

SUPPLEMENTAL INFORMATION #2

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. Email from North Coast Regional Water Board dated June 24, 2020, regarding wetland fill. (page 2)
2. Response to Holder Law Group comments prepared by Harrison, Temblador, Hungerford and Johnson dated January 7, 2021. (page 4)
3. Comments from Harriet Hill dated January 7, 2021, with concerns regarding adequacy of Initial Study/Mitigated Negative Declaration, Golden eagles, prairies, fire danger and prime agricultural soils. (page 15)
4. Comments from Holder Law Group dated January 7, 2021, with concerns regarding the staff report and Initial Study/Mitigated Negative Declaration. (page 17)

Subject: RE: Hum Sun and other wetland mitigation

From: "Dougherty, Mona@Waterboards" <Mona.Dougherty@waterboards.ca.gov>

Date: 6/24/2020, 10:40 AM

To: Prairie Moore <pmoore@nrmcorp.com>, "Stevens, Brandon D.@Waterboards" <Brandon.Stevens@Waterboards.ca.gov>

Hi Prairie,

We're discussing internally how we might best address this issue. We'll have more info after a meeting tomorrow. Thanks.

From: Dougherty, Mona@Waterboards

Sent: Tuesday, June 23, 2020 4:57 PM

To: Prairie Moore <pmoore@nrmcorp.com>; Stevens, Brandon D.@Waterboards <Brandon.Stevens@Waterboards.ca.gov>

Subject: RE: Hum Sun and other wetland mitigation

Hi Prairie,

I think Brandon can best answer your questions on the first project. As for the second, it can remain under the cannabis general order. It will probably need an individual 401, and it's unclear which unit would do that for current or future cannabis projects. We'll discuss and get back to you about that question. Thanks.

From: Prairie Moore <pmoore@nrmcorp.com>

Sent: Tuesday, June 23, 2020 4:32 PM

To: Dougherty, Mona@Waterboards <Mona.Dougherty@waterboards.ca.gov>; Stevens, Brandon D.@Waterboards <Brandon.Stevens@Waterboards.ca.gov>

Subject: Re: Hum Sun and other wetland mitigation

EXTERNAL:

Just wanted to follow up to see if there was any reply to this email?

Thanks,

Prairie

On 6/16/2020 11:06 AM, Prairie Moore wrote:

Hi Mona and Brandon,

Jordan at ICF forwarded me the email chain about the HUM SUN project and getting an individual 401/water quality certification. It looks like we will be writing the MMP for the HUM SUN project. We are just getting started but as we dive in we would like to talk about mitigation ratio etc.

I also have another "New" cannabis project I have been working on for the last

couple of years. We are in the process of finalizing the CEQA with the County. We did a site visit last week with the County and during that process County staff felt that it made sense to fill some low quality wetlands (there is an old homestead site that now has wetland on it, as well as another spot) and move proposed greenhouses onto flatter land, closer together. So this is another site where we would like to pursue an individual 401/water quality certification. I have some questions about the process.

1)I am assuming we will apply for the 401 to fill the wetlands, would we also consider any wetlands that were not directly impacted but are within the 100 ft buffer of the facility to also be "filled" and mitigate for those as well?

2) Or are you asking these sites to get their own WDR and not be under the Cannabis order at all? It seemed like the State Order does not specifically prohibit filling wetlands. If we fill and then mitigate for all wetlands in the foot print and buffer could the project stay under the State Board Order?

3) How are you going to determine the mitigation ratio for these projects?

Thanks so Much,

Prairie

Prairie Moore, MS
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January 7, 2021

[VIA EMAIL TO MRYAN2@CO.HUMBOLDT.CA.US]

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

***Re: Response to Holder Law Group Comments Regarding Rolling Meadow Ranch, LLC
Initial Study and Mitigated Negative Declaration
(PLN-12529-CUP; SCH# 2020070339)***

Dear Ms. Ryan:

On behalf of Rolling Meadow Ranch, Inc. (“RMR” or the “Applicant”), we below respond to certain comments (dated September 10, 2020 and December 30, 2020) submitted by the Holder Law Group (“HLG”) concerning RMR’s above-referenced project (the “Project”), and the recirculated Initial Study/Mitigated Negative Declaration (the “IS/MND”) prepared to analyze the Project’s potential environmental impacts.

HLG’s criticisms of the Project, the IS/MND, and County Planning Staff are founded on incorrect facts, baseless assumptions, and a stretched, self-serving interpretation of the law. In reality, the Project complies with all applicable County ordinances, and its potential environmental impacts have been properly analyzed and mitigated as required by the California Environmental Quality Act (“CEQA”). After more than four years of review by the County and state agencies, the Project is ready for approval.

This letter proceeds first with a short description of the Project, followed by a table summarizing HLG’s comments and our response. We then provide more complete responses to HLG’s various comments in roughly the same order and organization as presented in HLG’s two letters.

1. Project Background

The Project is located in McCann, an unincorporated community. The Project is located within a 7,000-acre ranch and logging property (the “Ranch”) that is owned by RMR (the Applicant). The Project site is situated on a 1,600-acre parcel within RMR’s Ranch. (IS/MND, p. 9.) HLG asserts that RMR “outbid” a conservation group to acquire the Ranch. **This is false.** In fact, RMR purchased the core Ranch parcels in 2004, and has subsequently added to the Ranch in order to maintain its integrity. The Ranch has long been used for ranching and commercial logging operations. (See IS/MND at pp. 38, 45-46.)

RMR originally submitted the Project application in 2016. (See County of Humboldt Planning Commission Staff Report Rolling Meadow Ranch, LLC, Conditional Use Permits: Record Number: PLN-12529-CUP, January 7, 2021 [“January 7 Staff Report”], p. 63.) The initial application sought four conditional use permits for approximately 88,000 square feet of mixed-light cultivation and an associated 2,000 square foot processing facility. (*Id.* at p. 67.) As is typical, the application was modified over time in response to County and other agency comments, and in light of new data developed in the course of environmental review.

The Project now is comprised of six conditional use permits authorizing (16) greenhouses ranging in size from approximately 17,000 to 20,000 square feet, several drying structures, septic systems, wells, and a processing building. (See ISMND at p. 9.) The Project includes a number of innovative mitigation measures and operational conditions to reduce or eliminate environmental impacts. For example, RMR has agreed to use an electric bus to transport employees to the Project site in order to reduce vehicle traffic, noise, and emissions. (See *id.* at p. 11.)

