best be described as a one lane winding seasonal dirt road with multiple site distance issues. It is a beautiful part of the County which offers glimpses of the wild and scenic Eel River below. I would see deer daily and saw occasional black bears and mountain lions walking along that road. It is the one and only place I have ever seen a ring-tailed cat. Although the road was ideal for nature viewing, it was not a place where you wanted to encounter other people. I saw multiple accidents on McCann Road and had many near accidents myself. There are no guard rails or safe shoulders. I have no doubt that it fails to meet CalTrans guide for safe site distances or appropriate shoulders. McCann road is only designed to maintain the extremely limited traffic for the very few local residents who access their homes along this road.

I recommend that anyone considering the project please drive the road and see for themselves why it would place our citizens and the environment at an unnecessary risk.

The road is not built to handle an industrial cannabis operation. It is a Category 2 road. I was shocked to learn that the applicants have represented the road as the equivalent of anything other than a Category 2 road. If McCann road could be declared the equivalent to a category 4 road it will justifiably open the flood gates to reconsideration of other projects that were denied in this county.

Our county has taken the lead in California in striking the balance of legalizing cannabis cultivation while at the same time protecting our citizens and natural resources. It is something that we have done well. The proposed project would put profit over people and is contrary to our values. It simply makes no sense to bend the rules in this area.

Patrik Griego
2323 O Street
Eureka, CA 95501
(707) 476-2286

A handwritten signature in blue ink is located below the contact information for Patrik Griego. The signature is stylized and appears to read 'Patrik Griego'.

McClenagan, Laura

From: Ryan, Meghan
Sent: Monday, January 04, 2021 7:28 AM
To: Carol Ralph
Subject: RE: Rolling Meadow Ranch CUP SCH No. 2020060339

Good morning, Carol – Thank you for providing comments on behalf of the North Coast Chapter of the California Native Plant Society regarding the Rolling Meadows project. These comments will be forwarded to the Planning Commission for their consideration at the January 7, 2021, Planning Commission hearing.

Best,
Meghan

From: Carol Ralph <theralphs@humboldt1.com>
Sent: Wednesday, December 30, 2020 9:31 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Rolling Meadow Ranch CUP SCH No. 2020060339

Meghan Ryan:
Please find attached comments from the North Coast Chapter of the California Native Plant Society about the proposed Rolling Meadow Ranch cannabis farm.

Thank you.

Carol Ralph
President
North Coast Chapter
California Native Plant Society
707-822-2015



CALIFORNIA
NATIVE PLANT SOCIETY

North Coast Chapter
P.O. Box 1067
Arcata, CA 95518



30 December 2020

Meghan Ryan
Humboldt County Planning Department
3015 H Street
Eureka, CA 95501
mryan2@co.humboldt.ca.us

re: Rolling Meadow Ranch, LLC. Conditional Use Permits SCH No. 2020060339

Dear Meghan Ryan:

Please consider these comments from the North Coast Chapter of the California Native Plant Society. CNPS is a 501(c)3 non-profit dedicated to conserving California native plants and their natural habitats. CNPS has 10,000 members in 33 chapters statewide. The North Coast Chapter represents 320 members in Del Norte, Humboldt, western Trinity, and western Siskiyou counties.

The Chapter is opposed to the project as proposed due to its impacts on sensitive natural prairie communities and other significant native vegetation. We urge the County to evaluate project alternatives and require appropriate mitigation to minimize project impacts on native vegetation and sensitive natural communities.

1. **Prairies.** In northwest California grassy clearings found in the general matrix of forested mountains are called, informally, prairies. (We use the word "meadow" for montane clearings.) These open areas support a high diversity of plant species, much more than grasses. Historically, prairies were important to indigenous people as foraging sites for seeds and bulbs and hunting sites for game that foraged there. In recent times the fact that prairies sequester large amounts of carbon has become important. Though many prairies are now degraded from historic overgrazing and invasive species, many prairies still contain pockets of native flora, including rare plants and sensitive natural communities. As such, prairies have biological value higher than their acreage suggests. Prairies, along with oak woodlands, are being lost to development (easier to build where no trees), agriculture (easier to plow where no trees), livestock grazing (bringing in aggressive, non-native plant species), and lack of burning (trees and shrubs sprout and take over). **Protecting remaining prairies should be a conservation priority for the County.**

The Rolling Meadow project does the opposite. The 16 greenhouses, clustered in four places, each with water tanks, a processing plant, a septic field, parking area, road, and path, are all proposed to be built in prairie habitat. Compared to the total area of prairie on the property, as viewed in the aerial photos, the area for development is small. Whether this loss is significant depends on other cumulative effects. Will the remaining prairies be maintained? With cattle grazing removed, the likelihood of forest encroaching the prairies is high. **The County should**

evaluate the effects of the project on prairie habitat to understand whether the effects are significant and require mitigation.

The most meaningful mitigation for project impacts on prairie would be a properly researched and professionally executed **prairie restoration**. Restoring prairies is a developing science and art. Non-native species are aggressive and often outgrow the native species planted. Growing deep roots or developing turf takes many years. The diverse mix of species requires attention to many species, not just seeding with one grass. Techniques used in grassland restoration include weeding, fertilizing, weed-eating, mowing, grazing, controlled burning, and planting. We recommend requiring prairie restoration at a minimum 2:1 ratio for any prairie impacts caused by this project.

2. Sensitive Natural Communities. Two kinds of prairie that are classed as Sensitive Natural Communities in California, and therefore afforded special protections, are directly in this project's footprint: **California Oatgrass Prairie and Blue Wildrye Prairie**. While the patches of these Sensitive Natural Communities are small, and the prairies in which they occur are somewhat degraded by non-native grasses and forbs, they are highly significant, as they are the legacy of past, native prairies, and they hold the seeds of future native prairies. The proposed plan to enhance these kinds of prairie elsewhere on the property by seeding, weeding, and planting plugs, is a good step toward mitigation. Collecting the seeds on site, as proposed, is essential. Salvaging and transplanting the desired grasses and any desirable, native, non-grass species (e.g. native bulbs) during construction would increase the value.

3. Prime Agricultural Soils. The county requirement that cannabis cultivation be on Prime Agricultural Soils dictated the dispersed plan of this cannabis grow in these prairies. On this property the Prime Ag Soils are in the prairies, so the greenhouses are placed there. In the face of this consequence, the County should consider adjusting this Prime Ag requirement.

In fact, most of the greenhouses are not entirely on the Prime Ag Soil. The structures are too big to fit in the small, irregular patches of this soil. For example, facility #1 is only about half on Prime Ag Soil. To fit on the Prime Ag Soils, the facilities would have to be much smaller and irregularly shaped. **By this criterion the project does not comply with county regulations.**

To meet the other part of the requirement, that less than 20% of the available Prime Ag Soil be in "cannabis cultivation," the plan includes in its calculation only the footprint of the actual cannabis plants, not the paths, etc., around them, as though the associated infrastructure were not part of the cultivation. (page 46) Including the entire footprint of the greenhouses puts this project **well over the 20% limit**. The more complex calculation of exactly how much Prime Ag Soil is occupied, given that most greenhouses include area not on such soils, is beyond the scope of this review (and probably the County's). The County should require the project to be downscaled for compliance with applicable code requirements, which would better protect remaining prairie habitats.

This project claims it will preserve 99.5% of the defined Prime Ag Soil by growing cannabis directly in holes in the prairie soil rather than grading and pouring a hardened floor. Conceivably that is true, depending on the definition of Prime Ag Soil and of "preserve." For preserving the prairie soil for possible future daylighting, it is false. Soil heavily amended and irrigated and compacted by foot and vehicle traffic will give rise to non-native weeds, not native prairie.

4. **Tree removal.** Some of the trees that might be removed are large enough to be considered legacy trees: a 36-inch California Bay, two 30-inch Douglas-fir, and a 25-inch Madrone. Large California Bay were valued trees by the Native Americans. This slow-growing species could have shaded Native American camps and provided them with nuts. Planting groves of trees in **no way mitigates** for removing trees of this age. The County should evaluate alternatives to the removal of legacy trees and consider whether there are any feasible alternatives that would avoid tree removal.

Planting groves of trees in this forest-prairie mosaic might actually be futile or harmful. Where there is already forest, there is no room and no sun for new trees. Where there is not forest, there is prairie, which should not be planted with trees.

The proposed planting plan **mistakenly** calls for *Laurus nobilis* and *Quercus alba*, probably intending *Umbellularia californica* and *Quercus garryana*. The botanist's report says that *Quercus kelloggii* is the more common oak existing there, so it might be the more appropriate choice. Any mitigation for this project should be of prairie. (See above)

Conclusion. We urge the County to evaluate fully the project effects on the ranch's prairies and require appropriate mitigation in the form of prairie enhancement and restoration.

This project does not meet the County's requirement for new cannabis grows to be on Prime Ag Soils, and it exceeds the 20% limit. It removes irreplaceable trees. It removes, with mitigation, patches of Sensitive Natural Communities while failing to consider alternatives that would avoid impacts to Sensitive Natural Communities.

The County should consider the cumulative effect of this and many other farms being planned on the County's natural prairie habitats. The County's requirement that new cannabis cultivation be on Prime Ag Soils is leading directly to the careful destruction of these prairies. The County should explore ways to modify this regulation to avoid serious, cumulative impacts to this important natural resource.

On behalf of our chapter members and of future generations of members, we thank you for your careful consideration.

Sincerely,



Carol Ralph
President
North Coast Chapter
California Native Plant Society
707-822-2015

McClenagan, Laura

From: Ryan, Meghan
Sent: Monday, January 04, 2021 7:37 AM
To: Tom Wheeler
Subject: RE: Rolling Meadows

Good morning, Tom – Thank you for providing comments on behalf of the Environmental Protection Information Center regarding the Rolling Meadow Ranch project. These comments will be forwarded to the Planning Commission for their consideration at the January 7, 2021, Planning Commission hearing.

Best,
Meghan

From: Tom Wheeler <tom@wildcalifornia.org>
Sent: Thursday, December 31, 2020 11:09 AM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Rolling Meadows

Dear Meghan,

On behalf of the Environmental Protection Information Center, please accept these on the draft mitigated negative declaration and proposed conditional use permits for Rolling Meadows, LLC (SCH #2020070339).

EPIC writes to join in the concerns raised by the California Department of Fish and Wildlife in their December 30, 2020 comment letter and to the concerns raised by the Holder Law Group and the California Native Plant Society. I have attached this letters here and incorporate their concerns by reference. In particular, EPIC is concerned about the impacts to golden eagles and the hydrologic connectivity between the wells and the Eel River. EPIC's concerns are twofold: first, the draft document's conclusions are not supported by substantial evidence; and second, substantial evidence suggests that the impacts to these resources are going to be significant, requiring a full environmental impact report and mitigations.

Should you have any concerns, please contact me at (206) 356-8689 or tom@wildcalifornia.org.

Best,
Tom

--

Tom Wheeler
Executive Director and Staff Attorney
Environmental Protection Information Center
145 G Street Suite A
Arcata, CA 95521
Office: (707) 822-7711 | Cell: (206) 356-8689
tom@wildcalifornia.org
www.wildcalifornia.org
Pronouns: he/him/his

"If EPIC had not undertaken its lonely efforts on behalf of the Marbled Murrelet, it is doubtful that the species would

have maintained its existence throughout its historical range in California." - Judge L. Bechtel, *Marbled Murrelet v. Pacific Lumber Co.*

December 30, 2020

Meghan Ryan, Senior Planner
Humboldt County Planning and Building Department
3015 H Street
Eureka, CA. 95501
mryan2@co.humboldt.ca.us

Governor's Office of Planning & Research

Dec 31 2020

STATE CLEARINGHOUSE

Subject: Rolling Meadows ([SCH# 2020070339](#)) Conditional Use Permits Initial Study and Draft Mitigated Negative Declaration

Dear Meghan Ryan:

The California Department of Fish and Wildlife (CDFW) received from the County of Humboldt (Lead Agency) a recirculated Initial Study and Draft Mitigated Negative Declaration (IS/MND), dated November 25, 2020, for the Rolling Meadows (Project), in McCann, Humboldt County, California. CDFW understands the Lead Agency will accept comments on the Project through December 30, 2020.

Previously, on July 16, 2020, the Lead Agency circulated an IS/MND. On Thursday, August 13, 2020, CDFW staff conducted a site visit of Facilities #1-16 of the Project area. On August 17, 2020, CDFW submitted written comments on the IS/MND. On October 8, 2020, CDFW issued a final Lake or Streambed Alteration (LSA) Agreement to rebuild an existing bridge on Larabee Creek that will serve as an alternate access to the Project from Alderpoint Road. Work at several additional stream crossing locations disclosed in the IS/MND are subject to LSA Notification and have not yet been evaluated or authorized by CDFW.

The Project is located on Humboldt County Assessor's Parcel Numbers (APNs) 217-181-028, 217-201-001, 217-022-004, 217-201-001, 211-281-006, and 217-181-017. The project proposes 306,648 square feet (7 acres) of new cannabis facility space, including 249,739 square feet (5.73 acres) of new mixed-light cannabis cultivation. The Project also proposes use of three wells for irrigation in addition to 320,000 gallons of proposed greenhouse roof rainwater catchment that will be stored in tanks. The mixed-light cultivation is proposed to be powered by Pacific Gas and Electric, however new connection lines and associated infrastructure will be needed.

As the Trustee for the State's fish and wildlife resources, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary to sustain their populations. As a Responsible Agency, CDFW administers the California Endangered Species Act and other provisions of the Fish and Game Code (FGC) that conserve the State's fish and wildlife public trust resources. CDFW offers the following comments and recommendations in our role as Trustee and Responsible Agency pursuant to the California Environmental Quality Act (CEQA; California Public Resource Code §21000 *et seq.*). CDFW participates in the regulatory process in its roles as Trustee and Responsible Agency to minimize project impacts and

avoid potential significant environmental impacts by recommending avoidance and minimization measures. These comments are intended to reduce the Projects impacts on public trust resources.

Clarification of CEQA Document Type

The CEQA document currently in circulation is called an “Initial Study and Environmental Checklist”, however the November 30, 2020 Notice of Intent calls the document an IS/MND. For this comment letter, CDFW assumes the document currently in circulation is an IS/MND. However, the Environmental Checklist on page 33 of the November 25, 2020 IS/MND was not completed or signed.

Please provide clarification if the document is 1) IS/MND or 2) an Initial Study and Environmental Checklist that will be used to determine the appropriate CEQA Environmental Document (i.e., Mitigated Negative Declaration or an Environmental Impact Report) (**Recommendation 1**).

Golden Eagle

The IS/MND discloses a previously documented golden eagle (*Aquila chrysaetos*) nest site within line-of-site from the Project (California Natural Diversity Database occurrence #80, Nelson 2000), however complete protocol level golden eagle surveys for the Project have not yet occurred. The IS/MND acknowledges golden eagles are designated as Fully Protected pursuant to FGC section 3511, and that take of Fully Protected Species is prohibited. Additionally, the low and declining population numbers of golden eagles within northwestern California (Harris 2005, Hunter et al. 2005) and the broader Bird Conservation Region (BCR) where the Project occurs (Millsap et al. 2016, USFWS 2016) suggest impacts to golden eagle may be potentially significant (CEQA Guidelines section 15125 (c)). However, the IS/MND does not contain complete or adequate survey results for this species (Pagel et al. 2010). Without sufficient and complete surveys for golden eagle, CDFW cannot adequately comment on the potential for take or significant impacts to this species nor the effectiveness and feasibility of mitigations.

No Sustainable Take Rates. The importance of conserving golden eagle populations and their habitats is highlighted by their low and declining population numbers within BCR, where the Project occurs. BCR 5 spans from Alaska to Sonoma County, California and is estimated to contain only 189 golden eagle breeding pairs with no sustainable take rates (Millsap et al. 2016, USFWS 2016). While avoiding disturbance to nest locations is important during courtship, breeding, and rearing of young, it is also important to ensure that adequate grassland foraging habitat remains within a golden eagle territory. Prior studies in the western US suggest a radius of two miles encompasses 50 to 80 percent of golden eagle use and represents densely used core area (Watson et al. 2014, Hansen et al. 2017).

Project Juxtaposition to Golden Eagle Breeding Habitat. Grasslands within one mile of nest sites may be particularly vulnerable to disturbance effects on golden eagle while

they are feeding nestlings (USFWS 2020). From the location of the documented 2003 nest site, the Project's two eastern most clusters of greenhouse facilities lie within one-mile and are within in line-of-site of the nest location (Figure 1- 2). The juxtaposition of the Project area to the 2003 nest site would maximize visual and other disturbances perceived at the nest site and potentially eliminate the majority of the foraging habitat within the core area (Figure 1 – 2).

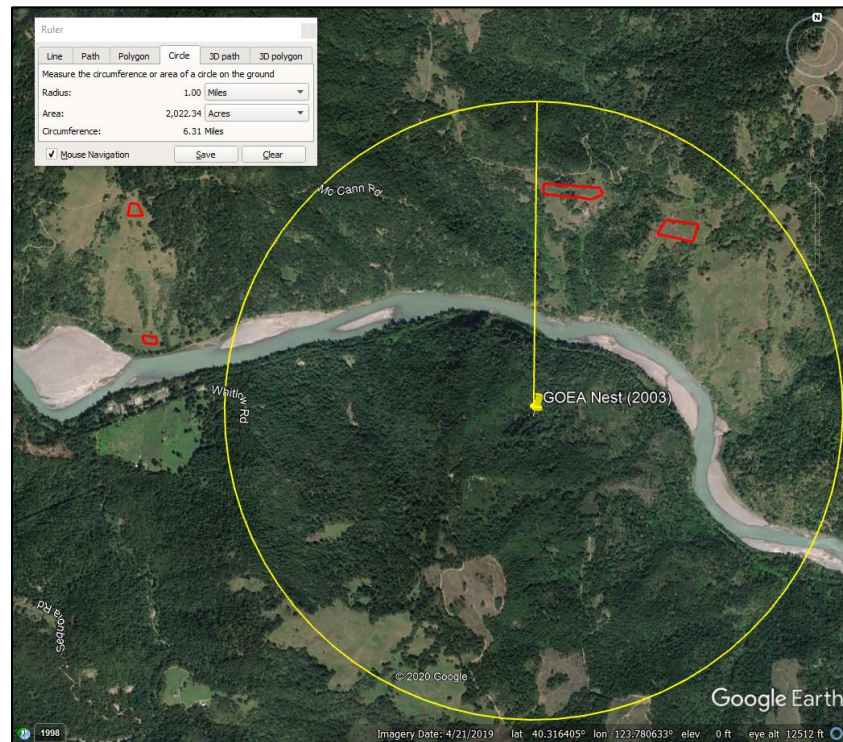


Figure 1. A one-mile radius around the 2003 nest site. Project areas are shown in red and two locations are within the one-mile no disturbance buffer. Note: alternative nest sites may be closer to the Project.

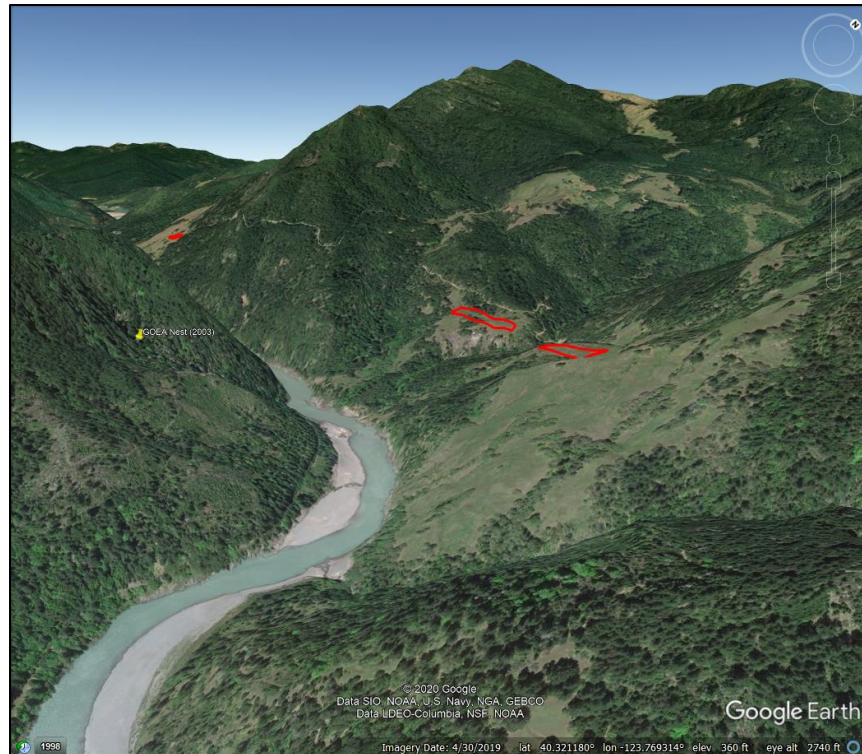


Figure 2. A documented golden eagle nest site (yellow pin) is within line-of-site of Project cultivations areas (shown in red). Note: alternative nest sites may be closer to the Project.

Golden Eagle Sensitivity to Disturbance. Although not well described in the Environmental Setting section of the IS/MND, the pre-Project baseline level of anthropogenic disturbance (e.g., visual, noise, and light) is very low or non-existent within the Project area. Any golden eagles in this vicinity are likely to be especially sensitive to human disturbance. Based on the range of disturbance distance thresholds for golden eagles (Hansen et al. 2017), they may flush from their nests or reduce feeding young with even low to moderate disturbance (including pedestrian activity) occurs within 1,000 meters (3,281 feet or 0.62 miles). Furthermore, nest-site protection is only beneficial if there is adequate access to prey. While male golden eagle's presence at nests is generally limited to prey delivery or brief assistance with young, they frequently rest on perches in view of nests (Watson et al. 2014). In southwestern Idaho, golden eagles perched away from nests were 12 times more likely to flush in response to recreationists than eagles at nests (Hansen et al. 2017). This suggests frequent human activity away from nests could result in chronic disturbance of foraging golden eagles and reduced provisioning rates at the nest. For example, if the 1,000-meter disturbance metric is applied to Project cultivation areas that may affect grassland foraging areas within a one-mile no disturbance buffer of the 2003 nest site, approximately 125 acres of 219 acres (57 percent) of foraging area may be avoided by foraging golden eagles attempting to feed their young (Figure 3).

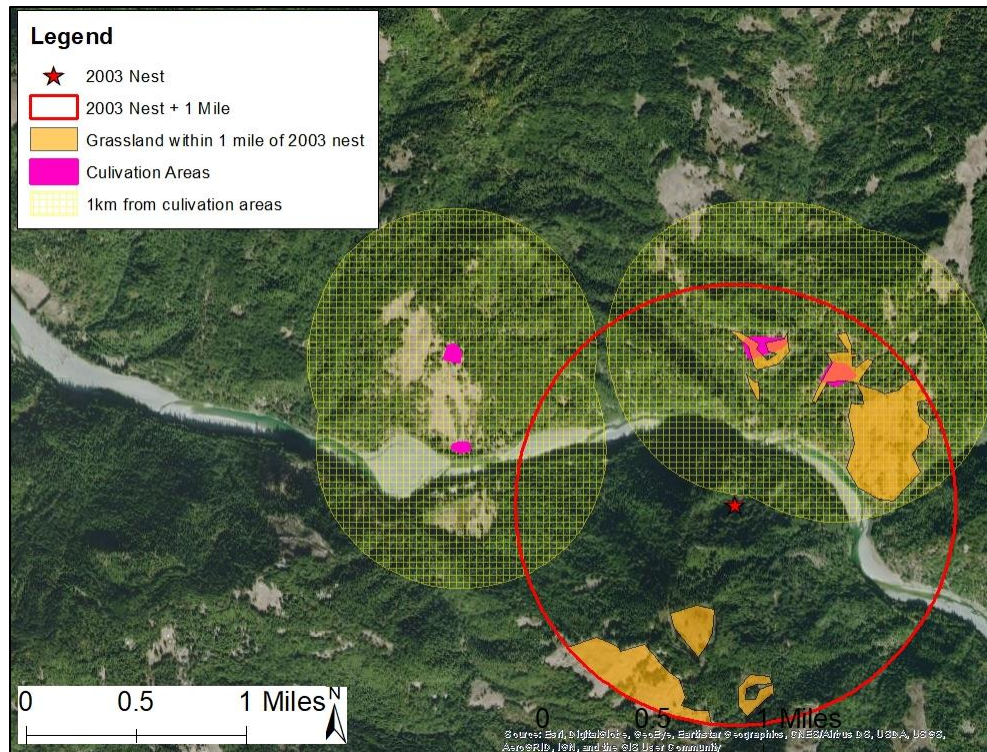


Figure 3. Assuming no golden eagles forage within 1,000 meters of cultivation sites, the Project would result in a 57 percent reduction of foraging habitat within a one-mile no disturbance buffer.

Unlike short term disturbance impacts (e.g., timber harvest), ongoing chronic disturbance may warrant buffers in excess of 1,000 meters, further supporting the USFWS' one-mile no disturbance buffer for golden eagle nest sites. Importantly, the IS/MND Mitigation Measure Bio-16 calling for a 660-foot buffer from nest sites was intended by the USFWS for bald eagles (*Haliaeetus leucocephalus*) (USFWS 2017), who are much less sensitive to disturbance than golden eagles (USFWS 2016).

Golden Eagle Surveys. Deficiencies in Project golden eagle surveys include: 1) none of the golden eagle surveys conducted for the Project occurred during the courtship season when golden eagles are most likely to be detected. Once golden eagles have paired and laid eggs after courtship, they become secretive and difficult to detect. The protocol specifically states the first inventory and monitoring surveys should be conducted during courtship when adults are mobile and conspicuous. Other deficiencies of the Project's golden eagle surveys include: 2) survey duration less than four hours (as recommended in the protocol), 3) surveyor location movement during surveys (survey should occur in blinds or other cryptic locations because golden eagles will avoid human presence and activities, potentially resulting in false negative survey results), 4) insufficient Project area coverage from survey locations (cultivation locations are nearly two miles apart and likely require multiple four-hour protocol observation points), 5) anecdotal conclusions based on out-of-season observations that the documented 2003 nest site is unoccupied, and 6) no evaluation of potential alternative nest sites within the Project vicinity (golden eagles often rotate annual occupancy of several alternative nest sites within a core area (Watson et al., 2014)).

Regarding anecdotal conclusions based on out-of-season observations, the IS/MND provides insufficient evidence to support current unoccupancy at the 2003 golden eagle nest that occurs about 1,000 meters south of the Project. The nest was last reported occupied in 2003 (Nelson 2020), but there are no records of attempts to verify continued nesting until one month ago, outside the breeding season. Project biologists visited the 2003 nest vicinity in November 2020 and concluded the nest is no longer present due to a lack of visible white-wash (fecal matter) or prey remains on the ground. If that nest location was occupied in 2020, young may have fledged from the nest several months prior and evidence of white-wash and prey remains may no longer have been present in November. The lack of a physical nest observation in 2020 does not support the conclusion a nesting site is no longer there because, 1) nests can occur in any portion of trees that could support a large stick platform and can be obscured from ground view when located at the top of a tree or in complex side-branch structures, 2) nest structures can be 10-feet in diameter and retain white-wash and discarded prey remnants where they cannot be observed from the ground, and 3) nests platforms occasionally fall out of trees and are rebuilt by golden eagles when they choose to nest in that tree again as part of their semi-annual rotation of alternative nest sites within a territory, of which they exhibit nest site fidelity over years and decades (Hansen et al., 2017).

Regarding no evaluation of potential alternative nest sites within the Project vicinity, the IS/MND states that no golden eagle nesting habitat exists in the immediate vicinity of the Project based on the assumption that potential nesting habitat is synonymous with northern spotted owl (NSO) high quality nesting/roosting habitat, but this statement is not supported. While NSO may be more likely to utilize forested areas with many larger trees, golden eagles can nest in locations with just one tree large enough to support a nest platform anywhere within the tree (Menkens et al. 1987, Baglien 1975). Given that many large diameter trees (e.g., Douglas fir [*Pseudotsuga menziesii*] crown diameter 40+ft visible on Google Earth) occur within one mile of Project locations, suitable nesting trees with complex branch structures may occur closer to the Project than the 2003 nest location.

Given the high-quality nesting and foraging habitat in the Project vicinity (large trees and grasslands), the previously documented nest site, 2018 golden eagle flyover observation during Project surveys, multiple other recent reports of juvenile golden eagles in the vicinity (Gaffin 2014 and 2015), and fidelity to nesting sites over years or decades (Hansen et al. 2017), the potential for an active breeding territory within the Project vicinity is high. Without adequate surveys for this species and, if present, a detailed effects analysis of potential Project impacts, CDFW is concerned that the Project could interfere with breeding, nesting success, feeding, sheltering behavior, and result in a loss of productivity, nest failure (e.g., disturbance-induced reduced provisioning of young), or complete abandonment of a golden eagle breeding territory (due to long term chronic disturbance).

Based on the golden eagle information discussed above, CDFW recommends the Project complete protocol golden eagles surveys and consult with CDFW prior to completion of CEQA (**Recommendation 2**). There is a reasonable likelihood an active

golden eagle breeding territory occurs within the Project vicinity and that several alternative nest sites may exist within relatively close proximity to the Project. Without sufficient protocol surveys for this species, we cannot adequately comment on the potential for significant impacts nor the effectiveness and feasibility of take avoidance or mitigations. Additionally, as proposed in the IS/MND, mitigation measure Bio-16's 660-foot nest buffer may be inadequate for this species and could potentially result in take of a Fully Protected species.

Cumulative Impacts to Grassland Prairies

The Lead Agency's Commercial Medical Marijuana Land Use Ordinance states no more than 20 percent of the area of prime agricultural soils on a parcel may be permitted for commercial cannabis cultivation. It is unclear if the ordinance and its supporting CEQA analysis intended new cultivation sites to be located within remote (i.e., exurban), hillside grassland prairies (where sensitive species may occur) as opposed to traditional agricultural lands already associated with crop production. An unintended consequence of requiring new cultivation on prime agricultural soils (and allowing new areas to be classified as such with no minimum size) is the targeting of small, isolated, flat grasslands within larger prairie complexes on steeper slopes. These habitats are vital elements of biodiversity and provide important habitat for wildlife (Stromberg et al. 2007, CNPS 2011, CDFW 2014a). For example, grasslands in less developed portions of the County correspond with golden eagle foraging habitat and may be occupied by sensitive breeding territories, as described previously in this letter.

The Humboldt County Planning and Building Department has received at least 45 commercial cannabis applications occurring within 1 mile (recommended no disturbance buffer) of documented golden eagle nest sites (Table 1, Battistone, 2020). Furthermore, over 150 commercial cannabis cultivation applications occur within two miles of documented golden eagle nest sites. Given the number of proposed projects within one mile of documented nest sites and that 50 to 80 percent of eagle habitat use is reported to occur within 2 miles of nest sites, CDFW is concerned cumulative project impacts could eliminate golden eagle territories within Humboldt County.

Additional cumulative impacts could occur to other grassland-dependent special status species such as northern red-legged frog (*Rana aurora*), grasshopper sparrow (*Ammodramus savannarum*), mountain plover (*Charadrius montanus*), northern harrier (*Circus hudsonius*), white-tailed kite (*Elanus leucurus*), Pacific gilia (*Gilia capitata* ssp. *pacifica*), short-leaved evax (*Hesperis matronalis* var. *brevifolia*), Baker's navarretia (*Navarretia leucocephala* ssp. *bakeri*), Kneeland prairie pennycress (*Noccaea fendleri* ssp. *californica*), maple-leaved checkerbloom (*Sidalcea malachroides*), Siskiyou checkerbloom (*Sidalcea malviflora* ssp. *patula*), beaked tracyina (*Tracyina rostrata*), leafy reed grass (*Calamagrostis foliosa*), Hitchcock's blue-eyed grass (*Sisyrinchium hitchcockii*), and other special status species (CDFW 2020a).

Table 1. Humboldt County commercial cannabis applications within two miles of documented golden eagle nest sites.

| Key Parcel Distance to Mapped Golden Eagle Nest (Miles) | Number of County Cannabis Cultivation Applications |
|---|--|
| 0 - 0.25 | 9 |
| 0.26 - 0.5 | 9 |
| 0.51 - 1 | 27 |
| 1.1 - 2 | 112 |
| Total | 157 |

Cumulative impacts could also occur to rare vegetation types known as Sensitive Natural Communities. Using the best available data on the abundance, distribution, and threat, CDFW assigns natural communities rarity ranks and/or a designation as “Sensitive” (*). Rarity ranks range from 1 (very rare and threatened) to 5 (demonstrably secure). Sensitive Natural Communities (S1 – S3 or otherwise designated as sensitive) should be addressed in the environmental review processes of CEQA and its equivalents (CDFW 2020b). Cumulative impacts could occur to grassland-associated Sensitive Natural Communities in Humboldt County including California brome – blue wildrye prairie (*Bromus carinatus* – *Elymus glaucus*; S3), Oatgrass - Tufted Hairgrass - Camas wet meadow (*Danthonia californica* – *Deschampsia cespitosa* – *Camassia quamash*; S4*), Idaho fescue - California oatgrass grassland (*Festuca idahoensis* – *Danthonia californica*; S3), California goldfields – dwarf plantain – small fescue flower fields (*Lasthenia californica* – *Plantago erecta* – *Vulpia microstachys*; S4*), and other sensitive natural communities.

The IS/MND should evaluate cumulative impacts to grassland prairies, particularly special status species and sensitive natural communities (**Recommendation 3**).

Use of Water Wells

The IS/MND relies on written statements from David Fisch of Fisch Drilling to assess well use impacts to groundwater. Although Mr. Fisch is a Licensed Water Well Contractor, it is not apparent that he is licensed to provide geologic interpretations and/or related evaluations of groundwater/surface water connectivity. The scientific and engineering community universally accepts the connectivity of surface water and groundwater systems and that groundwater discharge to streams constitutes a sizeable and important fraction of streamflow (Fetter 1988, Winter et al. 1998, Department of Water Resources 2003, Barlow and Leake 2012, Province of British Columbia 2016).

In light of the Project’s geologic setting, mapped springs, wetlands, and other surface water features (IS/MND Figure 61 on page 197), and based on the potential total volume of groundwater extraction from the three new wells, CDFW recommends the applicant retain a qualified professional (e.g. geologist or engineer with hydrogeology background) licensed to practice in California to conduct a preliminary evaluation of the Project’s potential impacts to local surface water flows, and to provide

recommendations that ensure Project activities will not substantially affect aquatic resources (**Recommendation 4**).

Post-project Reclamation and Restoration

As described in the IS/MND, the Project will occur in a remote area of the County that supports numerous special status species and habitats. The Project's seven acres of new cannabis facility development and infrastructure will have lasting effects on the landscape if the Project permanently ceases operations at some point in the future. Similar to other industries with this spatial magnitude of ground disturbance (e.g., mining) it is appropriate to decommission facilities and restore the area at the end of a project's life.

CDFW recommends a mitigation measure or condition of approval to require a Post-project Reclamation and Restoration Plan. That plan should be implemented if project activities cease for five years (**Recommendation 5**).

The following resource topics were brought up in our August 17, 2020 letter for this Project, and are reiterated with additional information here as the revised IS/MND did not appear to fully address these:

Botanical Surveys and Impact Analysis

The IS/MND states botanical surveys for rare plants did not encompass the entire Project area, specifically Facilities #6 through #9. The entire Project area should include the "whole of the action" (CEQA Guidelines section 15003 (h)), including all proposed buildings, new powerlines, borrow pits, access roads, and other areas of new ground disturbance. The IS/MND proposes completing botanical surveys as a mitigation measure. Based on the IS/MND, it appears floristic botanical surveys have not yet covered the entire Project area, including proposed work on the access road to Alderpoint, which contains suitable habitat for a Humboldt County milk-vetch (*Astragalus agnicidus*), a State Endangered Species.

To avoid deferred analysis, and potential deferred mitigation, the IS/MND should include the results of floristically appropriate botanical surveys for the entire Project area. Surveys and reporting should be in accordance with CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* and propose avoidance/mitigation where appropriate (**Recommendation 6**).

Wetland Fill and Development Setbacks

The IS/MND indicates development of Facility #9 will require wetland fill and encroachments on wetland setbacks at Facilities #1 and #2. Approximately 90 percent of California's historical wetlands have been filled or converted to other uses, with a consequent reduction in the functions and values wetlands provide (CDFW 2014b). Additionally, there may not be a viable path for wetland fill to create cultivation sites

pursuant to the SWRCB's Cannabis Cultivation General Order (SWRCB 2019a).

CDFW recommends the Project adhere to Humboldt County General Plan wetland setbacks through Project layout changes to avoid wetland fill and associated development setbacks (**Recommendation 7**). CDFW also recommends the Project consult with the North Coast Regional Water Quality Control Board regarding the State Water Resources Control Board's (SWRCB) Cannabis Cultivation Policy and its mandate to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation (SWRCB 2019b).