2. Summary Table

<u>HLG Claim</u>	<u>Response</u>
The IS/MND is deficient due to certain formatting and typographical errors. (HLG December Letter, pp. 4-6.)	False. Formatting issues are common and can be corrected.
The Project is inappropriate for its location and zoning. (HLG December Letter, pp. 3.)	False. The Project is allowed under the County General Plan designation and zoning. The Ranch has been commercially ranched and logged over the last 50 years, and is suited to continued agricultural activity.
Staff applied the wrong County Code requirements to the Project. (HLG December Letter, pp. 6-7.)	False. RMR submitted its application in December 2016, thus the Project is subject to the 2016 CMMLUO per County Code.
The IS/MND failed to analyze air impacts from Project-related traffic on McCann Road. (HLG September Letter, p. 13.) This is incorrect.	False. The IS/MND specifically addresses potential air impacts from use of McCann Road, and identifies measures to maintain air quality, including watering, compliance with local air quality regulations, speed limits, and rock surfacing. (<i>Id.</i> at p. 54.)
The Project does not comply with County and state road standards. (See, e.g., HLG December Letter pp. 11-13.)	False. The IS/MND confirms that the Project fully complies with applicable County road standards. (See IS/MND at p. 11; Appendix C Humboldt County Department of Public Works Road Evaluation Report: McCann Road, November 14, 2017.)
The Project facilities are not sufficiently set back from waterways. (HLG December Letter, p. 13.)	False. All Project components comply with required setbacks, as shown in IS/MND Figure 40. (IS/MND at p. 145.)
Existing wells on the Ranch that will be used to provide water for the Project are hydrologically connected to surface water, including the Eel River. (HLG December Letter, pp. 22-27.)	False. The wells are hydrologically disconnected from surface water and do not require water rights for diversion and use from the State Water Resources Control Board. (January 7 Staff Report, p. 4.)
The IS/MND fails to describe and analyze potential environmental impacts from installation of new power lines to serve the Project. (HLG December Letter, p. 22.)	False. The IS/MND describes the required new electrical infrastructure, indicating that new lines will be required, and detailing the location of the potential new lines. (IS/MND, pp. 10, 29; Figure 14.) The IS/MND clearly states that new utilities will be buried under existing ranch roads, so there will be no tree removal or grading required. (<i>Id.</i> at p. 10.)
The IS/MND failed to provide or analyze required information relating to employees, hours of operation, employee housing, and other logistical components such as parking and commute times. (HLG December Letter,	False. Employee data is clearly and plainly set out in the IS/MND. (IS/MND, pp. 15-16.) Importantly, RMR will hire local employees. (<i>Ibid.</i>)

pp. 14-15.)	
The Project fails to comply with County standards regarding maximum slopes for greenhouses. (HLG December Letter, p. 15.)	False. Surveys were conducted, and no structure will be located on slopes exceeding the maximum 15%. (See IS/MND, pp. 23-26; 50-51; 178; January 7 Staff Report, p. 40.)
The IS/MND does not adequately describe or analyze construction activities associated with the Project. (HLG December Letter, p. 15.)	False. The IS/MND clearly provides this information in a section labeled “Construction Phase”, which describes in detail construction logistics, timing, type of equipment to be utilized, and erosion and dust control measures. (See IS/MND, pp. 11-12; 14; 221)
The Project has been impermissibly “piecemealed” in order to minimize the Project’s overall environmental impacts. (HLG December Letter, pp. 16-17.)	False. The IS/MND describes the “whole of the action” as required by CEQA. RMR’s installation of wells and maintenance of existing internal roads are not required to be included in the IS/MND analysis. (See <i>Del Mar Terrace Conservancy, Inc. v. City Council</i> (1992) 10 Cal.App.4th 712, 736; <i>Banning Ranch, supra</i> , 211 Cal.App.4th at p. 1224.)
The IS/MND is inadequate because it fails to include a vehicle miles traveled (“VMT”) traffic analysis. (HLG September Letter, p. 10; reincorporated by HLG December Letter, p. 1, Fn. 1.)	False. The IS/MND includes a thorough VMT analysis, consistent with CEQA Guidelines section 15064.3, which the California Office of Planning and Research adopted in December 2018. (See IS/MND, pp. 220-225.) The IS/MND calculates Project construction and operational VMT, and correctly concludes that VMT-related traffic impacts are less than significant because Project VMT is less than the current threshold of significance. (Id. at p. 224.)
The IS/MND failed to assess potential traffic safety impacts on McCann Road, Alderpoint Road, and on internal Ranch roads. (HLG December Letter, p. 18.)	False. The IS/MND Appendix C includes clear analysis of traffic safety on McCann Road, Alderpoint Road, and internal Ranch Roads. On the basis of this analysis, the IS/MND concludes that all “access roads, in meeting or having equivalency to Category 4 roads, meet the Emergency Access standards of the Fire Safe Ordinance.” (IS/MND, p. 224.)
The IS/MND fails to analyze, or under-analyzes, the Project’s potential impacts to public services, including fire safety and police.	False. The IS/MND fully discusses fire safety and response time for nearby units in the event of a wildfire as well as demand for police services. (See IS/MND, p. 188, 216.)
The IS/MND’s analysis of potential biological impacts is inadequate.	False. Qualified biologists performed multiple surveys for plant and animal species with the potential to be present on the Project site. (See IS/MND Appendix G, NRM Corp. Rolling Meadow Ranch Golden Eagle Survey Report, July 30, 2019; Appendix I, Botanical Survey Rolling Meadow Ranch, Supplemental to Botanical Survey Report Prepared by NRM in 2018, October 15, 2020.) Project biological surveys cover the full scope of potential Project impacts, including direct