Development within the 100-year Flood Zone

The Project proposes locating two greenhouses (Facilities #1 and #2) within the 100-year flood zone of the Eel River (IS/MND Figure 63 on page 200). Floodplains, by their nature, are likely to be inundated by high flow events. They also connect streams and rivers to upland habitat and provide an important ecological transition zone (CDFW 2014b). Grading within the floodplain and placement of complex, automated mixed-light greenhouses, and ancillary facilities, would likely result in pollution and debris during a 100-year flood event.

CDFW recommends Project layout changes to avoid non-essential development in Eel River 100-year floodplain. (**Recommendation 8**).

Electric Infrastructure Expansion

The IS/MND indicates approximately four miles of new electrical lines will be installed to connect existing powerlines to proposed cannabis cultivation sites. Based on the IS/MND, it appears the new electrical lines will be installed, primarily buried within the road prism.

Although CDFW appreciates the Project using existing disturbed areas for the utility alignment, the IS/MND should include further analysis on potential additional development or growth inducing impacts within the local region that may be facilitated by the creation of four miles of new electrical utilities (**Recommendation 9**). If the Project will not be growth inducing, as stated in the IS/MND, it may be appropriate to include development limitations on these parcels in the form of a Development Plan recorded with the County.

Mixed-light Cultivation

Light pollution effects on wildlife include disruption of circadian rhythms and suppressed immune response, changes in foraging behavior, altered navigation and migration patterns, altered predator-prey relationships, impacts on reproduction, and phototaxis (CDFW 2018, CDFW 2020c). CDFW and others have observed light pollution originating from greenhouses throughout the County. This is inconstant with the County General Plan and International Dark Sky Standards. The IS/MND suggests International Dark Sky Standards will be upheld by the Project.

Based on experience with other similar cultivation projects, it is difficult to monitor and regulate potential light pollution impacts from non-compliance with permit conditions. The County should ensure the measures to comply with International Dark Sky Standards are implementable and easy to confirm or monitor (**Recommendation 10**).

Invasive Species

The IS/MND does not address potential significant effects from introduction or spread of invasive plant and animal species. Invasive species are known to result in habitat loss and other impacts to native species and may result in an overall loss of biodiversity, particularly special status species (Duenas et al. 2018). Invasive plant species may enter or spread through the Project area from imported soil, attachment to vehicles, and other means of accidental introduction.

CDFW recommends a mitigation measure or condition of approval to require an invasive species management plan that would manage any existing invasive species and prohibit planting, seeding or otherwise introducing terrestrial or aquatic invasive species on Project parcels, including all access roads (**Recommendation 11**).

Rodenticides and Similar Harmful Substances

This Project has potential high use areas for birds of prey including, white-tailed kite (*Elanus leucurus*), red-tailed hawk (*Buteo jamaicensis*), ferruginous hawk (*Buteo regalis*), golden eagle, and other species. New agricultural development has the potential to increase rodent populations, which are sometimes treated with rodenticides. Rodents killed by rodenticide have the potential to be consumed by raptors, other birds of prey, and wildlife species, resulting in harm or mortality (CDFW 2018, CDFW 2020c).

CDFW recommends a condition of approval that will prohibit the use of rodenticides and similar harmful substances on Project parcels (**Recommendation 12**).

We appreciate the opportunity to comment on this IS/MND. If you have any questions please contact Environmental Scientist Greg O'Connell by email at Gregory.OConnell@Wildlife.ca.gov.

Sincerely,

DocuSigned by:
Curt Babcock
974D273FEE784E2...

Curt Babcock

Northern Region Habitat Conservation Program Manager
California Department of Fish and Wildlife

ec:

State Clearinghouse, Office of Planning and Research
state.clearinghouse@opr.ca.gov

Humboldt County Planning Commission Clerk
planningclerk@co.humboldt.ca.us

Mona Dougherty, Kason Grady
Regional Water Quality Control Board
mona.doherty@waterboards.ca.gov; Kason.Grady@waterboards.ca.gov

Curt Babcock, Scott Bauer, Laurie Harnsberger, Greg O'Connell, Cheri Sanville
California Department of Fish and Wildlife
Curt.Babcock@wildlife.ca.gov; Scott.Bauer@wildlife.ca.gov;
Laurie.Harnsberger@wildlife.ca.gov; Gregory.OConnell@Wildlife.ca.gov;
Cheri.Sanville@wildlife.ca.gov; CEQACommentLetters@wildlife.ca.gov

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Holder Law Group

317 Washington St., #177
Oakland, CA 94607-3810

holderecolaw.com

(510) 338-3759
jason@holderecolaw.com

December 30, 2020

VIA EMAIL AND HAND DELIVERY

Humboldt County Planning Department
Attn: Meghan Ryan, Senior Planner
3015 H St.
Eureka, CA 95501
Email: mryan2@co.humboldt.ca.us

Re: **Comments Concerning the revised version of the Initial Study / Mitigated Negative Declaration for the Rolling Meadow Ranch, LLC, dated Nov. 25, 2020; Six Conditional Use Permits for Commercial Cannabis Facilities (PLN-12529-CUP; SCH# 2020070339)**

Dear Ms. Ryan:

On behalf of Fran Greenleaf, John Richards, and Patty Richards (collectively “Petitioners”), we submit these comments, which supplement those expressed in Petitioners’ previous comment letters concerning deficient environmental review for the proposed Rolling Meadow Ranch, LLC Commercial Cannabis Project (“Project”).¹ These supplemental comments address revisions to the environmental impact analysis presented in the “revised” Initial Study, dated November 25, 2020, and the presumably proposed Mitigated Negative Declaration (“Revised IS/MND”) and the persistent omissions, errors, and misrepresentations in that analysis.² Through their diligent participation in the administrative process for this Project, Petitioners advance the public purpose of environmental protection by fostering revisions and additions to the environmental impact analysis that should be required for this large Project before it can be considered for approval – revisions that will help make the analysis accurate, complete, informative, and protective, as required under CEQA.

¹ Because the revised version of the IS/MND has not addressed many of the deficiencies identified in Petitioners’ prior comments, submitted on August 17, 2020 and September 10, 2020, respectively, those comments are incorporated herein by reference and should also be addressed in any revised impact analysis that the County may conduct for the Project pursuant to CEQA.

² The title page for the latest revised version of the IS/MND does not disclose that the analysis has been revised and the document has been recirculated for public review. The uncompleted Initial Study checklist on pages 33 and 34 of the document also does not disclose that a Mitigated Negative Declaration is proposed for the Project. The County recently issued a Notice of Public Hearing that indicates the intent to adopt an MND for this Project. Thus, for convenience we refer to the document as the “Revised IS/MND.”

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I. Introduction: The Proposed Large Commercial Cannabis Project is the Wrong Project at the Wrong Location with the Wrong Level of Environmental Review.

A. The Project is Unsuitable for the Site.

The Project site, Rolling Meadow Ranch, was described in a 2014 real estate listing as a “Conservationists Dream.”³ In fact, according to press reports, in 2016 the Wildlands Conservancy – an organization that specializes in purchasing properties with “significant environmental value” and turning them into nature preserves – almost purchased the 6,500-acre ranch property for \$15,000,000 before the organization was outbid at the last minute in a well-publicized land deal that fell through.⁴ While the property has tremendous potential for conservation, as with many other large ranch properties in the County of Humboldt (“County”), the tremendous allure of commercial cannabis appears to have prevailed.⁵

The Project is one of the largest completely new commercial cannabis projects ever to be proposed within the County.⁶ It is not, like many projects recently processed under the Commercial Medical Marijuana Land Use Ordinance (“CMMLUO”), an existing grow operation by a long-time county resident that is being proposed.⁷ Rather, it is a new industrial-scale operation (including 16 greenhouses, ranging size from just over 17,000- to just under 20,000 - sq. ft. and accompanying processing facilities) by an out-of-state non-resident project applicant.⁸ The applicant does not propose to grow cannabis organically, despite the fact that all 16 greenhouses will be located near sensitive wetlands, Class I and II streams, and the Eel River itself. Rather than propose a seasonal full sun grow operation that would use substantially less electricity and would have less reliance on generators in the event of a power outage, the applicant proposes an energy-intensive year-round mixed-light grow system. The greenhouses and processing facilities will be arranged in several clusters spread over miles of narrow winding unpaved roads. Simply put, the proposed Project is an intensive industrial-

³ See Exh. A – 2014 Real Estate Listing for Rolling Meadow Ranch.

⁴ See The Humboldt Independent, \$20 Million Myers Flat Land Deal Falls Through, dated June 7, 2016, available at: <http://www.humboldtindie.com/local-news/2016/6/6/20-million-myers-flat-land-deal-falls-through>, accessed 12/22/20.

⁵ See SF Chronical, Allure of legal weed is fueling land rush in Emerald Triangle, dated May 27, 2016, available at: <https://www.sfchronicle.com/science/article/Allure-of-legal-weed-is-fueling-land-rush-in-7948587.php>, accessed 12/22/20.

⁶ See Revised IS/MND, p. 10 [The total proposed square footage for all cannabis facility space (Facilities #1-#16 combined) is 304,560 square feet (7.04 acres). The total area dedicated to cannabis cultivation will be approximately 249,739 sq. ft. (5.73 acres)]. Compare this Project’s size to the many smaller commercial cannabis projects described in recent County Planning Commission agendas.

⁷ See, e.g., agenda for Planning Commission meeting on Dec. 4, 2020 [8 existing commercial cannabis projects considered for approval].

⁸ Revised IS/MND, pp. 9-10 [describing greenhouse sizes for facilities #1 though #16].

scale cannabis cultivation and processing operation located in a remote area with vulnerable natural resources and significant access issues.

B. Petitioners are Neighbors Concerned About the Project's Impacts.

Petitioners are neighboring property owners and residents of McCann, an unincorporated area located approximately 5 miles east of Highway 101 and adjacent to the main stem of the Eel River. The Project, as proposed, will substantially intensify the use of Dyerville Loop Road, McCann Road, and the seasonally-open one-lane McCann Bridge – all rural roads that are windy, narrow, and unpaved in many areas. Consequently, if the Project is approved, Petitioners will be adversely affected by increased Project-related traffic, construction and road noise, increased emissions and fugitive dust, increased wildfire risk, and a degraded natural environment, among other impacts. Even worse, the Project could lead to still more development within the expansive ranch area and accompanying environmental impacts. Petitioners seek to preserve the quality of the environment in this remote, undeveloped, and biologically important area adjacent to the Eel River for all to enjoy, both now and for future generations.

C. Substantial Evidence Supports a Fair Argument that the Project Will Cause Significant Environmental Impacts, Necessitating an Environmental Impact Report.

Petitioners maintain that the IS/MND, even as revised and supplemented, does not satisfy CEQA's requirements and cannot serve as the environmental clearance document for this large-scale and difficult-to-access Project. As explained further below, because there is substantial evidence supporting a fair argument that the Project may have one or more significant effects on the environment, the County is required to prepare an EIR before it can consider this Project for approval.⁹ Alternatively, the Planning Commission has authority to deny the application for the six (6) CUPs required for this Project because, among other things, it cannot conform to applicable County and State requirements for road access without substantial roadway modifications.¹⁰

In addition to the substantive deficiencies identified below and in Petitioners' prior comments, the Revised IS/MND also suffers from several procedural deficiencies. For example, the cover page for the Revised IS/MND does not identify the proposed Mitigated Negative Declaration or indicate that the analysis has been revised. Also, the Revised IS/MND does not include a completed checklist summarizing the proposed Project's potentially significant

⁹ See, e.g., *Communities For A Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320 (*CBE v. SCAQMD*), citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75 and *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504-505.

¹⁰ See *Las Lomas Land Co., LLC v. City of Los Angeles* (2009) 177 Cal. App. 4th 837, 849 [local agency with land use authority has discretion to deny project]; see also Gov. Code § 65800 [a county "may exercise the maximum degree of control over local zoning matters"].)

impacts, in contravention of CEQA Guidelines, § 15063(d)(3) and CEQA Appendix G.¹¹ In addition, the Revised IS/MND has not been signed by its preparers.¹²

These comments were prepared with input from retained experts in the fields of hydrogeology and civil engineering. The comments of Pacific Watershed Associates (“PWA”) and civil engineer Steve Salzman are provided herein as Exhibits B and C, respectively.¹³ Please note that the experts’ comments supplement and support some of the issues addressed below. The experience and expertise of these experts qualifies their comments, as incorporated herein, to serve as substantial evidence of the numerous ways in which the Revised IS/MND does not comply with the procedural and substantive requirements of CEQA. The comments from staff at trustee and responsible agencies, including the California Department of Fish & Wildlife (“CDFW”), concerning the original IS/MND and this Revised IS/MND also serve as substantial evidence supporting the conclusion that the Project may cause unanalyzed and unmitigated significant environmental impacts.¹⁴

D. Documents Referenced in the Revised IS/MND Were Not Made Available for Public Review During the Comment Period, as is Required Under CEQA.

As a preliminary matter, the public’s review of the Revised IS/MND was hampered by the unavailability of referenced studies supporting the analysis of Project impacts. CEQA requires the lead agency to make available for public review the environmental review document as well as all documents referenced in that document.¹⁵ Under Public Resources Code, section § 21092(b)(1), the Notice of Preparation of a MND must specify the location of the MND and “all documents referenced [therein] are available for review.” Here, not all documents referenced in the Revised IS/MND have been made available to the public and reviewing agencies as required.

Through a recently submitted request for public records, Petitioners obtained a July 30, 2018 version of a “Biological Report” that is referenced in the Revised IS/MND.¹⁶ Because a

¹¹ See Revised IS/MND, pp. 33-34 [included blank checklist].

¹² See *ibid.*

¹³ Please include in the administrative record for this Project all reports and other documents referenced herein and in the experts’ comment letters.

¹⁴ See *City of Arcadia v. State Water Resources Control Bd.* (2006) 135 Cal.App.4th 1392, 1425 [comments of government officials on a project’s anticipated environmental impacts on their communities constitutes substantial evidence that EIR is inadequate]; see also *City of Rancho Cucamonga v. Regional Water Quality Control Bd.* (2006) 135 Cal.App.4th 1377, 1387 [comments of agency staff constitute substantial evidence].)

¹⁵ See also *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455 [“The lead agency must notify the public of the draft EIR, make the draft EIR and all documents referenced in it available for public review, and respond to comments that raise significant environmental issues.”], citing PRC §§ 21092, 21091(a), (d) and CEQA Guidelines, §§ 15087, 15088.

¹⁶ See Revised IS/MND, pp. 95, 245 [referencing November 2018 revised Biological Report].

later version of the Biological Report was cited as a reference in the Revised IS/MND, and because the Revised IS/MND purports to rely upon the surveys and assessments prepared by the applicant's retained biologists, the unavailability of *any version* of this report during the public review period violates the procedural requirements of CEQA.¹⁷

II. Discussion: The Inadequate Revised IS/MND Cannot be Relied Upon to Satisfy CEQA's Requirements as Applied to this Project.

A. Because the Project Changed Substantially Since the Original Application for Four CUPs Was Submitted, the CCLUO Applies.

In its original application for four (4) conditional use permits for the Project, the Applicant described the Project as replacing pre-existing illegal cannabis grow operations and proposing new, expanded, mixed light grow operations with a total of eighteen (18) greenhouses.¹⁸ Since that time, the applicant has abandoned its effort to obtain CUPs for existing cannabis cultivation and now seeks CUPs for an entirely new cultivation and processing operation. Indeed, the Revised IS/MND analyzed the Project as a completely new commercial cannabis project with no existing cannabis cultivation considered as part of the baseline. According to the staff report to the Planning Commission dated August 20, 2020, the current version of the Project now includes the application for six (6) CUPs for the Project's sixteen (16) greenhouses and processing facilities.¹⁹ The substantial changes to the Project, made since the original application was submitted to the County, warrant processing under the County's CCLUO (a.k.a., Ordinance 2.0).

According to the EIR prepared for Ordinance 2.0, the CCLUO, includes more specific and exacting requirements for commercial cannabis projects.²⁰ For example, Ordinance 1.0 requires the Project to comply with all applicable local land use regulations, including but not limited to the requirement that access roads for cannabis projects meet fire safe standards, whereas Ordinance 2.0 specifically requires access roads for cannabis projects to meet Category 4 standards.²¹

Notably, the County's Ordinance 1.0 (the CMMLUO) under which this Project is being evaluated was passed by using an MND, not an EIR. This means that the cumulative impacts of

¹⁷ When we inquired about this referenced material in an email sent on December 1, 2020, staff reported that the reference to the Biological Report in the Revised IS/MND was "a typo."

¹⁸ Application Form, dated Dec. 22, 2016, p. 1 [Requesting: "Conditional use permits for Four (4) Replacement Mixed Light 22,000 Sq Ft Greenhouse located on parcels where pre-existing cannabis activities were located."], 3 [document entitled "Cannabis Permitting, describing a total of 18 22,000 s.f. proposed greenhouses"]

¹⁹ See Staff Report to Planning Commission re Project, for Aug. 20, 2020 meeting, pp. 1, 9.

²⁰ See Draft EIR for CCLUO project, pp. 2-5, 2-14 – 2-30 [describing CCLUO requirements and restrictions]; *see also* FEIR for CCLUO project, pp. 1-2, [project objectives for CCLUO project], 2-5 [key environmental objectives of Ordinance 2.0]. The full EIR for the CCLUO is incorporated herein by this reference.

²¹ Compare Humboldt County Code ("HCC") § 55.4.3.3 with HCC § 55.4.6.1.2(c).

projects processed under the CMMLUO have never been comprehensively analyzed under CEQA. This is despite the fact that the CMMLUO precipitated a permitting “rush” in the County.²² This makes adequate environmental review for this Project all the more important.

B. The Revised IS/MND Does Not Include Information and Analysis Recommended by the County’s Own “Peer Review” Consultant and by CDFW.

1. Inaccurate and Incomplete Project Description

Even as revised, the IS/MND released for public review and comment fails to consider the impacts of the whole of the Project, as required under CEQA. The problems with the project description in the Revised IS/MND have persisted in spite of clear County direction, CDFW’s specific recommendations, and Petitioners’ detailed prior comments.

On January 15, 2018, the County’s Supervising Planner wrote to the applicant, recommending numerous changes to a second draft of the Initial Study.²³ Shortly thereafter, CDFW prepared a referral checklist concerning the requirements for the Project’s description and environmental impact analysis.²⁴ A few months later, the County’s own peer review consultant, Transcon Environmental, provided constructive feedback concerning multiple deficiencies in the analysis in at least two memoranda prepared and sent to the applicant.²⁵ As will be explained below, many of the deficiencies in the analysis in an early draft of the IS/MND identified in the County’s January 2018 letter, CDFW’s referral checklist, and in the Transcon memoranda nearly two years ago have still not been corrected.

It is not coincidental that, during the comment period for the original IS/MND, both CDFW and Petitioners independently commented on many of the same issues concerning the inadequate project description that were raised early in the environmental review process by County planning staff and the County’s own peer review consultant.²⁶ These issues have

²² See Memorandum from Planning Director Ford to cannabis project applicants, dated April 28, 2017, available at: <https://humboldt.gov/DocumentCenter/View/59020/April-28-2017-Letter-Application-processing-Update-and-Concerns?bidId=>, accessed 12/01/20.

²³ See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018.

²⁴ See Exh. E – CDFW CEQA Referral Checklist for Rolling Meadow Ranch Project, dated Jan. 24, 2018

²⁵ See Exh. F - Transcon Environmental Memorandum re Peer Review, dated July 23, 2018 (“Memo #1”); *see also* Exh. G - Transcon Environmental Memorandum re Peer Review – Project Description Deficiencies, dated July 23, 2018 (“Memo #2”).

²⁶ See, e.g., CDFW comments on IS/MND, dated August 17, 2020, pp. 2 [“The entire Project area should include the “whole of the action”, including all proposed buildings, new powerlines, borrow pits, access roads, and other areas of new ground disturbance”] 6 [“The Alderpoint Road alternative access should be included in IS/MND analyses as part of the whole of the action, particularly due to 1) the age and condition of the existing Eel River seasonal low water crossing at McCann, 2) uncertain timeline of the County building a permanent year-round bridge at McCann, and 3) potential the Alderpoint Road may be the Project’s primary access point”]; *see also* Petitioners’ comments on IS/MND, dated August 17, 2020, p. 5-10; *see also* Petitioners’ Supplemental comments on IS/MND, dated Sept. 10, 2020, pp. 6-9.

remained problematic because many of the deficiencies, identified early in the environmental review process, were never corrected.

Because an accurate, stable, and finite project description is essential for an adequate analysis of Project impacts under CEQA, the project description deficiencies must first be remedied before a complete assessment of environmental impacts can be conducted in the EIR required for this Project. The following is a non-exhaustive summary list of the persistent problems with the Revised IS/MND's description of the Project:

(a) *Road Improvements*

As Petitioners have previously commented, , as the County's Supervising Planner directed, as the County's peer review consultants recommended in their memoranda, and as CDFW has commented the Project description must include, and provide more information about, all road improvements necessary for Project access. This includes those improvements necessary to comply with the requirements of the Humboldt County Code (namely, the CCLUO and the SRA Fire Safe Regulations).²⁷

In January 2018, the County's Supervising Planner instructed the applicant as follows:

A complete inventory of the interior road network with respect to width and improvement levels, both existing and proposed, and identification of improvements required to bring the road network into compliance, together with identification of impacts from completion of the improvements (construction impacts) are necessary to review the transportation effects on the environment in order to make a determination that the project will not have a detrimental effect on the environment.²⁸

In mid-2018, the County's peer review consultant recommended that the IS/MND be revised to "[s]how that each road, including its water crossings, are able to support a 75,000-pound apparatus. Include all routes that could be used for access during an emergency. Include any needed changes to water crossings (replacement or upgrade of bridges or culverts)."²⁹ The County itself provided similar direction in another letter to the applicant sent several months later, in February 2019.³⁰

²⁷ See HCC, Title III, Div. 11, § 3111-1, et seq. (Fire Safe Regulations); *see also id.* at Title III, Div. 1, Ch. 4, § 314-55.4, et seq.

²⁸ See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018, p. 3.

²⁹ See Exh. G – Memo #2, p. 1. The 75,000-pound threshold specified in this comment is established in the Fire Safe Regulations, HCC § 3112-4.

³⁰ See Exh. H – NRM Response to County Comments on Draft IS/MND, dated Jan. 22, 2020, pp. 4 [County staff commented "The project description should be updated to include all existing and proposed accesses to the

These issues concerning necessary road improvements were not addressed in the original IS/MND, nor were they fully and accurately addressed in the Revised IS/MND.³¹ For example, while the Revised IS/MND adds some information concerning some of the culverts that will need to be replaced and limited road modifications including widening (to the Category 2 standard), the description is silent with respect to the capability of Dyerville Loop Road, McCann Road (and bridge), and private ranch roads towards to support a 75,000-pound apparatus, among other requirements of the Fire Safe Regulations. The Revised IS/MND does not describe these improvements with the specificity required under CEQA and does not address the associated potentially significant impacts.

The new Road Evaluations appendix to the Revised IS/MND reveals that the access roads were evaluated for a “minimum 12-foot width.”³² However, the proposed 12-foot width standard for Project access roads do not satisfy the minimum 20-foot width requirements under the SRA Fire Safe Regulations promulgated by CalFire pursuant to its authority under Public Resources Code, § 4290.³³ The SRA Fire Safe Regulations apply because, as the Revised IS/MND admits, the Project would be located within a State Responsibility Area (SRA) with fire protection services provided by CalFire.³⁴ (The SRA Fire Safe Regulations preempt local fire safe regulations but “do not supersede local regulations which equal or exceed minimum regulations adopted by the state.”³⁵) The Road Evaluations in Appendix C of the Revised IS/MND do not address whether the Project’s access roads, as improved, would comply with the minimum requirements of the SRA Fire Safe Regulations.

Similar to the requirements of the SRA Fire Safe Regulations, under the County’s Fire Safe Ordinance, a “Category 4” or equivalent (i.e., 20-foot wide, etc.) access road is required.³⁶ The Project site would likely be considered “mountainous terrain” under the County’s Fire Safe Ordinance.³⁷ As such, it is possible that the Project could potentially qualify for the exception under the County ordinance to the usual requirement for full Category 4 access road.³⁸

subject parcel. Also, please include the improvements required for the Alderpoint Road access to utilize this route as secondary access”, 14 [summary of necessary additional project description information].

³¹ See original IS/MND, pp. 10-11; Revised IS/MND, pp. 11-12.

³² See Appendix C to Revised IS/MND, p. 3. The original IS/MND did not include substantial evidence to support conclusions regarding the sufficiency of Project access roads. The applicant has attempted to cure this major deficiency through new analysis in Appendix C. Unfortunately, the new analysis does not demonstrate that the Project access roads will satisfy Category 4 and fire safe performance standards.

³³ See 14 C.C.R., § 1273.01(a).

³⁴ See Revised IS/MND, p. 214.

³⁵ Public Resources Code, § 4290(c); see also 14 C.C.R., § 1270.04.

³⁶ See HCC, Title III, Div. 11, §§ 3112-3 [the Category 4 standard, which requires a minimum 20-foot wide two-lane travelled way, generally applies].

³⁷ See *id.* at § 3111-11 [Definitions].

³⁸ See *id.* at § 3112-3(b)(c) [exceptions for areas in mountainous terrain, where Category 3 standards may be deemed sufficient]. This assumes that this County Code provision is not preempted and that such an exception for

However, this exception still requires the travelled way to be at least 16 feet wide with a two-foot shoulder.³⁹ As the Revised IS/MND and the Road Evaluations appendix admit, McCann Road, Dyerville Loop Road, and the private ranch roads providing access to cultivation and processing facilities and to Alderpoint Road are in many areas narrower than the minimum 16-foot width under the County's potentially applicable (and exceptional) Category 3 standard. Consequently, the Project as proposed does not satisfy even the minimum width requirements for access roads under the County Fire Safe Ordinance and the CCLUO.

The Revised IS/MND and Appendix C also show that portions of the Project access roads are at grades that exceed 16%.⁴⁰ CalFire's SRA Fire Safe regulations generally prohibit grades exceeding 16% and require mitigation for steeper road sections.⁴¹ These steep portions of the access roads must also conform to requirements in the County Roadway Design Manual.⁴² The maximum grade standard in the Roadway Design Manual is 12%.⁴³

The Revised IS/MND also call for turnouts on the access road every 1,320 feet.⁴⁴ However, the County Roadway Design Manual indicates that turnouts can be up to a maximum 1,000 between turnouts.⁴⁵

The County's Department of Public Works Road Evaluation Report form defines the equivalent of a Category 4 road as follows:

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

a substantially narrower access road would also be acceptable to CalFire, the agency responsible for ensuring the Project complies with the SRA Fire Safe Regulations.

³⁹ See *id.* at § 3112-3(b);

⁴⁰ See, e.g., Revised IS/MND, p. 81 [identifying "steep roadway" but not revealing the grade at RP6 exceeds 16%]; see also Appendix C to Revised IS/MND, Supplemental Field Investigation, dated January 14, 2019, pp. 3-12; see also *id.*, Supplemental Field Investigation, Appendix B: Access Assessment Photos.

⁴¹ See 14 C.C.R., § 1273.03.

⁴² See HCC, § 3112-5.

⁴³ See County Roadway Design Manual, § 2-315.1, p. 63, available at <https://humboldt.gov.org/DocumentCenter/View/58258/Humboldt-County-Road-Design-Manual---1971>, accessed 12/02/20.

⁴⁴ See Appendix C to Revised IS/MND, Access Assessment for RMR Project, p. 3.

⁴⁵ See County Roadway Design Manual, Table 2-321.3, p. 64, available at <https://humboldt.gov.org/DocumentCenter/View/58258/Humboldt-County-Road-Design-Manual---1971>, accessed 12/02/20

stop and wait in a 20 foot wide section of the road for the other vehicle to pass.⁴⁶

Under the above definition, and the definitions and descriptions provided in the Humboldt County Code and Roadway Design Manual, Petitioners maintain that McCann Road and Dyerville Loop Road do not qualify as “Category 4” access roads or their equivalent, as required for commercial cannabis operations under the CCLUO and under the County’s Fire Safe Ordinance.⁴⁷

Verifying Petitioner’s prior comments, Steve Salzman, a registered civil engineer, has recently evaluated McCann Road for Category 4 equivalency and has concluded that the road does not meet the applicable criteria.⁴⁸ This expert opinion is substantial evidence supporting the conclusion that the proposed McCann Road primary access route does not meet the applicable performance standards for access roads specified in the Humboldt County Code. This conclusion has important implications for the analysis of Project impacts. If the Project is to proceed with McCann Road as the primary access route, these roads will need to be substantially widened in some areas, and paved or seal coated, to be considered the “equivalent” of a 2-lane road where cars can safely travel at 25-40 mph (as required under the County’s Category 4 road regulations).

The Road Evaluations appendix to the Revised IS/MND purports to assess the functional equivalence of the Project’s access roads to the County’s Category 4 standards. However, the analysis relies upon the incorrect standard (Category 2)⁴⁹ as wells as intentionally skewed (nonrepresentational) data (e.g., selecting unusually wide and unrepresentative “Road Points,” such as RP 1) to characterize the access road as sufficiently wide with limited modifications. The Road Evaluations also completely omit evaluations of McCann Road and Dyerville Loop Road to the west of RP1, such as at the 10- to 11-foot-wide McCann Bridge and adjacent narrow “pinch point” road sections.

The Revised IS/MND does not reveal that the analysis concerning “fire safe” standards relies on meeting the lower Category 2 road standard. The preparers of the Supplemental Field Investigation in Appendix C do not explain how they arrived at Category 2 as the standard, given the plain language of SRA Fire Safe Regulations, § 1273.01, and the County’s Fire Safe Ordinance, § 3112-3, both of which clearly call for Category 4 roads. The County’s Fire Safe

⁴⁶ See Appendix C to Revised IS/MND, p. 48 [Road Evaluation Report, dated Nov. 16, 2017], emphasis added. This description of the Category 4 road equivalency does not acknowledge that a 2-foot shoulder on either side of the 18- to 20-foot wide paved “travelled way” is also generally required. See County Roadway Design Manual, Table 2-321.1, p. 63.

⁴⁷ See HCC § 3112-3 [“All roads shall be constructed to a minimum Road Category 4 road standard of two ten (10) foot traffic lanes, not including shoulders, capable of providing for two-way traffic flow to support emergency vehicle and civilian egress”].

⁴⁸ See Exh. C – Steve Salzman letter re Evaluation of the McCann Road, dated Dec. 26, 2020.

⁴⁹ See Appendix C to Revised IS/MND, Supplemental Field Investigation, dated January 14, 2019, pp. 1-2.

Ordinance may allow for a minimum Category 3 standard in mountainous area (but not Category 2), if deemed at least equally protective as the state fire safe standard. It makes no sense that one of the largest commercial cannabis projects ever to be proposed in the County would have access roads that do not even meet the minimum 16-foot wide Category 3 standard.

As will be discussed in the section concerning Project impacts, below, given the 16-foot minimum standard, the necessary road improvements would likely be more numerous and would potentially cause greater impacts than disclosed, analyzed, and mitigated in the Revised IS/MND. It is essential for the purposes of providing an accurate and complete impact analysis required under CEQA that all Project-related roadway and associated drainage improvements be specifically described and considered. For example, because biologists identified a species of special concern, the threatened foothill yellow-legged frog, as present adjacent to a culvert on the main access road, the analysis must be revised to describe *all* roadway and drainage improvements necessary for the Project and to consider the associated potential to significantly impact this species. As it stands, the Revised IS/MND contradicts underlying facts concerning the onsite presence of this species and fails to consider all aspects of the Project that could impact this and other special-status species.

The Revised IS/MND admits that access via Alderpoint Road will be necessary in the near-term for year-round operations and on an ongoing basis for emergency access.⁵⁰ And yet this access road and the undescribed necessary improvements thereto were artificially carved out of the Project as described and analyzed in the original IS/MND with a hollow claim of “independent utility” (i.e., that the road and the bridge will be upgraded for ranch purposes).⁵¹ This claim of independent utility is not consistent with how this concept, and the concept of the “whole of the project” are defined under CEQA.⁵²

Unlike the situation in *Banning Ranch*, the applicant here is the proponent for both the Project and the near simultaneously proposed “upgrades” to the private roads and bridge accessing Alderpoint Road. Further, except for the short easements necessary to connect ranch roads to Alderpoint Road, the applicant owns all of the private roads that would provide the Project with access either to the west or to the east. The Revised IS/MND admits that the applicant intends to upgrade and use the private ranch roads to Alderpoint Road for Project access – in fact, year-round operations is currently impossible without the use of this

⁵⁰ See, e.g., Revised IS/MND, p. 13 [description of Project operations].

⁵¹ The Revised IS/MND at least acknowledges necessary access road improvements (albeit to a limited extent because the improvements are not based on a minimum potential 16-foot wide standard).

⁵² Compare *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1225 [holding park and access road would not cause a neighboring proposed development to commence because in part each project had independent utility] with *Del Mar Terrace Conservancy v. City Council* (1992) 10 Cal.App.4th 712, 732 [“[p]iecemealing proposed highway improvements in separate environmental statements should be avoided”], quoting *Daly v. Volpe* (3d Cir. 1975) 514 F.2d 1106, 1109, disapproved on other grounds in *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 564.

alternative access route. As such, the private roads connecting the Project to Alderpoint Road are necessary for the Project and all necessary improvements to those roads to bring them up to Category 4 and Fire Safe standards (as well as provide suitable drainage) are a “consequence” of the Project and must be described and analyzed in the required EIR.

Because the McCann Road and Dyerville Loop Road do not qualify as Category 4 roads or the equivalent, and because bringing these access roads up to required standards would cause multiple significant impacts, Petitioners urge the County and applicant to consider a project alternative that would utilize Alderpoint Road as primary access. This project alternative should be considered in the EIR required for this Project.

In summary, all necessary improvements to the Project’s access roads, including all improvements to drainage features such as culverts, should be designed so that they comply with all minimum regulatory requirements, including the requirement for a Lake & Streambed Alteration Agreement (“LSAA”) through CDFW.⁵³ The improvements should also adhere to locally adopted recommendations intended to protect the environment.⁵⁴ The details of the access road and related drainage improvements must be described in the required EIR.

(b) Buffers from Watercourses and Wetlands.

CDFW has previously commented that all greenhouses should be set back at least 200 feet from Class I and Class II watercourses, at least 150 feet from wetlands, and at least 200 feet away from the Eel River.⁵⁵ The County’s peer review consultant advised “[t]he setbacks from waterways described in the project description should be revised to match the setbacks described in the biological report and to adhere to the setbacks requested in the CDFW referral.”⁵⁶ However, the Project design includes greenhouses that are barely more than 100 feet from the nearest Class I watercourse, one structure that is literally on top of a wetland, and several greenhouses that appear to be within 200 feet of the Eel river.⁵⁷ Thus, the description of the proposed Project appears to be inconsistent with regulatory and permit requirements for water resource buffers / setbacks. By describing a proposed Project that is not consistent with applicable regulatory requirements for setbacks, the Revised IS/MND fails to present an accurate view of the Project and its impacts. The revised analysis should take into consideration the necessary relocation of Project facilities outside of setback areas – if any Project facilities cannot adhere to both setback requirements and the requirement to be

⁵³ See Exh. I - Letter from CDFW re LSAA required Mattole River Cannabis Project [LSAA required for replacement of undersized culvert].

⁵⁴ See Five Counties Salmon Conservation Program, A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds (2002), available at: http://www.5counties.org/docs/roadedu/5c_roads_manual.pdf, accessed 11/24/20.

⁵⁵ See Exh. E – CDFW CEQA Referral Checklist for Rolling Meadow Ranch Project, dated Jan. 24, 2018, pp. 2-3.

⁵⁶ See Exh. G – Memo #2, p. 3.

⁵⁷ See Revised IS/MND, pp. 143-145 [Figures 40 – 43].

located on prime agricultural soils outside the TPZ, then those Project facilities should be removed from the Project description.

(c) Water use and storage.

The County's peer review consultant recommended the Revised IS/MND "[p]rovide detail on groundwater proposed use, including probable depth to water (based on similar wells in similar strata) and pumping rate per day during peak use (not just annual estimates)."⁵⁸ Later, the County's planning staff stated that the analysis lacked "sufficient detail to determine if the water from the wells would be considered connected and require a current documented water right or if the water would be considered a non-diversionary source." The information repeatedly requested by the County was not included in the Revised IS/MND.⁵⁹ The revised analysis must describe the Project's peak groundwater use and must consider this demand when analyzing potentially significant impacts to surface water resources, riparian habitat, and wildlife.

(d) PG&E & Backup Power.

The Revised IS/MND should have described "[t]he route, approximate number of new poles, time of construction, vegetation clearing including tree removal, grading, temporary road construction to access each pole site, etc."⁶⁰ However, the Revised IS/MND did not describe the details of this "connected action" with the specificity requested by the County and required under CEQA.⁶¹ The revised analysis must describe with particularity the electric power and back up power facilities needed for the Project.

(e) Hours of Operations and Employee Information.

The peer review consultant recommended that the Revised IS/MND "[i]nclude hours of operation on site as well as typical commute times with and without the McCann Bridge available" and that it "[s]pecify commute routes for each scenario." The Revised IS/MND contains inconsistent information concerning the hours (and season) of operation, and commute times and routes were not specifically described and analyzed in the Revised IS/MND (other than with generalized statements).⁶²

The Revised IS/MND was supposed to describe the "[n]umber of employees, likely residences of employees and plans for parking at 'park and ride' shuttle pickup locations, the

⁵⁸ See Exh. G – Memo #2, p. 2.