	and indirect impacts to wetlands. (See, e.g., IS/MND, pp. 146-148.) The County and CDFW have accepted biological surveys performed using these same protocols for every discretionary cannabis project approved in the County. Impacts to biological resources have been fully mitigated.
The IS/MND fails to analyze the Project's "land use" impacts. (HLG December Letter, pp. 34-35.)	False. The Project site is General Plan-designated Agriculture, and zoned either Agriculture General ("AG") or Agriculture Exclusive ("AE"). The Project site is entirely consistent with County zoning requirements. The Project site meets all County siting standards, including standards related to slope, water source, zoning, and parcel size. (See January 7 Staff Report, p. 32.)
The IS/MND failed to analyze cumulative impacts, particularly relating to cumulative impacts from other cannabis projects that are already operating nearby or that may be approved in the future. (HLG December Letter, pp. 36-37.)	False. CEQA does not requires an initial study/mitigated negative declaration to analyze whether a project's incremental contribution of cumulative impacts is considerable. The IS/MND provides an analysis of cumulative impacts for each impact area, as well as an overall assessment of the Project's contribution to cumulatively considerable impacts. (See IS/MND, p. 240.) The County, and California courts, have routinely found similarly analyses to be in full compliance with CEQA.
The IS/MND fails to analyze the Project's potential growth-inducing impacts. (HLG December Letter, p. 37.)	False. The IS/MND specifically addresses growth inducing impacts, and concludes that the Project will not result in such impacts. (IS/MND, pp. 212-213.)
Some mitigation measures imposed in the IS/MND are, in HLG's opinion, "unclear", or inadequate to mitigate potential impacts. (HLG December Letter, p. 38.)	False. Staff have concluded that the IS/MND adequately mitigates for Project impacts as required by CEQA.
The County is required to prepare an alternatives analysis for the Project. (HLG December Letter, p. 39.)	False. An alternatives analysis is required for an environmental impact report, not an initial study/mitigated negative declaration. (See CEQA Guidelines, § 15126.6; <i>Laurel Heights Improvement Assn. v. Regents of the University of California</i> (1988) 47 Cal.3d 376.)

3. Discussion

A. Alleged CEQA Inadequacies

HLG argues that the IS/MND prepared for the Project has certain formatting errors, such as a missing signature on one page and a check-mark missing on another page. (HLG December Letter, pp. 4-6.) Such formatting errors are hardly uncommon, and can all be corrected consistent with CEQA's requirements prior to adoption. Contrary to HLG's assertions, none of these minor issues render the IS/MND substantively defective.

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B. Project Siting

HLG claims that the Project is located in a “wildland” area that is inappropriate for “industrial” cannabis cultivation operations. (HLG December Letter, p. 3.) **This is false.**

First, the County has designated the Project site for agricultural and timber uses. The Project site is General Plan-designated Agriculture, and zoned either Agriculture General (“AG”) or Agriculture Exclusive (“AE”). These agricultural designations and zones are intended for general or intensive agriculture, exactly as proposed by the Project. (See Humboldt County Zoning Regulations Section 313-163.1.1; see also Humboldt County General Plan for Areas Outside the Coastal Zone, October 23, 2017, Land Use Element section 4.5 [discussing agriculture designation].) The Project site is entirely consistent with County siting requirements.

Second, as noted above, the Ranch, including the Project site, has been ranched and commercially logged for more than 50 years. The Project will be a less-intensive use of the Ranch than has occurred historically.

Finally, RMR has been a careful and thoughtful steward of the Ranch for more than 15 years. The Project, as shown in the IS/MND, will not disrupt the Ranch’s natural qualities.

C. Applicability of CCLUO

HLG next contends that County Planning Staff have reviewed the Project application for the last four years under the wrong County cannabis ordinance. This assertion, besides insulting Staff’s competence, **is also false.**

HLG argues that Staff should have processed the Project under the County’s Commercial Cannabis Land Use Ordinance (“2018 CCLUO”) instead of the prior-adopted Commercial Medical Marijuana Land Use Ordinance (“2016 CMMLUO”). HLG bases a number of later comments regarding the Project on this erroneous assertion.

The County adopted the CMMLUO in 2016 to regulate medical cannabis operations. The County amended the CMMLUO, and in 2018 adopted the revised ordinance as the CCLUO, to regulate commercial cannabis operations. Applications submitted prior to December 31, 2016 are subject to the provisions and requirements of the 2016 CMMLUO and not the 2018 CCLUO (2018 CCLUO, § 55.4.3.1).

HLG believes that, notwithstanding the clear dictates of County ordinance, the Project should be subject to the 2018 CCLUO rather than the 2016 CMMLUO because the Project underwent changes from the original application during its more than four years of review. Nothing in the County Code requires this outcome, and certainly, if Planning Staff believed the 2018 CCLUO should apply rather than the 2016 CMMLUO, Staff would have so decided. Instead, Staff have determined that the Project is subject to the 2016 CMMLUO. (January 7 Staff Report, p. 3.)

D. Air Quality

HLG claims that the IS/MND failed to analyze air impacts from Project-related traffic on McCann Road. (HLG September Letter, p. 13.) **This is incorrect.** The IS/MND addresses the Project’s potential air quality impacts at pages 53-58. The IS/MND specifically addresses potential air impacts

from use of McCann Road, and identifies measures to maintain air quality, including watering, compliance with local air quality regulations, speed limits, and rock surfacing. (*Id.* at p. 54.)

E. Roads and Parking

HLG argues extensively that the Project does not comply with County and state road standards. (See, e.g., HLG December Letter pp. 11-13.) Generally speaking, HLG contends that the roads used to access and service the Project site are not “Category 4” roads and do not meet “Fire Safe Regulations.” **HLG is again incorrect.**

As noted above, the Project is subject to the 2016 CMMLUO. Category 4 road, however, are a requirement of the 2018 CCLUO, not the 2016 CMMLUO. (See CCLUO § 55.4.12.1.8(b).) Nevertheless, even assuming that Category 4 road standards apply to the Project, the IS/MND and related appendices confirm that the access roads, including McCann Road and Alderpoint Road, are, or will be, Category 4 road functional equivalents. (See IS/MND at p. 11; Appendix C Humboldt County Department of Public Works Road Evaluation Report: McCann Road, November 14, 2017.) Appendix C to the IS/MND also includes a report by Oscar Larson & Associates (Supplemental Filed Investigation: Rolling Meadow Ranch Internal Access Road Evaluations (January 14, 2019)) that demonstrates compliance with Fire Safe Regulations. The Project fully complies with applicable County road standards.

F. Watercourse Buffers and Setbacks

HLG next contends that various Project facilities are not sufficiently set back from waterways. (HLG December Letter, p. 13.) This assertion, which is not based on any actual measurements by HLG, **is incorrect.** All Project components comply with required setbacks, as shown in IS/MND Figure 40. (IS/MND at p. 145.)