⁵⁹ See, e.g., Revised IS/MND, pp. 14 [no information concerning the peak pumping rates], 197 [reliance on "letters" from Fisch Drilling re hydrologic connectivity with no further substantiation].

⁶⁰ See Exh. G – Memo #2, p. 2.

⁶¹ See Revised IS/MND, pp. 51 [electric lines will be buried along access road], 29 [Electric Figure 14], 182.

⁶² See, e.g., Revised IS/MND at p. 55.

number of shuttles per day, parking for shuttles on-site, etc.”⁶³ As we previously noted, the IS/MND provides inconsistent information concerning the number of employees (both before and after the McCann bridge is replaced), and lacks essential information with regard to the shuttle parking area and plans for parking.⁶⁴ The “existing turnaround” depicted in the Revised IS/MND does not currently exist and the topography at Facilities #1 and #2 may not support a turnaround at the proposed location.⁶⁵

(f) *Slopes.*

The Revised IS/MND includes inconsistent information concerning the slopes underlying the Project greenhouses and other facilities.⁶⁶ These discrepancies need to be resolved through adequate site surveys and the slopes for all greenhouses must be accurately reported in the required EIR. To be consistent with CCLUO, the slopes underlying the Project facilities may not exceed 15%.⁶⁷

(g) *Construction practices.*

The peer review consultant asked a number of pertinent questions, which have been left unaddressed. These questions include the following:

How will you get heavy equipment to the site? What size and type of equipment will be used and approximately how long will each be in use? How many employees will be present during construction? How do they get there? What bathroom facilities and drinking water supplies will be available during construction? What are the hours of construction?”⁶⁸

The section in the Revised IS/MND concerning Project construction does not answer many of these pertinent questions or provide the required level of detail.⁶⁹ The revised analysis must provide the information concerning the construction process for this Project.

⁶³ See Exh. G – Memo #2, p. 2.

⁶⁴ See Petitioners’ initial comments on the IS/MND, dated August 17, 2020, at p. 10.

⁶⁵ See Revised IS/MND at p. 23 [Figure 8. Facility #1, #2 Details].

⁶⁶ Compare Revised IS/MND, p. 179 with Appendix to Revised IS/MND, Botanical Survey Report, pp. 4-5 [report showing some areas underlying project greenhouse footprints exceed 15% slope].

⁶⁷ Humboldt County Code, § 55.4.6.4.1

⁶⁸ See Exh. G – Memo #2, p. 2.

⁶⁹ See Revised IS/MND, pp. 11-12.

2. Failure to Identify Necessary Water Right for Project Wells or an Alternative Water Source

The Revised IS/MND fails to identify the water right required for (1) pumping what is very likely hydrologically connected groundwater from the three Project wells or (2) for any as yet unidentified alternative sources of water for the Project's considerable year-round water needs. This failure violates applicable Humboldt County Code requirements under both cannabis ordinances.⁷⁰ As discussed further below, there is substantial evidence supporting the claim that the groundwater underlying the Project site is likely hydrologically connected to surface waters, such as wetlands, streams, creeks, and tributaries to the Eel River. Because well pumping has the potential to divert from surface waters a water right may be required.⁷¹

The EIR required for this Project must identify any and all water rights required to meet the Project's estimated annual water demands and require as a condition of approval, that the applicant apply for and obtain such water rights. If the source of water is uncertain, then the EIR must also evaluate alternative sources of water and address any water right(s) that may be required for such sources.

C. The Revised IS/MND is the Result of Piecemealed Environmental Review.

1. Project Wells, as Part of the Whole of the Project, Should Not Have Been Approved Prior to Completion of Environmental Review.

Carving up a larger project in order to claim a CEQA exemption for any of its components is prohibited under CEQA.⁷² Courts have given the term "project" under CEQA "a broad interpretation and application to maximize protection of the environment [Citations]."⁷³ This broad interpretation ensures that CEQA's requirements "'cannot be avoided by chopping up proposed projects into bite-size pieces' which, when taken individually, may have no significant adverse effect on the environment."⁷⁴ Accordingly, if infrastructure, such as roads or utility lines, are required for a proposed project, those project components must be described and considered in the environmental impact analysis as part of the "whole of the project."

⁷⁰ See CMMLUO, § 55.4.8.2.1; see also CCLUO, § Section 55.4.12.1.

⁷¹ See Water Code, § 1200; see also Paul Kibel and Julie Gantenbein, Fisheries Reliant on Aquifers: When Groundwater Extraction Depletes Surface Water Flows, Univ. of San Francisco Law Review, Vol. 54, Issue 3, pp. 478-480.

⁷² See PRC § 21159.27 ["A project may not be divided into smaller projects to qualify for one or more exemptions pursuant to this article"].

⁷³ *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1223 [holding road widening was part of proposed project], quoting *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1189 and citing *Friends of the Sierra Railroad v. Tuolumne Park & Recreation Dist.* (2007) 147 Cal.App.4th 643, 653.

⁷⁴ *Ibid.*

During the period within which the application for the Project's permits has been pending, the applicant installed the three wells, relying on a separate ministerial process that would consider these water supply wells, essential for the Project, as somehow independent. These permits were apparently granted and the wells drilled, without any consideration to their connection to the larger Project and the water demand that will be required for Project operations. According to a letter from Planning Director John Ford to applicants for commercial cannabis projects, installing such project infrastructure before use permits are granted is a violation of the CMMLUO.⁷⁵ In addition, under the CCLUO, no ministerial permits may be granted for improvements.⁷⁶

2. Improvements to Access Roads Should Not Have Commenced Prior to Completion of Environmental Review and Project Approval.

According to documents in appendices to the Revised IS/MND, some of the access roads at Rolling Meadow Ranch were "rocked" using rock from the on-site quarry.⁷⁷ As with the installation of the three Project wells in 2019, making these improvements to the access roads prior to issuance of permits for the Project was a violation of the CMMLUO. As proved to be true during this Project's permitting and environmental review process, roadwork prior to environmental review for the Project can result significant and unmitigated environmental impacts.⁷⁸

D. Substantial Evidence Supports Several Fair Arguments that the Project May Result in Significant Environmental Impacts

Substantial evidence presented in this letter, the supporting expert comments, documents referenced in this letter, and in prior comments from Petitioners and others support a fair argument that the Project will have significant direct, indirect and cumulative environmental impacts.

1. Downplayed Traffic Safety Hazard Impacts

Because the proposed Project access roads (Dyerville Loop Road, McCann Road, and private ranch roads to Alderpoint Road) do not meet the required performance standards (i.e.,

⁷⁵ See Memo from Director Ford to Commercial Cannabis Applicants, dated April 28, 2017 ["Starting cultivation activity, including related land modifications (i.e. grading), construction, and improvements, without a permit, for either a new cultivation or expansion of an existing site, is a violation of the CMMLUO"].

⁷⁶ See HCC, § 55.4.3.12 ["No ministerial permit shall be granted for site development activities, including but not limited to grading or building permits, related to any Commercial Cannabis Activity in advance of issuance of the Zoning Clearance Certificate, Special Permit, or Use Permit required under this section"].

⁷⁷ See Appendix I to Revised IS/MND, Assessment of Road Improvement and Maintenance Activity Impacts to Botanical Resources (Oct. 2020), pp. 3-4, 11.

⁷⁸ See Revised IS/MND, pp. 146-147 [describing impacts to wetland features during 2019 road improvement activities].

are not Category 4 roads or their equivalent and do not meet applicable Fire Safe standards) and because the proposed Project includes roadways of varying widths with multiple blind curves and obstructed pinch points, the level of traffic generated by the proposed Project, especially when combined with the existing local traffic baseline traffic, will create traffic safety hazards.

Under the County Roadway Standards Manual, “when varying roadway widths are considered, the effect upon safety must be evaluated.”⁷⁹ In spite of this specific requirement, and the independent requirements for traffic safety impact analysis under CEQA, the Revised IS/MND fails to evaluate the traffic safety hazards associated with designing Project access roads to the Category 2 standard.⁸⁰

2. Unacknowledged Public Services Impacts

While the Revised IS/MND acknowledges that “[t]he isolated location can also pose some limitations in terms of public services,” it downplays the site access challenges that would be encountered by police, fire, and other emergency services.⁸¹ The analysis of impacts to public services does not provide the level of detailed impact analysis that the County has repeatedly requested.

In January 2018, a County planner advised the applicant to improve the discussion of improvements that would be necessary to bring Project roads up to fire safe standards.⁸² Shortly thereafter, the County’s peer review consultant recommended that the applicant:

Modify project description to include compliance with Fire Safe Ordinance, including but not limited to internal ranch road standards for width, surface, and grade, water crossings to the minimum load standards, as well as minimum water supply requirements. Add these elements to the environmental analysis in all sections.⁸³

Transcon also recommended the following revisions to the draft IS/MND:

Please describe how the interior ranch roads will be improved to meet fire safe standards. Existing roads analysis indicates that fire safe standards are not met. Demonstrate that off-ranch access routes (McCann Road and Alderpoint Road as

⁷⁹ County Roadway Design Manual, § 2-321.2, p. 63, available at <https://humboldt.gov.org/DocumentCenter/View/58258/Humboldt-County-Road-Design-Manual---1971>, accessed 12/02/20.

⁸⁰ See Revised IS/MND, p. 224 [concluding, without supporting analysis and substantial evidence, that “[t]his project will not substantially increase hazards due to a design feature”].

⁸¹ See Revised IS/MND, pp. 214-216.

⁸² See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018. P. 2.

⁸³ See Exh. F – Memo #1, p. 11.

well as roads on adjacent property) meet fire safe standards on all portions, including river crossings, that may be required for fire suppression by Cal Fire firefighting resources.⁸⁴

These instructions from the County's peer review consultant, which were presumably sent to the applicant,⁸⁵ could not be more clear, logical, and sound. Yet, the Revised IS/MND relies upon the unsupported assumption that the Project access roads meet "fire safe standards" to justify the conclusion that the Project will not result in impacts related to fire suppression and police services.⁸⁶ This factually unsupported assertion, however, does not provide the information required to confirm the Project's compliance with the Fire Safe Ordinance.

As reported in the road evaluation conducted by the civil engineer retained by Petitioners, McCann Road from the McCann Bridge to the guard gate at Rolling Meadow Ranch and Facilities #1 and #2 does not meet the County's Category 4 or equivalent standards.⁸⁷ Because this route will provide the primary access to the Project site, it is imperative that McCann Road satisfy applicable fire safe standards. If McCann Road cannot feasibly satisfy Category 4 or equivalent standards, then the route to Alderpoint Road should be considered as for primary access.

The Revised IS/MND states that "[d]uring the winter when the existing low water McCann Bridge is inaccessible and in the years before the new McCann Bridge is built, the project will use the Alderpoint road to access the project sites."⁸⁸ The analysis of impacts to public services, however, does not consider the improvements to the access route to Alderpoint Road that would be necessary to bring those roads up to applicable SRA fire safe standards.

The IS/MND prepared for the CMMLUO assumed for purposes of impact analysis that all cannabis projects processed under Ordinance 1.0 would comply with SRA fire safe regulations and all local and state access road performance standards.⁸⁹ Repeatedly in the analysis, the County relied upon this assumption to determine that the CMMLUO, as a program, would not

⁸⁴ See *ibid.*

⁸⁵ Note: Memo #1 and Memo #2 were among the documents produced by the County in response to Petitioners' request for public records. The County did not produce any documents that verify the memoranda were sent to the applicant or otherwise relayed. Petitioners assume that the County sent both Transcon memoranda to the applicant's consultant, NRM.

⁸⁶ See *ibid.*

⁸⁷ See Exh. C – Road Evaluation by Steve Salzman, p. 12.

⁸⁸ See Revised IS/MND, p. 214.

⁸⁹ See CMMLUO IS/MND, p. 31.

cause significant environmental impacts. For example, with respect to potential impacts to public services, the CMMLUO IS/MND states:

Under the draft ordinance, larger cultivation operations will be subject to discretionary permits where neighboring land owners will be given an opportunity to comment and be notified of pending permit decisions. This will provide opportunity for dialogue and mitigation through careful siting and operational restrictions to address potential impacts on public services. It is anticipated that through mitigation, the impacts on public services including fire protection, police protection, schools, parks, and other public facilities, will be reduced to a less than significant impact.⁹⁰

Petitioners hope that, in the case of the presently proposed large cultivation operation, the assumptions made in the above statement and elsewhere in the CMMLUO IS/MND prove to be true. As currently proposed, however, this Project does not meet the assumed “careful siting and operational restrictions” that will “address potential impacts on public services” – it is inappropriate to site an operation that, between cultivation and processing facilities, exceeds 300,000 square feet in size in a remote wildland area with access roads that do not even currently meet a Category 2 standard, and would barely meet that improperly lax standard with the proposed improvements (except for the steeper than 16% grades and infrequent turnouts).

Similarly, when certifying the EIR for the CCLUO, the Board of Supervisors approved a finding that relies on the assumption that all commercial cannabis projects approved under “Ordinance 2.0” would meet the “Category 4 or equivalent” access road performance standard to support its conclusion that impacts to public services, including wildfire response, would be less than significant.⁹¹ The Final EIR for the CCLUO made the following assumptions concerning compliance with Category 4 access road standards:

[W]here access to a site is provided by roads not meeting the Category 4 standard, the commercial cannabis operation would be subject to a Special Permit and preparation of a report prepared by a licensed engineer evaluating whether the design, condition, and performance of all necessary road segments are currently capable of supporting increases in traffic volume created by the site, in addition to the existing traffic using the road(s). The report would detail all substandard conditions and prescribe measures that would be taken to

⁹⁰ See *id.* at p. 29.

⁹¹ See Bd. of Supervisors Resolution 18-40, p.10 [“Compliance with existing building, electrical, and fire code regulations as well as roadway access performance standards set forth in the proposed ordinance would provide a sufficient access for fire prevention and emergency response”].

achieve compliance with the relevant road standards and objectives, or the same practical effect.⁹²

Further, in response to public comments, the County asserted in its Final EIR for the CCLUO that “[t]he DEIR identifies that existing and future commercial cannabis operations would be required to meet the County’s Category 4 road standards and the emergency access standards set forth in Chapter 10 – Fire Safe Regulations of the County Code.”⁹³ The analysis of commercial cannabis project impacts to public services relied upon adherence to this performance standard.

In contravention of the assumptions relied upon in connection with approving the CMMLUO and CCLUO concerning compliance with access road performance standards, this Project, as proposed, will only satisfy only a Category 2 access road standard along the primary access road to the Project’s clustered facilities (at most, given the steep grades, unpaved roads, blind corners, and infrequent turnouts) for one of the largest commercial cannabis projects ever to be proposed in the County. The Revised IS/MND does not explain how satisfying this lower performance standard for this especially large Project in a remote and difficult to access area will result in less than significant impact to public services.

The Revised IS/MND includes the completely gratuitous and unsupported statement: “In its current state the cannabis industry is at higher risk for security to be an issue and place a greater demand on law enforcement services provided by the County Sheriff’s Department.” This unsupported assertion is completely beside the point of the necessary analysis. The environmental review required under CEQA must evaluate this Project’s environmental impacts. The fact that other activities also have impacts on police services is irrelevant and should not be used to minimize this Project’s potentially significant impacts.

The Revised IS/MND, even after pre-release review and comment and after post-release public comment, *still* does not provide the information required (and specifically requested) to demonstrate that the Project will have adequate access for fire suppression and police equipment and personnel.⁹⁴ Because the Project, as currently described and defined, will not have Category 4 or equivalent roads and a licensed engineer has not evaluated whether the access roads will perform to the same practical effect, the conclusion that the Project will not have significant public services impacts is unsupported. The analysis concerning the Project’s

⁹² See Final EIR for CCLUO, Revisions to the DEIR, p. 3-21 – 3-22; *see also id.* at p. 2-232 [response to comment 01-10].

⁹³ See *id.* at pp. 2-309 – 2-310 [responses to comments I17-2, I17-8], 2-381 [responses to comments I31-14, I31-15], 2-385 – 2-386 [response to comment I31-35], *emphasis added*.

⁹⁴ See Exh. G, Memo #2, p. 1 [“specify how ranch roads will be improved to meet fire safe ordinance requirements. Show that each road, including its water crossings, are able to support a 75,000-pound apparatus. Include all routes that could be used for access during an emergency. Include any needed changes to water crossings (replacement or upgrade of bridges or culverts)].

potentially significant impacts to public services must be revised in the required EIR and recirculated.

3. Unsupported Assumptions Regarding Public Utility Impacts

The proposed extension of electricity power lines to Project facilities is neither described with particularity in the Revised IS/MND nor are the associated impacts analyzed. As the County's peer review consultants pointed out, because

PG&E would not construct these lines 'but for' the project [...] PG&E line construction is a connected action and must be reviewed at least at the planning level in this ISMND. The route, approximate number of new poles, time of construction, vegetation clearing including tree removal, grading, temporary road construction to access each pole site, etc., needs to be disclosed and analyzed in this ISMND.⁹⁵

The Revised IS/MND does not provide the requested detailed information concerning utility line extension to Project facilities. Additionally, despite a request from the County's peer review consultant, the applicant still has not produced a letter from PG&E confirming that utility infrastructure will be extended to the Project facilities.⁹⁶

4. Disregarded Water Supply and Related Impacts

Petitioners have previously commented that the Project's heavy reliance on groundwater could cause potentially significant impacts to hydrologically connected aquatic resources.⁹⁷ The Revised IS/MND attempts to bolster an otherwise unsupported analysis of Project impacts to groundwater resources and hydrologically connected surface water resources. The only further support offered for the assertion that the wells will rely solely on groundwater in a hydrologically disconnected "perched aquifer" is a conclusory letter from the applicant's well driller that has now mysteriously appeared.

(a) The Conclusions in the Revised IS/MND Regarding "Hydrologic Connectivity" Between Groundwater and Surface Water Are Unsupported.

In January 2018, during his review of the "second Initial Study (IS) submittal," dated December 16, 2017, County Supervising Planner Steve Werner stated that:

⁹⁵ See *ibid.*

⁹⁶ See Exh. F, Memo #1, p. 8 ["Provide a letter or communication from [PG&E] describing how they plan to provide power to each site"]; see also Revised IS/MND, pp. 10, 182, 229, 237; see also generally Appendix to Revised IS/MND.

⁹⁷ See, e.g., Petitioners' initial comments on original IS/MND, dated Aug. 17, 2020, pp. 3, 15; see also Petitioners' Supplemental Comments on Original IS/MND, dated Sept. 10, 2020, pp. 15-18.