G. Water Use and Wells

HLG claims, based on a USGS Water Supply study from 1959, that existing wells on the Ranch that will be used to provide water for the Project are hydrologically connected to surface water, including the Eel River. At the same time that HLG argues the wells are connected to surface water, HLG also argues that the wells will result in biological impacts based on groundwater use. (HLG December Letter, pp. 22-27.) **HLG’s claims are confused, and are again incorrect.**

In fact, Fisch Well Drilling completed the three wells at issue on the Ranch pursuant to County well permits, and well completion logs were provided to the County. Based on data provided by Fisch Well Drilling, and based on Staff’s own independent expertise, Staff concluded that the wells are “likely drilled into perched bedrock given the soil type and depth of the wells. An examination of the well logs indicate that the depth and screening intervals are such that the wells are not connected to a surface water feature, staff determined the wells are hydrologically disconnected from surface water and do not require water rights for diversion and use from the State Water Resources Control Board”. (January 7 Staff Report, p. 4.) The County and state agencies, including CDFW, have relied on data provided by Fisch Well Drilling to evaluate hydrologic connectivity for numerous approved cannabis projects in the County.

Project water usage, including well production estimates, water use estimates, and a description of Project water logistics, is fully catalogued and analyzed in the IS/MND, as well as in the Staff Report. (See IS/MND, pp. 14, 250; January 7 Staff Report, p. 4.) The IS/MND identifies no adverse biological

impacts resulting from groundwater use by the Project. HLG offers no substantial evidence showing otherwise.

H. Electrical Utilities

HLG claims that the IS/MND fails to describe and analyze potential environmental impacts from installation of new power lines to serve the Project. (HLG December Letter, p. 22.) **This is yet another incorrect claim.** In truth, the IS/MND describes the required new electrical infrastructure, indicating that new lines will be required, and detailing the location of the potential new lines. (IS/MND, pp. 10, 29; Figure 14.) The IS/MND clearly states that new utilities will be buried under existing ranch roads, so there will be no tree removal or grading required. (*Id.* at p. 10.)

I. Employee Information

HLG argues that the IS/MND failed to provide or analyze required information relating to employees, hours of operation, employee housing, and other logistical components such as parking and commute times. (HLG December Letter, pp. 14-15.) **False, again.**

Employee data is clearly and plainly set out in the IS/MND. The IS/MND states that Project hours of operation will be generally 7AM to 7PM; that approximately 22 employees will be present on site at any given time; and that employees will park near facility #1 and take electric busses throughout the Project site. (IS/MND, pp. 15-16.) Importantly, RMR will hire local employees. (*Ibid.*) No on-site employee housing will be provided. (*Id.* at p. 212.)

J. Project Slopes

HLG asserts that the Project fails to comply with County standards regarding maximum slopes for greenhouses. (HLG December Letter, p. 15.) **HLG again misses the mark.** As the IS/MND and appendices make clear, surveys were conducted, and no structure will be located on slopes exceeding the maximum 15%. (See IS/MND, pp. 23-26; 50-51; 178.) Staff reiterate this point: “Proposed cultivation areas at the project site will be located on slopes less than 15%”. (January 7 Staff Report, p. 40.)

K. Construction Practices

HLG next argues that the IS/MND does not adequately describe or analyze construction activities associated with the Project. (HLG December Letter, p. 15.) **This is false.** The IS/MND clearly provides this information in a section labeled “Construction Phase”, which describes in detail construction logistics, timing, type of equipment to be utilized, and erosion and dust control measures. (See IS/MND, pp. 11-12; 14; 221)

L. Piecemeal Environmental Review

HLG claims that the Project has been impermissibly “piecemealed” in order to minimize the Project’s overall environmental impacts. (HLG December Letter, pp. 16-17.) HLG argues that RMR was not allowed to install wells, and was not allowed to maintain internal Ranch roads by surfacing them with fresh rock, during the entire four years that the Project application has been under review. **HLG’s claims are incorrect, inconsistent with CEQA, and ignore the practical realities of operating a 7,000-acre property.**

Under CEQA, “piecemealing” means to “chop[] a large project into many little ones — each with a minimal potential impact on the environment.” (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1222.)

The Project has clearly not been “chopped up” into smaller projects to avoid environmental review. The Project, as described in the IS/MND, is the “whole of the action”, as required by CEQA. RMR’s installation of three wells, lawfully and pursuant to County permits, was permissible both as part of regular Ranch-related infrastructure activity, and because the wells have clear “independent utility” under CEQA, meaning that because the wells are functional on their own even if the Project were not approved, the wells were not required to be included as part of the “whole of the action” analyzed in the Project IS/MND. (See *Del Mar Terrace Conservancy, Inc. v. City Council* (1992) 10 Cal.App.4th 712, 736; *Banning Ranch*, *supra*, 211 Cal.App.4th at p. 1224.) In any event, HLG has put forward no substantial evidence of any significant environmental impacts related to the wells that is not addressed in the IS/MND.

As for RMR’s routine maintenance of existing internal Ranch roads, RMR required no permission from the County to maintain its own roads, and is not a cognizable “project” under CEQA. Further, HLG again fails to present any substantial evidence that RMR’s maintenance of its existing roads resulted in any significant environmental impacts.

M. Vehicle Miles Traveled Analysis

HLG next contends that the IS/MND is inadequate because it fails to include a vehicle miles traveled (“VMT”) traffic analysis. (HLG September Letter, p. 10; reincorporated by HLG December Letter, p. 1, Fn. 1.) **Again, HLG misrepresents the facts to the Commission.**

The IS/MND includes a thorough VMT analysis, consistent with CEQA Guidelines section 15064.3, which the California Office of Planning and Research adopted in December 2018. (See IS/MND, pp. 220-225.) The IS/MND calculates Project construction and operational VMT, and correctly concludes that VMT-related traffic impacts are less than significant because Project VMT is less than the current threshold of significance. (*Id.* at p. 224.)

N. Traffic Safety Hazard

HLG further claims that the IS/MND failed to assess potential traffic safety impacts on McCann Road, Alderpoint Road, and on internal Ranch roads. (HLG December Letter, p. 18.) **This again is false.**

The IS/MND Appendix C includes clear analysis of traffic safety on McCann Road, Alderpoint Road, and internal Ranch Roads. On the basis of this analysis, the IS/MND concludes that all “access roads, in meeting or having equivalency to Category 4 roads, meet the Emergency Access standards of the Fire Safe Ordinance. The internal project roads to be used for project facility access have been determined, by NorthPoint Consulting, to be “within conformance of Humboldt County Code Section 3112-12, the Fires Safe Regulations (Chapter 2 – Emergency Access), with the recommended improvements included in [the] report.” By improving roads as specified by consulting engineers, the roads will meet the required standards described by Humboldt County (CMMLUO, Humboldt County Code, Fire Safe Ordinance). All access roads and interior roads will be brought up to firesafe standards.” (IS/MND, p. 224.)

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O. Public Services

HLG asserts that the IS/MND fails to analyze, or under-analyzes, the Project's potential impacts to public services, including fire safety and police. **HLG is wrong yet again.**

The IS/MND fully discusses fire safety and response time for nearby units in the event of a wildfire. (See IS/MND, p. 188.) Moreover, as discussed above, the IS/MND analyzes access road compliance with fire safety regulations, and concludes that the roads are or will be (through scheduled improvements) in full compliance with those regulations. (See e.g., IS/MND Appendix C, Access Assessment for Compliance with Humboldt County Code Section 3112-12 - Fire Safe Regulations, North Point Consulting Group, 2020.)

As respects police services, the IS/MND acknowledges that cannabis projects can be "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." (IS/MND, p. 216.) To address this demand, the IS/MND identifies the additional security measures that will be in place at the Project that are designed to reduce potential demand for police services. These measures include fencing, security cameras, security gates, security lighting, and limitation of employee transportation to the electric bus. (*Ibid.*) These measures are adequate to ensure that the Project's potential impacts to public services are less than significant.

P. Biological Impacts and Surveys

HLG argues that the IS/MND's analysis of potential biological impacts is inadequate. In particular, HLG attacks the adequacy of biological surveys, and attacks the IS/MND's analysis of potential impacts to special status species. HLG's disagreement with the IS/MND's conclusions, however, is not substantial evidence that the Project could result in significant biological impacts. HLG fails to point to any substantial evidence of a potential significant impact, and thus its **argument again fails.**

With respect to biological surveys, qualified biologists performed multiple surveys for plant and animal species with the potential to be present on the Project site. (See IS/MND Appendix G, NRM Corp. Rolling Meadow Ranch Golden Eagle Survey Report, July 30, 2019; Appendix I, Botanical Survey Rolling Meadow Ranch, Supplemental to Botanical Survey Report Prepared by NRM in 2018, October 15, 2020.) These surveys identify the survey methodology and basis for conclusions, and prior to the surveys, biologists conducted a CNPS and CNDDDB inventory of rare species, and the field surveys were conducted in accordance with CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities, which was conducted on foot. (*Id.* at pp. 16; 23; see also IS/MND at p. 94.) Project biological surveys cover the full scope of potential Project impacts, including direct and indirect impacts to wetlands. (See, e.g., IS/MND, pp. 146-148.) The County and CDFW have accepted biological surveys performed using these same protocols for every discretionary cannabis project approved in the County.

Concerning Project impacts to specific species, HLG appears most concerned about potential impacts to the foothill yellow legged frog. **HLG claims, falsely, that this clade is a listed species.** In fact, this particular clade is not a listed species. (See e.g., Fish and Game Commission, Staff Summary for February 21, 2020, Item No. 9, at p. 4 (available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=177347&inline>.) Notwithstanding, the IS/MND includes a mitigation measure, MM-Bio-15, that ensures that any Project impacts to this species would be less than significant. (IS/MND, p. 258.)

Q. Land Use

HLG argues further that the IS/MND fails to analyze the Project's "land use" impacts. (HLG December Letter, pp. 34-35.) HLG argues that the Project is inappropriate for the Project site's zoning, and inconsistent with siting standards in County Code. **These arguments are also meritless.**

As noted above, the County has designated the Project site for agricultural and timber uses. The Project site is General Plan-designated Agriculture, and zoned either Agriculture General ("AG") or Agriculture Exclusive ("AE"). These agricultural designations and zones are intended for general or intensive agriculture, exactly as proposed by the Project. (See Humboldt County Zoning Regulations Section 313-163.1.1; see also Humboldt County General Plan for Areas Outside the Coastal Zone, October 23, 2017, Land Use Element section 4.5 [discussing agriculture designation].) The Project site is entirely consistent with County zoning requirements.

Next, the Project site meets all County siting standards, including standards related to slope, water source, zoning, and parcel size. (See January 7 Staff Report, p. 32.)

Finally, the Ranch, including the Project site, has been ranched and commercially logged for more than 50 years. The Project will be a less-intensive use of the Ranch than has occurred historically.

R. Cumulative Impacts

HLG claims that the IS/MND failed to analyze cumulative impacts, particularly relating to cumulative impacts from other cannabis projects that are already operating nearby or that may be approved in the future. (HLG December Letter, pp. 36-37.)

CEQA does not require an initial study/mitigated negative declaration to include an extensive analysis of cumulative impacts. (See, e.g., *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608.) Instead, such a document must only analyze whether a project's incremental contribution of cumulative impacts is considerable.

The IS/MND complies with CEQA's clear requirements. Specifically, the IS/MND provides an analysis of cumulative impacts for each impact area, as well as an overall assessment of the Project's contribution to cumulatively considerable impacts. (See IS/MND, p. 240.) The County, and California courts, have routinely found similarly analyses to be in full compliance with CEQA.

S. Growth Inducing Impacts

HLG contends next that the IS/MND fails to analyze the Project's potential growth-inducing impacts. (HLG December Letter, p. 37.) **This is again false.** The IS/MND specifically addresses growth inducing impacts, and concludes that the Project will not result in such impacts. (IS/MND, pp. 212-213.) HLG fails to cite to any substantial evidence showing otherwise.

T. Design Features and Mitigation Measures

HLG argues that some mitigation measures imposed in the IS/MND are, in HLG's opinion, "unclear", or inadequate to mitigate potential impacts. (HLG December Letter, p. 38.) **HLG again fails.** HLG cites no substantial evidence or law supporting its opinion. In fact, Staff have concluded that the IS/MND adequately mitigates for Project impacts as required by CEQA.

U. Alternatives Analysis

Finally, HLG contends that the County is required to prepare an alternatives analysis for the Project. (HLG December Letter, p. 39.) **This too is wrong.** CEQA is clear that an alternatives analysis is required for an environmental impact report, not an initial study/mitigated negative declaration. (See CEQA Guidelines, § 15126.6; *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376.)

* * *

Based on the foregoing, the Project complies with all applicable County and state requirements, and the associated IS/MND is fully adequate under CEQA. Should you have any questions concerning the matters discussed herein, please do not hesitate to contact me by telephone at (916) 706-2098 or by e-mail at bjohnson@hthjlaw.com.

Sincerely,

HARRISON, TEMBLADOR, HUNGERFORD & JOHNSON

A handwritten signature in blue ink, appearing to read 'B. Johnson', followed by a long horizontal line.

By

Bradley B. Johnson

cc: Rolling Meadows Ranch, Inc.