The conclusion of the IS with respect to impacts on ground water supplies cannot be supported with the facts provided. Consultation with an engineering geologist is needed to fully document the groundwater supply and impact from the proposed cultivation. It needs to be demonstrated that the wells are not hydrologically connected to the water flow of the river.⁹⁸

Also in January 2018, CDFW commented in its capacity as Trustee Agency that:

If the source is surface water (spring, stream, or hydrologically connected pond or well) CDFW recommends that the applicant notify our Department, pursuant to Fish and Game Code Section 1602, of all unpermitted points of diversion located on the parcel or provide a copy of the nonjurisdictional letter issued by CDFW.⁹⁹

The County's peer review consultants also recognized the need for the applicant to substantiate the claim that the wells are hydrologically disconnected from surface water supplies, and told the applicant to provide this required substantiation in July 2018, more than two years before the Revised IS/MND was finalized and reduced for public review. Specifically, the consultant stated:

Please refer to County's letter dated January 15, 2018 regarding substantiating the claim that the wells are not hydrologically connected to the water flow of the river. We see the letter in the Appendix from Fisch Drilling, however, the County will want to see testing or a technical study to document the existing groundwater supply and anticipated impacts as a result of the new wells and anticipated usage; and to demonstrate that all of the wells are not hydrologically connected. The letter from Fisch drilling needs to be substantiated. CDFW is the Agency [that] determines if the proposed wells will have connectivity with onsite water sources.¹⁰⁰

And again, in February 2019 comments to the applicant, County planning staff directed the applicant to "[d]escribe the hydrological connectivity of the wells proposed for irrigation use."¹⁰¹ In September 2020, after the Planning Commission decided to continue its consideration of the Project for approval, a CDFW official once again commented that the

⁹⁸ See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018, p. 5.

⁹⁹ See Exh. E – CDFW CEQA Referral Checklist for RMR Project, dated Jan. 24, 2018, p. 2.

¹⁰⁰ See Exh. F – Memo #1, p. 9, emphasis added. The letter from the County to the applicant dated January 15, 2018 was not produced in response to Petitioners' initial request for public records. Petitioners obtained this letter through a subsequent request for public records that requested this document specifically.

¹⁰¹ See Exh. H – NRM Response to County Comments on Draft IS/MND, dated Jan. 22, 2020, p. 5.

IS/MND lacks the required substantiation for the assertion that the Project wells are not hydrologically connected to surface waters.¹⁰²

Despite repeated requests for required factual support and transparent analysis for the assertion that the Project wells are hydrologically disconnected from surface waters, the original IS/MND relied upon a mischaracterization of a February 2018 letter from Fisch Drilling as the *sole* support for the conclusion that the Project will have no significant impacts to groundwater or to surface water supplies.¹⁰³ Similarly, according to the August 20, 2020 staff report to the Planning Commission, the determination in the Revised IS/MND that the three Project wells are hydrologically disconnected from surface waters is based *solely* on the single inconclusive and unsupported letter, dated February 15, 2020, from Fisch Drilling.*¹⁰⁴ This letter, which was sent to the County *before* the three project wells were drilled, states:

These wells will be completed in the Franciscan Sandstone; the wells will most likely be drilled into a perched bedrock with little to no hydraulic connection to any surface water or any part of a larger shallow homogeneous aquifer. [¶]
Considering the depth of the well it appears to fall in line with the guide lines of a nonjurisdictional well of similar depth in the surrounding area.¹⁰⁵

Again, despite the County's and CDFW's clear direction and repeated specific comments on the subject, hydrologic connectivity of the Project wells to surface waters has *never* been properly investigated by a engineering geologist nor has a substantiating report been prepared. The Revised IS/MND not only fails to provide the required (and specifically requested) substantiation, but now introduces another letter from the Project applicant's drilling consultant, Fisch Drilling (supposedly dated April 6, 2020 ¹⁰⁶), as evidence supporting its claim that the wells are not hydrologically connected to surface water.

¹⁰² See Exh. J – Email from Greg Mc'Onnell at CDFW to County planner Meghan Ryan, dated September 10, 2020 [commenting that the IS/MND lacks substantiation for the assertion that the Project wells are not hydrologically connected to surface water].

¹⁰³ See original IS/MND, pp. 152, 198.

¹⁰⁴ See Staff Report to Planning Commission for August 20, 2020 meeting, p. 4.

*Note: Again, if the April 2020 Fisch Drilling letter existed prior to the release of the staff report, then why does the staff report only cite to the February 2018 letter from Fisch Drilling? Petitioners' are understandably skeptical of this new self-serving and unsupported evidence from the applicant's well driller.

¹⁰⁵ See Appendix E to Staff Report, Letter from David Fisch at Fisch Drilling to Andy Machata, dated Feb. 15, 2018, emphasis added.

¹⁰⁶ The April 2020 letter from Fisch Drilling was not cited in the original IS/MND and was not cited in the staff report for the August 20, 2020 Planning Commission meeting. Petitioner submitted a request to public records to the County on September 4, 2020 and the second letter from Fisch Drilling was not produced by the County in response to this request. If the second letter from Fisch Drilling existed prior to the initial release of the original IS/MND and prior to Petitioners' PRA request, it presumably would have been included as an exhibit to the original IS/MND and would have been produced in response to Petitioners' PRA request. If this matter is pursued in

According to David Fisch at Fisch Drilling who drilled the wells “The wells were completed in the Franciscan Sandstone. The wells are drilled into perched bedrock with no hydraulic connection to any surface water or any part of a larger shallow homogeneous aquifer. [¶] Considering the depth of the well, it appears to fall in line with the guidelines of a non-jurisdictional well of similar depth in the surrounding area”.¹⁰⁷

The Revised IS/MND does not describe the qualifications of Mr. Fisch to make the determination regarding hydrologic connectivity nor does it describe the methods Mr. Fisch used to make this determination. The Revised IS/MND does not include any other substantiation for the conclusions reached in the letter and quoted in the analysis. This unsubstantiated and unsupported opinion does not constitute substantial evidence supporting the conclusion that the Project will “clearly” have no significant impacts to groundwater supplies, surface waters, or to aquatic resources, as required under CEQA’s “fair argument” standard of review. Thus, even as corrected with the new evidence (i.e., the second conclusory letter from Fisch Drilling), the Revised IS/MND does not and cannot provide substantial evidence necessary to support the conclusion that the Project’s heavy sole reliance on year-round groundwater pumping will not cause any significant impacts to surface waters (e.g., the Eel River, springs, streams, and wetlands), aquatic resources, and species dependent upon such waters and resources.

Petitioners retained hydrogeologists to evaluate the sufficiency of the Initial Study analysis of impacts that may be caused by Project-related groundwater withdrawal. The experts at PWA have concluded that 1) the sustained yield of these wells and their potential hydrologic connection to nearby surface water features and aquatic resources has never been properly investigated and that 2) the short-term pump tests for the three Project wells were not conducted during the appropriate dry season defined in County regulations.¹⁰⁸

(b) The Potential for Groundwater Pumping to Cause Impacts to Surface Waters and Aquatic Resources Must Be Analyzed and Either Avoided or Mitigated.

According to the thorough report on groundwater resources in the Eureka area (including within the Project area) prepared by the United States Geological Survey (“USGS”) in

litigation, Petitioners will seek discovery concerning the origin and date of submission of the second Fisch Drilling letter to the County.

¹⁰⁷ See Revised IS/MND, p. 197 [purporting to quote the letter from Fisch Drilling], see also Appendix E to IS/MND, second letter from Fisch Drilling with conclusory statements re hydrologic conductivity.

¹⁰⁸ See Exh. B, PWA Memo, pp. 3-4.

1959, the fractured Franciscan Sandstone formation underlying much of the Project site is likely to bear relatively little groundwater.¹⁰⁹ Indeed,

The oldest rocks exposed [within the Eureka area] are undifferentiated sedimentary and metamorphic rocks of the Franciscan and Yager formations of Jurassic and Cretaceous age. These rocks crop out in the hills and mountains along the east and south edges of the area and underlie most of the mountainous drainage area. However, they do not yield appreciable amounts of water to wells.¹¹⁰

The above information directly refutes the unsupported assertions in the Revised IS/MND that 1) the Project's three wells can sustainably pump over 4,000,000 gallons a year without depleting groundwater resources and without diverting from surface waters such as tributary streams and wetlands and 2) the Project will have no significant impact on groundwater supplies.¹¹¹ Furthermore, to the extent the Project's use of limited available groundwater depletes or adversely affects the quantity and quality of surface water wetlands, streams, and tributaries (e.g., to adjacent Beatty Creek or to the downslope Eel River), the use of Project wells may also cause significant impacts to biological resources (e.g., fish, birds, and other wildlife) that depend upon those impacted surface waters (discussed further below).

The USGS further found what relatively little groundwater there is to be found in Franciscan formations "occurs along fault zones, in landslide debris, and in joints" and that this water is "discharged in springs or through seepage zones."¹¹² This finding, while admittedly dated, constitutes substantial evidence that the groundwater the Project will depend upon is hydrologically connected to surface waters and that extracting this groundwater may reduce the discharge of groundwater underlying the three Project well sites to nearby "springs and seepage zones." The geology of the area has not changed appreciably since the report was written in 1959. Further, given increased water demand, prolonged droughts, and the effects of climate change, groundwater availability in these zones cannot possibly have improved.

The applicant and County can use available modelling tools and field techniques to determine or estimate whether and to what degree any of the three Project wells can potentially impact surface waters. For example, USGS Circular 1376 addresses situations where groundwater pumping from wells having a hydrological connection to surface waters may cause

¹⁰⁹ See generally USGS (prepared in cooperation with the California Department of Water Resources), Water-Supply Paper 1470, Geology and Ground-Water Features of the Eureka Area Humboldt County, California (1959), pp. 1, 3-4, 7, 11-12, available at: <https://pubs.usgs.gov/wsp/1470/report.pdf>, accessed 10/01/20.

¹¹⁰ See *id.* at p. 12; see also *id.* at p. 13 [Table 1, stating Franciscan Sandstone of the Jurassic age is "Consolidated; not tapped by wells, probably contains *some* water in fractures and in deeply weathered rocks," emphasis added].

¹¹¹ See Revised IS/MND, pp. 196-198.

¹¹² See USGS Water Supply Paper 1470, *supra*, p. 14.

a decline in those surface waters.¹¹³ The circular recommends several modeling and field techniques that can be used to determine whether groundwater pumping from a specific well can potentially impact nearby surface waters.¹¹⁴ The analysis of this Project's impacts to surface waters should employ modeling and investigation, not rely on speculation and the summary self-serving and unqualified conclusion of the applicant's well drilling company.

USGS Circular 1376 summarizes the "Components of streamflow depletion" as follows:

Both captured groundwater discharge and induced infiltration of streamflow result in reductions in the total rate of streamflow. Streamflow depletion, therefore, is the sum of captured groundwater discharge and induced infiltration. Captured groundwater discharge is often the primary component of streamflow depletion, but if pumping rates are relatively large or the locations of withdrawal relatively close to a stream, then induced infiltration may become an important component of streamflow depletion.¹¹⁵

The required EIR must carefully examine all the ways in which the Project's three Wells can cause streamflow depletion.

Because there is evidence of a hydrologic connection between Project wells and surface water features, the Project may be subject to forbearance of groundwater pumping during certain times of year under the State Water Resource Control Board's Cannabis Cultivation Policy.¹¹⁶ Without an alternative water supply, this forbearance policy may preclude the Project from operating year-round.

Staff has recommended informal, unenforceable mitigation in the event the three wells cannot provide sufficient supply: to either (1) find a secondary source of water or (2) curtail the size of the Project.¹¹⁷ Even if such statements in a staff report could be construed as an enforceable mitigation measure, such a measure cannot serve as a substitute for the Revised IS/MND's deficient analysis of impacts to water supply. In the seminal *Vineyard Area Citizens* case, the California Supreme Court, rejected the argument that a similar adopted mitigation

¹¹³ See generally USGS Circular 1376, Streamflow Depletion by Wells—Understanding and Managing the Effects of Groundwater Pumping on Streamflow, available at: https://pubs.usgs.gov/circ/1376/pdf/circ1376_barlow_report_508.pdf, accessed Sept. 24, 2020.

¹¹⁴ See *id.* at p. 35, 50, 54.

¹¹⁵ USGS Circular 1376, p. 76 [Conclusion].

¹¹⁶ See SWRCB, Cannabis Cultivation Policy Principles and Guidelines for Cannabis Cultivation, 2019, p. 13, available at: https://www.waterboards.ca.gov/water_issues/programs/cannabis/cannabis_policy.html, accessed 12/28/20.

¹¹⁷ See Staff Report to Planning Commission for August 20, 2020 meeting, p. 4.

measure could substitute for a reasoned discussion of the availability of a project's projected water supply.¹¹⁸

5. Undisclosed Biological Resource Impacts

As CDFW pointed out in its comments on the Revised IS/MND, the analysis does not consider the Project's potentially significant impacts to a number of plant and wildlife species that are known to be present in the Project area.¹¹⁹ The level of survey investigation conducted here does not even meet CEQA's minimum standards.¹²⁰ The Revised IS/MND then uses the determination of no significant Project impacts to species as well as the lack of supporting factual information concerning potentially significant impacts to determine that only limited mitigation is necessary to reduce impacts to less-than-significant levels.¹²¹ This is not the level of impact analysis that CEQA requires.

(a) Inadequate Surveys to Provide Baseline Information

Establishing an accurate environmental baseline is the starting point for any sound impact analysis. The Revised IS/MND dismisses the possibility of Project impacts without ever having conducted the required surveys for numerous wildlife and rare plant species and after disregarding evidence indicating the likelihood of significant impacts. In its comments on the original IS/MND, CDFW noted that the impact analysis lacked sufficient wildlife survey and wetland delineation information to establish an accurate environmental baseline against which the Project's impacts can be measured.¹²² CDFW is correct. The Revised IS/MND fails to determine whether such species and rare plants are present or potentially present throughout the entire area where Project-related construction and operation will occur. Without this information, neither the County nor CDFW have the information required to make their respective permitting decisions with the full environmental impacts of the Project in consideration. Because CEQA requires coordination between agencies when preparing the environmental impact analysis,¹²³ the Revised IS/MND remains inadequate.

The Appendix to the Revised IS/MND contains a Botanical Survey Report and worksheets for surveys for the Northern Spotted Owl ("NSO"). The Appendix, however, does

¹¹⁸ See *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 444.

¹¹⁹ See CDFW comments on IS/MND, dated August 17, 2020, p. 2.

¹²⁰ See *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1398 ["CEQA simply requires that the public and public agencies be presented with adequate information to ensure that 'decisions be informed, and therefore balanced.' "], quoting *Al Larson Boat Shop, Inc. v. Bd. of Harbor Commissioners* (1993) 18 Cal.App.4th 729, 748.

¹²¹ See Revised IS/MND, pp. 108-157.

¹²² See CDFW comments on IS/MND, dated August 17, 2020, pp. 2-4.

¹²³ See *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 936, quoting Public Resources Code, § 21003(a).

not include the referenced “revised Biological Report”¹²⁴ or any other comprehensive report that describes the qualifications of the biologists involved in conducting surveys and preparing the reports that underly the analysis of Project-related impacts to biological resources.¹²⁵ This revised Biological Report, while not included among the appendices to the Revised IS/MND, is part of the administrative record for this Project.

The 2018 Botanical Survey Report that was included as an appendix to the original IS/MND reveals that field surveys were only conducted by botanist Claire Brown on May 28 and July 3, 2018, at the greenhouse sites only and were not conducted along the Project access roads (where Project-related unspecified “upgrades” are planned).¹²⁶ Further, this report reveals that the two surveys were conducted mid-growing season and not spaced throughout the growing season as recommended in CDFW’s protocol.¹²⁷ The Appendix also does not include any information concerning the surveys conducted for Golden Eagle and other special status species.

The Revised IS/MND now includes an additional 2020 Botanical Survey Report.¹²⁸ The 2020 Botanical Survey Report purports to address the Project’s potentially significant impacts to botanical resources within a depicted “study area.”¹²⁹ The 2020 Botanical Survey Report is silent with respect to the earlier surveys and states that the “Surveys took place on May 9th, 2019, June 16th, 2020 and June 25th, 2020.”¹³⁰ The 2020 surveys purport to have included surveys along the Project access road from the McCann bridge. The 2020 Botanical Survey Report does not reveal how the surveys along the access road were conducted (e.g., on foot or from a moving vehicle) or whether those surveys took account of the areas that would be impacted by the numerous newly proposed roadway widening improvements. This Report also reveals that no botanical surveys were conducted between the facility sites and the Alderpoint Road alternative access routes.

¹²⁴ See Revised IS/MND, pp. 95, 245 [referencing November 2018 revised Biological Report].

¹²⁵ NRM, the applicant’s consultant, submitted a revised Biological Report to the County on July 30, 2018. A later version of this report is listed as a reference in the Revised IS/MND.

¹²⁶ See Appendix I to original IS/MND, Botanical Survey Report, 2018, pp. 8-11. The cover page for Appendix I describes a Botanic Survey Report dated 2019, but the report itself states that it was prepared in July 2018.

¹²⁷ See CDFW, Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (2018), p. 6 [“Space botanical field survey visits throughout the growing season to accurately determine what plants exist in the project area. This usually involves multiple visits to the project area (e.g. in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present”], available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>, accessed 11/19/20.

¹²⁸ See Appendix I to Revised IS/MND, Botanical Survey Report, Supplemental to Botanical Survey report prepared by NRM in July 2018, August 2020 (Revised Oct 15, 2020). p. 23.

¹²⁹ See *id.* at Figures 1 through 6.

¹³⁰ See *id.* at p. 23.

Surveys for Golden Eagle were conducted in spring and summer, not in within the period that CDFW specifically recommends, January and February.¹³¹ Because CDFW also noted in its comments that “[t]his Project has potential high use areas for birds of prey including, ... golden eagle ...”, it is imperative that sufficient surveys are conducted.¹³² Without the necessary surveys, sound analysis of the Project’s impacts to protected species is impossible. For these reasons, the Revised IS/MND did not adequately analyze the Project’s potential to impact a number of special status species, including the Golden Eagle.

Appendix M to the Revised IS/MND is a report concerning a wetland delineation performed on a portion of the Project site in 2020. Unfortunately, the wetland delineation did not cover all areas that would be disturbed by Project construction and operation activities.¹³³ The wetland delineation, for example, did not include a full delineation for the wetland features adjacent to the access road culverts that will be replaced and adjacent drainage areas. Evidence in the administrative record suggests that wetland areas may be present in areas near road culverts.¹³⁴ This too is despite CDFW’s specific request for a full wetland delineation in its comments on the original IS/MND:

[A] formal wetland delineation of the entire Project area using accepted methods and procedures was not included in the IS/MND. CDFW is also concerned that the wetland delineation has not yet covered the entire Project area. The IS/MND should be revised to include the results of complete Project area wetland delineation¹³⁵

The wetland delineation report includes the conclusory statement that “the investigation was conducted in full accordance with [USACE] requirements].” However, the Revised IS/MND does not comply with a number of these requirements.

In addition, the wetland delineation report depicts the location of wetlands on the Project site differently than does the Revised IS/MND.¹³⁶ The Revised IS/MND appears to identify wetlands that were not identified in the wetland delineation report. These additional

¹³¹ See CDFW, Protocol for Golden Eagle Occupancy, Reproduction, and Prey Population Assessment (2010), p. 29 available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83955&inline>; see also U.S. FWS, Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations, Pagel, et al. (2010), available at: https://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/usfws_interim_goea_monitoring_protocol_10march2010.pdf, accessed 11/13/20.

¹³² Notably, the Revised IS/MND acknowledges that a golden eagle was observed flying across the Project site on July 16, 2018. See Revised IS/MND, p. 119.

¹³³ See Exhibit M to Revised IS/MND, Delineation of Waters Report; July 2020, NRM, p. 4 [delineation covered only a “portion” of the Project site], 6 [Figure 1].

¹³⁴ See, e.g., NRM, Revised Biological Report, dated July 30, 2018, pp. 6, 12-13, 16-18.

¹³⁵ See CDFW Comments on the original IS/MND, dated Aug. 17, 2020, pp. 3-4.

¹³⁶ Compare, e.g., Revised IS/MND, Figures 40 and 42 with Appendix M to Revised IS/MND, pp. 7-9, Figures 2 and 4.

wetlands may be those identified in the 2018 Biological Report for this Project (that was not included in the IS/MND appendices).¹³⁷ The wetland delineation report in Appendix M of the Revised IS/MND does not describe how the two study areas were defined. These discrepancies and inadequacies must be resolved in the revised analysis.

(b) The Analysis of Impacts to Rare Plants, Special Status Species, Wetlands, and Other Aquatic Resources is Incomplete and Inaccurate.

The Revised IS/MND fails to adequately analyze the Project's potentially significant impacts to biological resources. The shortcomings in the analysis stem from an incomplete description of the Project, incomplete surveys to establish the environmental baseline, and disregarded evidence concerning the presence (or potential presence) of protected habitat and species.

The Revised IS/MND includes a new analysis entitled "Assessment of Road Improvement and Maintenance Activity Impacts to Botanical Resources" prepared in October 2020. While the road assessment acknowledges that "[d]uring the winter months, when access via the bridge is not feasible, the Project area can be accessed via Alderpoint Road," the analysis does not actually include an assessment of potential impacts to botanical resources by necessary roadway and drainage improvements along the alternative access route over private ranch roads to Alderpoint Road.¹³⁸ This document also does not assess the full impact of road improvements to botanic resources because it does not acknowledge the number and scope of the improvements that would be required to bring the roads up to "Category 4 or equivalent" standards. Instead, the assessment relies upon the improper (and substantially narrower) Category 2 standard.

The Revised IS/MND acknowledged that "completion of the project will result in unavoidable impacts [to wetlands]."¹³⁹ This statement and the analysis that follows it, however, only addresses the Projects *direct* impacts on wetlands (i.e., from the Project footprint itself and from close proximity to Project construction), it does not address or acknowledge the potentially significant *indirect* impacts to wetlands and riparian habitat from encroachment of the Project facilities within the buffer areas recommended by CDFW.¹⁴⁰

Further, the vague description for possible compensatory mitigation measures for direct impacts to wetlands lack specific performance standards and constitute improper deferral of

¹³⁷ See NRM, Revised Biological Report, dated July 30, 2018, pp. 6 [photo of wetland vegetation adjacent to ephemeral pond], 19.

¹³⁸ See Appendix I to Revised IS/MND, Assessment of Road Improvement and Maintenance Activity Impacts to Botanical Resources (Oct. 2020), Figure 1 (Depicting RPs where surveys were conducted).

¹³⁹ Revised IS/MND, p. 146.

¹⁴⁰ See Revised IS/MND, pp. 145-148 [indicating use of 100-foot buffer for wetlands and a 150-foot buffer for the Eel River, rather than the CDFW recommended buffers of 150 feet and 200 feet, respectively].

mitigation under CEQA.¹⁴¹ Thus, while the Revised IS/MND acknowledges a potentially significant direct impact, it ignores indirect impacts to wetlands, and it fails to propose specific enforceable mitigation to reduce both direct and indirect impacts to less-than-significant levels.

With respect to the Project's potential to impact the foothill yellow-legged frog (a species listed as endangered or threatened for several geographical regions in CA under the California ESA and a species of special concern within the Project area),¹⁴² the Revised IS/MND inaccurately states that "[t]his species was not observed during surveys of the project areas."¹⁴³ However, according to the 2018 Biological Report prepared by NRM, the applicant's consultant, this species was in fact observed, heard, and even captured at multiple locations on the Project site.¹⁴⁴ This discrepancy between the Revised IS/MND and the underlying survey data must be resolved.

In its July 2018 memorandum, the County's peer review consultant specifically recommended that "[t]he location of the culvert with temporary water where foothill yellow-legged frog was observed should be mapped and explained in relation to the project" in the Revised IS/MND.¹⁴⁵ Yet, despite this specific request for pertinent and accurate baseline information, both the original IS/MND and the Revised IS/MND completely deny the biologist's observation of any yellow-legged frogs on the Project site.¹⁴⁶

This species was not observed during surveys of the project areas. The watercourses in the project areas (with the exception of the eel River) are

¹⁴¹ See *id.* at pp. 148, 152-154.

¹⁴² See 14 C.C.R. § 670.5(a)(D)(E)(F) [endangered listings for this species], 670.5(b)(I), (J); see also CEQA Guidelines, § 15380(b)-(d); see also CDFW Report to the Fish & Game Commission, A Status Review of the Foothill Yellow-Legged Frog in CA (09/20/2019), p. 4 ["The scientific information available to the Department indicates that Foothill Yellow-legged Frog faces varying degrees of imperilment throughout its range. The Department recommends that the Commission find that the petitioned action to list Foothill Yellow-legged Frog as threatened is warranted for the Feather River and Northeast/Northern Sierra clades; that the East/Southern Sierra, West/Central Coast, and Southwest/South Coast clades be listed as endangered; and that listing of the Northwest/North Coast clade is not warranted at this time."], available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=174663&inline>, accessed 12/06/20; see also CDFW Press Release re Fish & Game Commission Listing Decision for the Foothill Yellow-legged Frog (12/12/2019), available at: <https://cdfgnews.wordpress.com/tag/foothill-yellow-legged-frog/>.

¹⁴³ See *id.* at p. 137.

¹⁴⁴ See NRM, Revised Biological Report, dated July 30, 2018, pp. 6, 12-13, 16-18. The Revised IS/MND cites a revised Biological Report dated November 2, 2018, but does not include this document in the Appendix. As a referenced resource that purports to support the analysis of impacts, this document should have been made available to the public for review during the comment period

¹⁴⁵ See Exh. F – Memo #1, p. 6.

¹⁴⁶ See Revised IS/MND, pp. 95 [stating that, during the surveys conducted by NRM biologists on October 16, 2017, "No special status species were found"], 137 [discussion of the Project's potential impacts to yellow-legged frog].

unlikely to support foothill yellow-legged frog as they are not permanent (dry by June) and breeding habitat is suboptimal with no rocky substrate.¹⁴⁷

Because this species has been confirmed to actually be present on the Project site, the impact analysis regarding foothill yellow-legged frog is therefore also inaccurate. The revised analysis must acknowledge the Project's potential to significantly impact this special status species, known to be present on the Project site, and must propose project design changes to avoid impacts to upland areas adjacent to wetlands (within mandatory set back / buffer areas) and, to the extent avoidance does not reduce impacts to less-than-significant levels, the required EIR must propose specific, enforceable mitigation measures to minimize such impacts.¹⁴⁸

The Revised IS/MND did not consider potentially significant impacts to biological resources that may be caused by the Project's heavy reliance on potentially hydrologically connected groundwater. The 4,628,200 gallons of estimated annual water demand may draw down the water table, potentially reducing or eliminating nearby surface water resources or potentially causing changes in surface water temperature (discussed further below). Withdrawal of hydrologically-connected groundwater may result in depletion of surface water resources, thereby impacting special status species and other biological resources. For example, groundwater pumping could constitute a "diversion" of surface waters that adversely impacts the foothill yellow-legged frog, a special-status species known to be present on the Project site.¹⁴⁹ Of course, such impacts related to groundwater diversion would also affect other species reliant on surface water resources. The Revised IS/MND is silent with respect to how the plant and animal species that depend upon these water resources could be affected by intensive groundwater pumping in an area dominated by Franciscan Sandstone and other sedimentary and metamorphic rock formations with limited potential for groundwater storage and a likelihood to discharge to surface waters. The required EIR for this Project must fully analyze these potentially significant impacts and propose adequate enforceable mitigation to minimize or eliminate them. Proposed Mitigation Measure Bio-15 is inadequate because, among other things, it allows the relocation of any found yellow-legged frogs *before* notification to CDFW.

The Revised IS/MND does not consider the impacts on surface waters, associated riparian habitat, and dependent species that may be caused by the Project's heavy, year-round, and sole reliance on groundwater. The required EIR must address all of this.

¹⁴⁷ See *id.* at p. 137.

¹⁴⁸ See Exh. I – Letter from CDFW re Draft LSAA required Mattole River Cannabis Project, Draft LSAA, p. 5 [protective measures for foothill yellow-legged frog].

¹⁴⁹ See U.S. Dept. of Agriculture, Foothill Yellow-Legged Frog Conservation Assessment in California (2016), p. 44 ["Diversion of water may also result in modifications to stream habitat (e.g., local reaches may become less lotic in nature). Even small operations, such as those used to divert water for growing marijuana (*Cannabis sativa*), may have significant impacts on foothill streams with limited summer flows (Citation)."], available at: https://www.fs.fed.us/psw/publications/documents/psw_gtr248/psw_gtr248.pdf, accessed 11/24/20.

6. Overlooked Land Use Impacts

The large-scale Project in this remote greenfield location is inconsistent with the intent of the CMMLUO (and the arguably more appropriately applicable CCLUO). When these regulations were passed, the intent was to encourage large-scale cannabis projects in the relatively flat bottomlands of the County not in mountainous, undeveloped, timberland.¹⁵⁰

The County's Supervising Planner summarized comments on an early draft IS/MND as follows:

The overarching issue is that our analysis of the [CMMLUO] indicates that the CMMLUO did not contemplate the wholesale conversion of a large tract of wildland area to industrial sized cannabis development, where the level of use and the level of impacts may not be consistent with what was envisioned by the CMMLUO; especially at locations without adequate access, public services, and fire protection. We are concerned that the proposed level of development, including establishing extensive human occupations where none currently exist, and the improvement of roads through wild land areas not previously developed to serve the level of development proposed by the project, can result in cumulative effects on the environment that cannot be reduced or mitigated to a level of insignificance.¹⁵¹

Several months later, the County's consultant reiterated the above comments and recommended that the Revised IS/MND be revised to address the Project's consistency with the County's land use regulations.¹⁵²

In spite of these prior comments from the County and its peer review consultant, the Revised IS/MND does not address the Project's fundamental inconsistency with the letter and spirit of the CMMLUO (and with the later adopted CCLUO). Instead, the conclusory analysis states, without sufficient evidence or even a discussion, that the Project would have no impacts to land use and, more specifically, would cause no significant impacts due to a conflict with "any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect."¹⁵³

¹⁵⁰ See Humboldt County Bd. of Supervisors, Resolution 16-14, General Plan Consistency Analysis and Findings, p. 2 ["[the CMMLUO] provides incentives for the retirement, remediation and relocation of existing cannabis cultivation operations to more suitable agricultural land where cannabis cultivation will have few if any environmental effects where the cultivation of field and row crops is a principally permitted use, while providing strong guarantees that the former TPZ cultivation site will be remediated and no future conversion of timberland will occur"].

¹⁵¹ See Exh. D – Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018, p. 1.

¹⁵² See Exh. F – Memo #1, p. 9.

¹⁵³ See Revised IS/MND, pp. 202-203.

The short, unelaborated discussion of potentially significant land use impacts does not address 1) the Project's inconsistency with the CMMLUO based on the conversion of wildlands to an intensive commercial operation and 2) the Project's contribution to cumulative effects caused by the improvement of roads through wildland areas. Again, the County's comments on the draft IS/MND appear to have been ignored or disregarded.

Under both the CMMLUO and the CCLUO, this new Project should not even be possible because most of the Project parcels are designated within a Timber Production Zone ("TPZ").¹⁵⁴ Both the CMMLUO and the CCLUO prohibit new commercial cannabis operations on TPZ property.¹⁵⁵ While the footprints of greenhouses and other Project buildings will technically be just outside the TPZ, to have adequate access and meet fire safe regulations, the Project will require substantial modifications to access roads that cross TPZ areas on the Project site. The Revised IS/MND is silent with respect to this restriction.

Because the Project is inconsistent with applicable land use regulations, the required EIR must disclose those inconsistencies and propose Project changes or mitigation measures to avoid or reduce the impacts to the extent feasible. If the inconsistencies with land use regulations cannot be avoided or rendered insignificant, then the Planning Commission should deny the application for the six CUPs for this Project.

7. Omitted Consideration of Water Quality Impacts from Groundwater Pumping and Access Road Drainage Improvements

Year-round pumping of groundwater from the Project's three wells could cause impacts to hydrologically connected surface waters. According to USGS Circular 1376:

One of the important concerns associated with streamflow depletion by wells is the effect of reduced groundwater discharge on the quality of affected surface waters. Groundwater discharge affects the chemistry of surface water and plays an important role in regulating stream temperature, which is a critical water-quality property [citations].¹⁵⁶

The USGS circular confirms that "reductions in the rates of groundwater discharge to streams caused by pumping can warm stream temperatures during the summer and cool stream temperatures during the winter."¹⁵⁷ The required EIR must also analyze the Project's impacts on water quality, as it relates to intensive year-round groundwater pumping.

¹⁵⁴ See *id.* at p. 47 [Figure 20].

¹⁵⁵ See HCC (CCLUO), §§ 55.4.5.1.3, 55.4.6.5, 55.4.6.5.6; see also Resolution 18-40 (Certifying EIR for CCLUO, p. 8; see also HCC, § 55.4.9 [Permit Types, Table summarizing permits types under the CMMLUO]; see also MND for CMMLUO, pp. 9 ["New operations on TPZ-zoned land will not be permitted under this ordinance"].

¹⁵⁶ See USGS Circular 1376, p. 35.

¹⁵⁷ See *ibid.*

The Revised IS/MND also did not analyze the impacts to water quality that may result from necessary access road improvements. Many of the necessary roadway and drainage improvements were not even identified until after the original IS/MND was prepared and released for public review. Now improvements to meet Category 2 standards have been identified, but the analysis concerning potentially significant water quality impacts has not been modified to reflect the much larger area of disturbance now being proposed.¹⁵⁸ To bring the access roads up to the required “Category 4 or equivalent” standard, there would be even greater potentially significant impacts to water quality that have not been disclosed in the Revised IS/MND.

8. Superficial “Analysis” of the Project’s Contribution to Cumulative Impacts

As Petitioners pointed out in their initial comments concerning the Revised IS/MND submitted in August, and again in their supplemental comments submitted in September, the Revised IS/MND fails to identify the relevant past, present, and probable future projects considered in the cumulative impacts analysis.¹⁵⁹ As with the Project description deficiencies identified above, the Revised IS/MND did not incorporate recommendations from the County’s peer review consultant concerning the cumulative impacts analysis.¹⁶⁰

The cumulative impacts analysis should be revised to cure these core deficiencies. When revising the analysis in the required EIR, consider consolidating the discussion of cumulative impacts, so that the Project’s contribution to cumulative impacts in all categories can be readily ascertained. The Revised IS/MND for the recently approved Hills commercial cannabis project provides a good example of a consolidated analysis of cumulative impacts.¹⁶¹ That analysis provides much more detail concerning the multiple pending and approved projects that were considered. The analysis of cumulative impacts should also consider this Project’s impacts in connection within the overall commercial cannabis permitting program, rather than in isolation. The County prepared a Mitigated Negative Declaration for the CMMLUO that purported to analyze the environmental impacts of the County’s former permitting program as a whole. That document did not identify the total number discretionary permits that the County expected would be issued under the CMMLUO for cannabis projects nor did it purport to analyze the impacts of large scale new commercial cannabis projects subject to the conditional use permit requirement.¹⁶²

¹⁵⁸ See Revised IS/MND, pp. 15, 49, 51, 194-196, 199.

¹⁵⁹ See Petitioner’s initial comments on the IS/MND, dated August 17, 2020, pp. 3, 16-17, 19; *see also* Petitioners’ supplemental comments on the IS/MND, dated Sept. 10, 2020, p. 18.

¹⁶⁰ See Exh. F – Memo #1, p. 13.

¹⁶¹ See, e.g., Exh. K – Cumulative Impacts Analysis for the Hills Commercial Cannabis Project (listing past, present, and future projects and discussing that project’s contribution to various types of impacts).

¹⁶² See, e.g., IS/MND prepared for CMMLUO, pp. 26-29, 31, 33.

Still more permits will be issued for cannabis projects under the CCLUO. In May 2018, in conjunction with approving the CCLUO, the County adopted Resolution 18-43, which resolution set caps on the number of permits that could be issued in each region of the County, including within the Middle Main Eel River watershed. This Resolution set a cap of 360 permits, allowing for 125 acres of cultivation, for the area wherein which the Project will be located.¹⁶³ The analysis of cumulative impacts should consider this Project's contribution towards cumulative impacts in the context of intensive commercial cannabis development activities under both the CMMLUO and the CCLUO permitting regimes.

Accordingly, the EIR required for this Project must provide a substantially more robust analysis of the Project's contribution to cumulatively considerable impacts.

E. The Revised IS/MND Downplays the Project's Growth Inducing Impacts.

The Revised IS/MND concludes, without support evidence, that the Project will not cause growth inducement impacts.¹⁶⁴ However, as the peer review consultant pointed out, the Project may contribute to growth inducement in several ways. Expansion of roads required for this Project (i.e., to Category 4 or equivalent standards) could lead to more development of this remote area. This development could, include, for example, expansion of the proposed Project to include still more wells and additional greenhouses and processing facilities (potentially processed at a ministerial level, at most, without any additional environmental review). Alternatively, the Project's commercial success could precipitate subdivision of the 6,500-acre Rolling Meadow Ranch into either residential or commercial development. The required EIR should consider the Project's potential to induce growth in the currently largely undeveloped and environmentally sensitive hillsides adjacent to the Eel River.