McClenagan, Laura

From: Ryan, Meghan
Sent: Thursday, January 07, 2021 10:38 AM
To: harrieth6@gmail.com; Planning Clerk
Subject: RE: Comments on Planning Commission's Consideration of Six Conditional Use Permits for the Rolling Meadow Ranch, LLC Commercial Cannabis Project (PLN-12529-CUP; SCH# 2020070339)

Good morning, Harriet – Thank you for your comments regarding the Rolling Meadow Ranch, LLC, project. Your comments will be provided to the Planning Commission for their consideration.

I appreciate your participation in the public process.

Best,

Meghan

From: harrieth6@gmail.com <harrieth6@gmail.com>
Sent: Thursday, January 7, 2021 7:51 AM
To: Planning Clerk <planningclerk@co.humboldt.ca.us>
Subject: Comments on 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 and Honorable Planning Commissioners,

I believe that approving the development of an industrial cannabis development in our remote backcountry which will be funded by an out of state party is a very unwise decision from a planning perspective. But more on that later.

As proposed in the Initial Study/Mitigated Negative Declaration (IS/MND) the project will result in significant impacts and therefore, issuance of the Six Conditional Use Permits must be denied. The IS/MND should either be revised to include all the needed information and proper mitigations to avoid significant impacts, or an Environmental Impact Report should be prepared.

The IS/MND is incomplete and therefore does not fully consider potential project impacts on resources such as prairie habitat, Golden Eagles, rare plants, and groundwater connectivity with the Eel River. The California Department of Fish and Wildlife (CDFW) and the Redwood Region Audubon Society letters (both dated 12-30-2020) detail their many concerns about the project's potential impacts to biological resources, my primary focus. In addition, several surveys (for breeding golden eagles and special status plants) have yet to be carried out. The CDFW letter devotes over 6 pages to the document's flawed analysis of impacts to Golden Eagles alone.

I will not reiterate all the detailed suggestions of these two letters, but instead, add some additional information related to their points.

- The IS/MND largely ignores the potential impacts on Golden Eagle foraging habitat, even though the project would be mostly located on its grassland prairie feeding grounds. It states that the project will directly impact 16 acres of habitat. But it does not account for the serious indirect consequences of human disturbance on Golden Eagles. CDFW predicts that if the proposed undersized buffer zone

around eagle nests is retained, there will be significant indirect impacts on over half of the foraging habitat (approximately 125 acres) for Golden Eagles. The IS/MND does not consider that daily operations at a cannabis project site (especially one of this size and sprawl) are likely to greatly exceed historic levels of human and vehicular activity, resulting in chronic, long term disturbance to nesting and foraging eagles (B. Woodbridge, “Golden Eagles in the Vicinity of the Proposed Adesa Organics LLC Cannabis Cultivation Project”, October 21, 2020).

- The cumulative effects of the current project combined with the many other proposed cannabis operations to be located on grasslands within a few miles of the project will be significant. As well as Golden Eagles, at least 14 species of grassland-related animals and plants, and several other types of Sensitive Natural Communities could be impacted. It should be noted that grasslands have become increasingly rare nationwide, putting at peril the many animals that depend on it. A 2019 Cornell study that revealed massive bird losses in North America since 1970, found that grassland-dependent birds have declined more steeply than other bird species, dropping by 53% since 1970 (<https://science.sciencemag.org/content/366/6461/120>). Every effort should be made to retain and protect grassland areas from disturbance.
- I believe that the elephant in the room is the requirement of the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) that new cultivation must be located on prime agricultural soils. This provision was originally intended to discourage cannabis development in our remote backcountry areas and relocate it to the more traditional farmlands on river bottoms and coastal plains. Now this provision is being used to do the opposite – that is, establish new cannabis grows on heretofore undiscovered “prime agricultural soils” in the back of beyond. In the case of Rolling Hills, the development will create additional fire hazard in this highly susceptible area, threaten water resources, and result in growth-inducing infrastructure development, including many miles of road improvements and the installation of PG & E power lines.
- The Planning Department and County Counsel must work together to modify this requirement so that its original intent of locating and relocating cannabis on existing farmlands is restored. Otherwise, new cannabis projects will continue to be proposed on Humboldt’s less expensive, remote ranch and timberlands far from the county’s existing infrastructure and labor market. That is simply bad planning!

Sincerely,

Harriet Hill

1695 Timothy Road

McKinleyville, CA 95519



Holder Law Group

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

holderecolaw.com

(510) 338-3759
jason@holderecolaw.com

January 7, 2021

VIA EMAIL ONLY (PLEASE CONFIRM RECEIPT)

County of Humboldt
Humboldt County Planning Commission
Hon. Alan Bongio, Chair
825 5th Street, Room 111
Eureka, CA 95501
Planningclerk@co.humboldt.ca.us

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

Re: **Comments Concerning Rolling Meadow Ranch, LLC – Six Conditional Use Permits for Commercial Cannabis Facilities** (PLN-12529-CUP; SCH# 2020070339)

Dear Chairman Bongio, Honorable Members of the Humboldt County Planning Commission and Ms. Ryan:

On behalf of Fran Greenleaf, John Richards, and Patty Richards (collectively “Petitioners”), we submit these final comments and objections, which supplement those expressed in Petitioners’ previous comment letters dated August 17, 2020, September 10, 2020, November 18, 2020, and December 30, 2020, respectively, concerning the proposed Rolling Meadow Ranch, LLC Commercial Cannabis Project (“Project”). The comments below address new information provided in the staff report to the Planning Commission and other information only recently made available to the public. Petitioners are neighboring property owners and residents of the McCann area who will be adversely affected by the Project.

After reviewing the staff report for this meeting, documentary evidence acquired from the County of Humboldt (“County”) through a public records request, and comments from CDFW, environmental organizations, and concerned members of the public, Petitioners maintain that the Planning Commission should not approve the Project based on the inadequate revised and recirculated IS/MND. Instead, 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 either prepare an EIR or deny the application for the six CUPs.

By presenting an incomplete and inaccurate environmental impact analysis to the public for comment, and by not timely presenting all comments on the original and revised IS/MND to the decisionmakers, County staff have not engaged in a good faith effort at full disclosure, as

required under CEQA. Consequently, if the Planning Commission approves the Project as recommended in the staff report, Petitioners and others may successfully challenge such approvals in court.

As a preliminary matter, we note that the staff report and supporting materials were issued over the holiday season, in spite of prior objections by Petitioners, and two days before the 30-day comment period for the revised IS/MND was complete. The voluminous supplemental materials (comments timely received during the comment period) were not provided to the Planning Commission until the day before the scheduled meeting. As explained further below, this intentional “miserly” approach to fulfilling CEQA’s requirements is improper.¹

I. The Materials Furnished to the Planning Commission for its Consideration of this Project are Incomplete and Inaccurate.

A. The Staff Report Denies, Downplays, Dismisses, and Disregards “Major Issues.”

When reporting whether there are any “major issues” that the Planning Commission should be aware of, the staff report states, without any elaboration, that there are “none.”² Wrong – if it were only so easy to dismiss legitimate, substantiated, corroborated, and re-enforced comments by multiple informed and concerned neighboring residents, experts and trustee agency officials.

As has been demonstrated by extensive and repeated public and agency comments, this statement is, at best, inaccurate, and at worst, misleading. It is unfortunate, to say the least, that County staff would dismiss wholesale the important issues raised by the California Department of Fish and Wildlife (“CDFW”), the California Native Plant Society (“CNPS”), and concerned neighbors of the proposed Project (i.e., long-term residents of the McCann area). If there were no major issues with respect to this Project, then why would the IS/MND need to be revised, supplemented, and recirculated after receiving comments from the public and responsible agencies? Why would staff refer to “substantial comments received from [CDFW]” elsewhere in the staff report?³ Why would staff describe “a significant amount of concern and opposition to this project [be] raised by members of the public”?⁴ The staff report is internally inconsistent when it comes to the ongoing controversies surrounding this Project concerning

¹ See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390 [“It is, of course, too late to argue for a grudging, miserly reading of CEQA”] (*Laurel Heights I*), quoting *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 274.

² See Staff Report to Planning Commission for Jan. 7, 2021 meeting, p. 1.

³ See *id.* at p. 7.

⁴ See *id.* at p. 8.

site access, multiple potentially significant impacts, deficient mitigation measures, and disregarded alternative designs.

While staff may be willing to dismiss wholesale the factually and legally supported concerns expressed by commenters, the people who will be immediately impacted by this proposed Project are not. We repeat the conclusion reached in our prior comments – because Petitioners, CDFW, CNPS, and other commenters have introduced substantial evidence supporting a fair argument that the Project, as revised, will result in one or more significant environmental effects, an EIR is required before the Planning Commission can consider this Project for approval.⁵

B. The “Public Comments” Attachment to the Staff Report Omits Many of the Comments that the County Timely Received Concerning this Project.

County staff prepared and issued the “Public Comments” attachment on December 28, 2020, two days prior to the close of the comment period on the revised and recirculated IS/MND. Predictably, the County received many of the comments on the IS/MND after it published this attachment. Staff should have waited until at least the end of the comment period to issue its “public comments” attachment to the staff report. Instead, staff chose to release incomplete information.

When we submitted our comments on December 30th, we were informed by the planner that our comments would be “forwarded to the Humboldt County Planning Commission for consideration at the January 7, 2021, Planning Commission hearing” and that the planner would “provide a complete response to comments” this week once the County receives comments from CDFW and others.⁶ In spite of these assurances, planning staff did not provide the Planning Commission with what is represented as the remainder of public comments until January 6th (the day before the Planning Commission meeting).⁷ This supplemental material is 275 pages long -- Petitioners’ comment letter on the revised IS/MND alone is 40 pages long, with 170 footnotes and 13 exhibits. Yet the Planning Commission was only provided one day to review these extensive comments. Apparently, no response to comments has been prepared.

⁵ See CEQA Guidelines, § 15073.5(d) [“If during the negative declaration process there is substantial evidence in light of the whole record, before the lead agency that the project, as revised, may have a significant effect on the environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and certify a final EIR prior to approving the project”].

⁶ See Exh. 1 - Email exchange with County planner Meghan Ryan re comments submitted on revised IS/MND, dated 12/30/2020.

⁷ See Exh. 2 - Email exchange with County planner Meghan Ryan re supplemental materials provided to Planning Commission, dated 01/07/2021.

The County has undermined the environmental review process required under CEQA, and has denied the public and other agencies their proper role under CEQA in several respects, including by:

1. rushing through consideration of the Project with almost no time to consider the full body of comments received,
2. failing to timely and publicly disclose the complete substantial body of comments that are justifiably critical of the Project, and
3. failing to provide the concerned public, responsible agencies, and decision-makers with a response to comments concerning the Project and the (initial and revised) IS/MND.

Consequently, the decisions to (1) rely on a substantially flawed IS/MND, (2) only make a small subset of public comments timely available to the Planning Commission and to the concerned public, and (3) to issue the voluminous supplement to the Planning Commission the day before the meeting, have all severely undermined CEQA's informational purposes.

The applicant, and now the County, has repeatedly treated environmental review of the Project's impacts as an afterthought, an inconvenient hurdle to surmount with the barest of analysis, incomplete, inadequate, and even purposefully inaccurate. CEQA requires more – it requires a good faith effort at full disclosure. As summarized by the California Supreme Court:

The preparation and circulation of an [environmental impact analysis under CEQA] is more than a set of technical hurdles for agencies and developers to overcome. The [analysis's] function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been taken into account. [Citation.] For the [environmental impact analysis] to serve these goals it must present information in such a manner that the foreseeable impacts of pursuing the project can actually be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made.⁸

In light of the clearly articulated requirements summarized above, Petitioners recommend that, at the very least, the Planning Commission postpone its consideration of this Project until after all public comments have been considered by staff, responded to, and timely presented to the public and members of the Planning Commission. The public and the Planning Commission

⁸ See *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449-450, citing *Laurel Heights I, supra*, 47 Cal.3d 376, 391-392.

must also be afforded an adequate opportunity to review responses to public comments, any revisions to the analysis, and potential new mitigation measures. The public and responsible agencies must then be afforded an opportunity to identify any inadequacies in those responses, revisions, and measures.

C. The Staff Report Adds New Information and Analysis Not Made Available to the Public and to Responsible and Trustee Agencies During the Administrative Process.

1. The Analysis Concerning Hydrological Connectivity of the Project's Wells Remains Unsupported.

County planning staff, the County's peer review consultant, CDFW, and Petitioners have all commented that the IS/MND lacks the required substantiation for the conclusion that the Project's wells are not hydrologically connected to surface waters.⁹ Curiously, planning staff have now reversed course with respect to the previously recognized need for substantiation. The staff report relies upon the conclusory Fisch Drilling letter from and adds the following statement:

An examination of the well logs indicate that the depth and screening intervals are such that the wells are not connected to a surface water feature, staff determined the wells are hydrologically disconnected from surface water and do not require water rights for diversion and use from the State Water Resources Control Board.¹⁰

This unsupported conclusory opinion constitutes new information that was not presented in the Revised IS/MND. There is no evidence in the IS/MND and supporting materials that such an "examination" ever occurred.¹¹ Further, the above unsupported statement does nothing to demonstrate, in a transparent and factually supported manner, that "the wells are hydrologically disconnected from surface water." Presenting such a new unsupported justification concerning an issue that has remained controversial since 2018, when the County's supervising planner, its peer review consultant, and CDFW each independently requested substantiation for the conclusion, conflicts with CEQA's requirements for public disclosure and informed decisionmaking.