F. The MND Does Not Incorporate Adequate Project Design Features and Mitigation Measures to Ensure the Project will Have Less Than Significant Impacts.

To be adequate under CEQA, proposed mitigation measures must be described in detail, and must enforceable. The Revised IS/MND assumes, with insufficient factual support, that vaguely described "BMPs" and other measures will reduce various impacts to less-than-significant levels.¹⁶⁵ As explained above and in Petitioners' prior comments, the Project will cause potentially significant impacts to air quality, traffic safety, public services, biological

¹⁶³ See County Resolution 18-43, adopted May 8, 2018, available at: <https://humboldt.gov.org/2124/Medical-Marijuana-Land-Use-Ordinance>.

¹⁶⁴ See Revised IS/MND, pp. 188, 212-213.

¹⁶⁵ See, e.g., Revised IS/MND, pp. 55, 57 [conclusory discussion of avoidance of potentially significant construction period-air quality impacts through compliance with BMPs], 188 [discussion of avoidance of hazards through compliance with BMPs].

resources, water supply, water quality, and land use. These impacts must be mitigated to the extent feasible.¹⁶⁶

Some of the mitigation measures described in the Revised IS/MND are inadequate under CEQA. For example, Mitigation Measure Bio-1 is unclear -- if sensitive plant species are found during the surveys at Facilities #6 - #9 will those facilities never be constructed? Additionally, the proposed Mitigation Measure Bio-15 for the foothill yellow-legged frog is not sufficiently protective of the species because it allows any frogs found during pre-construction surveys to be relocated prior to contacting CDFW.^{167]}

The Revised IS/MND states that the Project “will be powered by grid power derived from 100% renewable resources as provided by the Redwood Coast Energy Authority Repower+ program. However, there is no measure or condition that would require the Project to use renewable energy sources. As with the Adesa project, the Planning Commission should require that 100% of all power necessary for regular operations and in the event of emergencies be generated by renewable sources within 2 years of operation.”¹⁶⁸

To avoid and minimize impacts to potentially hydrologically connected surface water features and aquatic resources, the County should also impose an adaptive management mitigation measure for the Project’s three wells, such as the following:

Mitigation Measure: Annual groundwater monitoring and adaptive management.

The following requirement will be included as an additional performance associated wells that may be hydrologically connected with surface waters: As part of the annual inspection process, the operator shall provide the County with groundwater monitoring data for on-site well facilities that documents well production and changes in groundwater levels during each month of the year. Should this monitoring data identify potential drawdown impacts to adjacent surface waters and indicate a connection to operation of the on-site wells, the operator, in conjunction with the County, shall develop adaptive management measures to allow for recovery of groundwater levels. Adaptive management measures may include forbearance (e.g., prohibition of groundwater extraction from the months of May to October), water conservation measures, reductions in on-site cannabis cultivation, alteration of the groundwater pumping schedule,

¹⁶⁶ See *San Bernardino Valley Audubon Soc’y v. Metro. Water Dist.* (1999) 71 Cal.App.4th 382, 391 [“CEQA allows the use of a mitigated negative declaration only where the mitigation measures modify the potentially significant impacts of the Project “to a point where clearly no significant effects would occur...” [Citation.] If significant effects remain after mitigation, an EIR is required], quoting CEQA Guidelines, § 15070(b)(1).]

¹⁶⁷ See Jets THP attached to Revised IS/MND, p. 43 [more protective measure for FYLF contained in THP applicable to RMR].

¹⁶⁸ See Staff Report to County Board of Supervisors concerning appeal of Adesa project approvals, for Oct. 27, 2020 meeting, p. 2, incorporated herein by reference.

or other measures determined appropriate. Adaptive management measures will remain in place until groundwater levels have recovered based on annual monitoring data provided to the County as part of subsequent annual inspections.

To avoid potentially significant impacts to water quality and to biological resources in this sensitive area, the County should consider requiring organic cultivation practices.

The County must ensure that mitigation measures concerning potentially significant impacts to biological resources, including special status species, adopted by the County in connection with its adoption of the CCLUO are applied equally to this Project.¹⁶⁹ In addition, the EIR required for this Project should describe mitigation for significant air quality impacts, including offsite fugitive dust (PM 10 and PM 2.5) emissions on McCann Rd during construction and operation.

G. The Required EIR Must Evaluate a Range of Alternatives That Includes a Reduced Size Alternative and an Alderpoint Road Access Route Alternative.

When an EIR is required for a project, such as the proposed Project, that has the potential to significantly impact the environment, CEQA requires the lead agency to consider how those significant impacts can be avoided through the consideration of a reasonable range of project alternatives.¹⁷⁰

Petitioners urge the County and the applicant to consider alternatives to the Project that include less intensive cultivation and processing activities, including a reduced size alternative. The required EIR should also evaluate, as a project alternative among the required reasonable “range of alternatives” that must be considered, a Project design that includes using Alderpoint Road as the primary access route and McCann Road for emergency purposes only.

¹⁶⁹ See Humboldt County Bd. of Supervisors, Resolution 18-40.

¹⁷⁰ See *Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal.3d 376, 400 (*Laurel Heights I*) [“One of [an EIR’s] major functions . . . is to ensure that *all reasonable alternatives* to proposed projects are thoroughly assessed by the responsible official”], quoting *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 197], emphasis in original.

III. Conclusion: the Project's Significant Access Issues Justify Outright Denial of the Application for Six CUPs, and its Numerous Potentially Significant Impacts Require the Preparation of an EIR.

As Petitioners' extensive factually-supported comments demonstrate, substantial revisions to the environmental impact analysis for this Project are necessary in order to satisfy CEQA's requirements. These revisions must be made in the required EIR before this Project can be considered for approval. Alternatively, the County has authority to deny the application for the six Conditional Use Permits required for the Project.

Very Truly Yours,

Jason Holder

cc: (Via e-mail only)
Client contacts
Greg O'Connell, CDFW biologist

Exhibits:

- Exh. A. 2014 Real Estate Listing for Rolling Meadow Ranch;
- Exh. B. PWA Rolling Meadow Comments, dated Dec. 28, 2020;
- Exh. C. Letter from Steve Salzman concerning Evaluation of McCann Road, dated Dec. 26, 2020;
- Exh. D. Letter from Supervising Planner Steve Werner to Project applicant, dated January 15, 2018;
- Exh. E. CDFW CEQA Referral Checklist for RMR Project, dated Jan. 24, 2018
- Exh. F. Transcon Environmental, Memorandum re Peer Review, dated July 23, 2018 ("Memo #1);
- Exh. G. Transcon Environmental, Memorandum re Peer Review – Project Description Deficiencies, dated July 23, 2018 ("Memo #2");
- Exh. H. NRM Response to County Comments on Draft Revised IS/MND, dated Jan. 22, 2020;
- Exh. I. Letter from CDFW re Draft LSAA required Mattole River Cannabis Project;
- Exh. J. Email from Greg Mc'Connell at CDFW to County planner Meghan Ryan, dated September 10, 2020; and
- Exh. K. Cumulative Impacts Analysis from Revised IS/MND for the Hills Commercial Cannabis Project.



CALIFORNIA
NATIVE PLANT SOCIETY

North Coast Chapter
P.O. Box 1067
Arcata, CA 95518



30 December 2020

Meghan Ryan
Humboldt County Planning Department
3015 H Street
Eureka, CA 95501
mryan2@co.humboldt.ca.us

re: Rolling Meadow Ranch, LLC. Conditional Use Permits SCH No. 2020060339

Dear Meghan Ryan:

Please consider these comments from the North Coast Chapter of the California Native Plant Society. CNPS is a 501(c)3 non-profit dedicated to conserving California native plants and their natural habitats. CNPS has 10,000 members in 33 chapters statewide. The North Coast Chapter represents 320 members in Del Norte, Humboldt, western Trinity, and western Siskiyou counties.

The Chapter is opposed to the project as proposed due to its impacts on sensitive natural prairie communities and other significant native vegetation. We urge the County to evaluate project alternatives and require appropriate mitigation to minimize project impacts on native vegetation and sensitive natural communities.

1. **Prairies.** In northwest California grassy clearings found in the general matrix of forested mountains are called, informally, prairies. (We use the word "meadow" for montane clearings.) These open areas support a high diversity of plant species, much more than grasses. Historically, prairies were important to indigenous people as foraging sites for seeds and bulbs and hunting sites for game that foraged there. In recent times the fact that prairies sequester large amounts of carbon has become important. Though many prairies are now degraded from historic overgrazing and invasive species, many prairies still contain pockets of native flora, including rare plants and sensitive natural communities. As such, prairies have biological value higher than their acreage suggests. Prairies, along with oak woodlands, are being lost to development (easier to build where no trees), agriculture (easier to plow where no trees), livestock grazing (bringing in aggressive, non-native plant species), and lack of burning (trees and shrubs sprout and take over). **Protecting remaining prairies should be a conservation priority for the County.**

The Rolling Meadow project does the opposite. The 16 greenhouses, clustered in four places, each with water tanks, a processing plant, a septic field, parking area, road, and path, are all proposed to be built in prairie habitat. Compared to the total area of prairie on the property, as viewed in the aerial photos, the area for development is small. Whether this loss is significant depends on other cumulative effects. Will the remaining prairies be maintained? With cattle grazing removed, the likelihood of forest encroaching the prairies is high. **The County should**

evaluate the effects of the project on prairie habitat to understand whether the effects are significant and require mitigation.

The most meaningful mitigation for project impacts on prairie would be a properly researched and professionally executed **prairie restoration**. Restoring prairies is a developing science and art. Non-native species are aggressive and often outgrow the native species planted. Growing deep roots or developing turf takes many years. The diverse mix of species requires attention to many species, not just seeding with one grass. Techniques used in grassland restoration include weeding, fertilizing, weed-eating, mowing, grazing, controlled burning, and planting. We recommend requiring prairie restoration at a minimum 2:1 ratio for any prairie impacts caused by this project.

2. Sensitive Natural Communities. Two kinds of prairie that are classed as Sensitive Natural Communities in California, and therefore afforded special protections, are directly in this project's footprint: **California Oatgrass Prairie and Blue Wildrye Prairie**. While the patches of these Sensitive Natural Communities are small, and the prairies in which they occur are somewhat degraded by non-native grasses and forbs, they are highly significant, as they are the legacy of past, native prairies, and they hold the seeds of future native prairies. The proposed plan to enhance these kinds of prairie elsewhere on the property by seeding, weeding, and planting plugs, is a good step toward mitigation. Collecting the seeds on site, as proposed, is essential. Salvaging and transplanting the desired grasses and any desirable, native, non-grass species (e.g. native bulbs) during construction would increase the value.

3. Prime Agricultural Soils. The county requirement that cannabis cultivation be on Prime Agricultural Soils dictated the dispersed plan of this cannabis grow in these prairies. On this property the Prime Ag Soils are in the prairies, so the greenhouses are placed there. In the face of this consequence, the County should consider adjusting this Prime Ag requirement.

In fact, most of the greenhouses are not entirely on the Prime Ag Soil. The structures are too big to fit in the small, irregular patches of this soil. For example, facility #1 is only about half on Prime Ag Soil. To fit on the Prime Ag Soils, the facilities would have to be much smaller and irregularly shaped. **By this criterion the project does not comply with county regulations.**

To meet the other part of the requirement, that less than 20% of the available Prime Ag Soil be in "cannabis cultivation," the plan includes in its calculation only the footprint of the actual cannabis plants, not the paths, etc., around them, as though the associated infrastructure were not part of the cultivation. (page 46) Including the entire footprint of the greenhouses puts this project **well over the 20% limit**. The more complex calculation of exactly how much Prime Ag Soil is occupied, given that most greenhouses include area not on such soils, is beyond the scope of this review (and probably the County's). The County should require the project to be downscaled for compliance with applicable code requirements, which would better protect remaining prairie habitats.

This project claims it will preserve 99.5% of the defined Prime Ag Soil by growing cannabis directly in holes in the prairie soil rather than grading and pouring a hardened floor. Conceivably that is true, depending on the definition of Prime Ag Soil and of "preserve." For preserving the prairie soil for possible future daylighting, it is false. Soil heavily amended and irrigated and compacted by foot and vehicle traffic will give rise to non-native weeds, not native prairie.

4. **Tree removal.** Some of the trees that might be removed are large enough to be considered legacy trees: a 36-inch California Bay, two 30-inch Douglas-fir, and a 25-inch Madrone. Large California Bay were valued trees by the Native Americans. This slow-growing species could have shaded Native American camps and provided them with nuts. Planting groves of trees in **no way mitigates** for removing trees of this age. The County should evaluate alternatives to the removal of legacy trees and consider whether there are any feasible alternatives that would avoid tree removal.

Planting groves of trees in this forest-prairie mosaic might actually be futile or harmful. Where there is already forest, there is no room and no sun for new trees. Where there is not forest, there is prairie, which should not be planted with trees.

The proposed planting plan **mistakenly** calls for *Laurus nobilis* and *Quercus alba*, probably intending *Umbellularia californica* and *Quercus garryana*. The botanist's report says that *Quercus kelloggii* is the more common oak existing there, so it might be the more appropriate choice. Any mitigation for this project should be of prairie. (See above)

Conclusion. We urge the County to evaluate fully the project effects on the ranch's prairies and require appropriate mitigation in the form of prairie enhancement and restoration.

This project does not meet the County's requirement for new cannabis grows to be on Prime Ag Soils, and it exceeds the 20% limit. It removes irreplaceable trees. It removes, with mitigation, patches of Sensitive Natural Communities while failing to consider alternatives that would avoid impacts to Sensitive Natural Communities.

The County should consider the cumulative effect of this and many other farms being planned on the County's natural prairie habitats. The County's requirement that new cannabis cultivation be on Prime Ag Soils is leading directly to the careful destruction of these prairies. The County should explore ways to modify this regulation to avoid serious, cumulative impacts to this important natural resource.

On behalf of our chapter members and of future generations of members, we thank you for your careful consideration.

Sincerely,



Carol Ralph
President
North Coast Chapter
California Native Plant Society
707-822-2015

McClenagan, Laura

From: Ryan, Meghan
Sent: Monday, January 04, 2021 7:49 AM
To: DeGraff
Subject: RE: Comment on Rolling Meadow Ranch, LLC, Conditional Use Permits

Good morning, Ernie – Thank you for providing comments regarding the Rolling Meadow Ranch, LLC, project. These comments will be forwarded to the Planning Commission for their consideration at the January 7, 2021, Planning Commission hearing.

I appreciate your participation in the public process.

Best,
Meghan

-----Original Message-----

From: DeGraff <ernieorjudy@suddenlink.net>
Sent: Thursday, December 31, 2020 1:16 PM
To: Ryan, Meghan <mryan2@co.humboldt.ca.us>
Subject: Comment on Rolling Meadow Ranch, LLC, Conditional Use Permits

My main concerns are:

1. Even though proposed project is to take well water for growing, that well water is destined for the Eel River to support the steelhead and salmon, especially during low water years.
2. The structures will be a visible from the river and the new trail that is proposed for the Eel River. The landscape will be impaired significantly.
3. I assume lights will be used for 24 hr. growing. This is very disturbing to wildlife and can't be mitigated.
4. The construction of a power line to the "ranch" will adversely affect the landscape and will power equipment that will adversely affect wildlife and human use of the area. In addition during extreme weather in the dry summer, will be a source of fire from downed power lines/transformers. Much too risky to permit that.
5. There are much better places in Humboldt Co. to locate a marijuana grow than this "ranch".

Please deny the Conditional Use Permits and inform them to find a more suitable environment to start their operations.

Sincerely, Ernie DeGraff, Fortuna, CA (707) 725-0451

Humboldt County Planning and Building Department

3015 H Street

Eureka, CA 95501



Re: Rolling Meadows Ranch

I have some concerns regarding allowing Rolling Meadows Ranch to grow cannabis on such a large scale.

1. **Risk of fire.** The proposed industrial scale project will see an influx of significant numbers of employees and service providers and their vehicles into an area that is extremely prone to wildfire. The project site is distant from any fire suppression staging areas and the access roads are narrow and have many tight, blind curves which will delay the arrival of fire suppression vehicles so any fire that starts will quickly burn out of control.
2. **Threat to wildlife.** Killing deer and poisoning wood rats etc. There is another industrial scale cannabis project that was recently approved in this area: Black Bear Farms. We have noticed deer carcasses recently in the area and assume they are a result of Black Bear Farms employees shooting them so the deer won't eat their crop. A similar result will likely happen with the proposed project.
3. **Increased traffic.** The risk of accidents will be higher due to any increase in traffic from this project on top of the increase of traffic from Black Bear Farms and because of the condition of Dyerville loop road and McCann road.

Oral M. Whittow

Trause Moore

Wanda Chadbourne

Chester Chadbourne

Dan Whittow

Jo Whittow

McClenagan, Laura

From: Patrick Carr <nedlud432@gmail.com>
Sent: Monday, January 04, 2021 8:53 PM
To: Planning Clerk
Subject: Comment on Agenda Item G-2 for 1/7 meeting

Humboldt County Planning Commission
Eureka, California

January 4, 2020

RE: Rolling Meadow Ranch, LLC, Conditional Use Permits^[1] Record Number PLN-12529-CUP^[1]
Honorable Commission members,

I appreciate the opportunity to comment on this proposed project.

I am concerned about the inadequate level of review that this project has received from the Humboldt County Planning Department. A project of this size and likely impacts, located in a part of our county wild enough that Golden Eagles have nested either onsite or nearby, should receive more thorough analysis than an IS/MND. Wildlife and botanic impacts need more review (as well as the recognition that a botanic survey is NOT a mitigation measure!).

However, the biggest concern for me is the degree to which the Planning Commission will allow Humboldt's rural wildlands to be turned into massive cannabis farms. Seven acres of intensive impacted land, with much of it indoor cultivation with mixed light conditions? Not to mention the growth-inducing impacts of a four-mile extension of power lines.

Developments of this level of intensity should not be sited in remote locations where impacts to wildlife and rare and significant ecosystems may likely occur, and where projects will likely induce further growth. They should be located near existing infrastructure, on land that already has a significant human footprint, and close to housing for their workers to reduce unavoidable transportation impacts.

At the very least I hope that this project is sent back for further review by Planning Department staff. Personally I'm not sure any amount of review and resulting mitigation will be enough to make Rolling Meadow acceptable, but a valid environmental analysis would be a first (and legally required) step.

Sincerely,

Patrick Carr
1704 Virginia Way
Arcata CA 95521
Email: nedlud432@gmail.com