⁹ See Exh. A – Petitioners' comments on revised and recirculated IS/MND, dated Dec. 30, 2020, pp. 22-25.

¹⁰ See Staff Report to Planning Commission for Jan. 7, 2021 meeting, p. 4.

¹¹ The Revised IS/MND does not even mention the well logs let alone explain how the limited information presented in the well logs can be relied upon to definitively rule out the possibility of hydrologic connectivity.

2. The Analysis Concerning Impacts to Biological Resources Includes New Information.

The staff report also adds an explanation concerning additional survey efforts concerning the golden eagle.¹² By presenting this new explanation for the first time in a staff report, rather than in the impact analysis, the County has not complied with CEQA's informational requirements.¹³

As CDFW recently commented, the applicant's efforts in November 2020 to locate and identify the 2003 golden eagle nest near the Project site and otherwise survey for golden eagles were inadequate.¹⁴

The staff report inaccurately states that "A site visit was conducted by NRM in October 2017 and no species status species were detected." Petitioners previously commented that the Biological Report prepared by NRM reveals that a species of special concern, the foothill yellow-legged frog, was detected on the Project site at several locations.¹⁵ Because the staff report for this meeting was issued even before the comment period for the revised and recirculated IS/MND had closed (a decision made by County staff), staff has neither responded to these recent comments nor explained the discrepancy concerning the detection of special status species between the 2018 Biological Report and the information provided in the IS/MND and in staff reports.

3. The Discussion Concerning Access Roads Provides Information That is Inconsistent with the Analysis in the Revised IS/MND.

The staff report states that "road maintenance" occurred at the Project site in 2019, and that "[w]ith the roadwork now complete, all roads (using the existing prism) have been brought up to the Fire Safe standards."¹⁶ This statement directly conflicts with information presented in the revised IS/MND concerning a number of improvements that are necessary to bring some of the Project's access roads up to the County's Category 2 standards.¹⁷ This inconsistency

¹² See staff report to Planning Commission for Jan. 7, 2021 meeting, p. 5.

¹³ See *Vineyard Area Citizens*, *supra*, 40 Cal.4th at p. 442.

¹⁴ See CDFW's comments on revised and recirculated IS/MND, dated Dec. 30, 2020, pp. 5-7.

¹⁵ See Petitioners' comments on revised and recirculated IS/MND, dated Dec. 30, 2020, p. 32.

¹⁶ See staff report to Planning Commission for Jan. 7, 2021 meeting, p. 6.

¹⁷ See Revised IS/MND, pp. 12-13 [describing Project-related improvements to internal ranch roads (to the improper Category 2 standards)],

between information provided in the staff report and information in the Revised IS/MND constitutes a procedural violation of CEQA.¹⁸

Petitioners have already commented that the analysis concerning the sufficiency of Project access roads is woefully inadequate.¹⁹ Rather than correct the faulty analysis, staff has attempted to take the easy way out by inserting a contradictory and conclusory statement in the staff report. CEQA prohibits such efforts to sweep difficult problems under the rug.²⁰

D. The Staff Report Presents a New Condition of Approval and a Modified Mitigation Measure, Not Discussed in the Revised IS/MND.

1. The Condition of Approval Requiring Groundwater Monitoring and Annual Reporting Cannot Substitute for Reasoned Analysis.

The staff report introduces a new condition of approval, not discussed in the IS/MND, that purports to prevent impacts caused by groundwater pumping. Specifically,

Conditions of approval require the applicant to meter water use to demonstrate that the well meets the water demand and provide evidence of metering at the time of annual inspection. Should the wells not provide sufficient water for the operation, the applicant is required to modify this permit and propose a different non-divisionary source of water, such as rain catchment and/or reduce the size of the cultivation area to be consistent with water availability.²¹

As explained previously in comments submitted by Petitioners, such measures do not and cannot substitute for good faith reasoned analysis.²² Despite having previously received comments directly addressing this fatally flawed approach to impact avoidance, the County's

¹⁸ See *Vineyard Area Citizens, supra*, 40 Cal.4th at p. 443 [explaining that the environmental impact analysis must contain the required information, and that post-analysis explanation in a brief (or a staff report) cannot cure the deficiency].

¹⁹ See Petitioners' comments on revised and recirculated IS/MND, dated Dec. 30, 2020, pp. 8-13; see also Petitioners' supplemental comments on original IS/MND, dated Sept. 10, 2020, pp. 6-8; see also Petitioners' initial comments on original IS/MND, dated Aug. 17, 2020, pp. 5-8.

²⁰ See *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733 [the environmental impact analysis must contain "sufficient detail to help ensure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug"], citing *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935 and *People v. County of Kern* (1974) 39 Cal.App.3d 830, 841.)

²¹ See staff report to Planning Commission for Jan. 7, 2020 meeting, p. 4.

²² See Petitioners comments on revised and recirculated IS/MND, dated Dec. 30, 2020, pp. 27-28, citing *Vineyard Area Citizens, supra*, 40 Cal.4th at p. 444; see also Petitioners' supplemental comments on original IS/MND, dated Sept. 10, 2020, pp. 16-17, citing *Vineyard Area Citizens, supra*, 40 Cal.4th at p. 434.

staff continues to advance this condition of approval rather than require the water supply and impact analysis required under CEQA.

2. Revised Mitigation Measure Bio-16 Was Not Described in the Revised IS/MND.

According to the staff report “planning staff is recommending a replacement mitigation measure BIO-16 to reflect current USFWS guidance for protection against impacts to nesting Golden eagles.”²³ This mitigation measure should have been described accurately in either the original IS/MND released in July 2020 or in the revised IS/MND released in December 2020. Instead, these drafts of the IS/MND did not accurately describe the mitigation that would be imposed to reduce impacts to the golden eagle.

E. As with the Revised IS/MND, the Staff Report Disregards Impacts to Scenic Resources and Planned Publicly Funded Infrastructure.

The planned Great Redwood Trail will be located directly across the Eel River from facilities #1 and #2.²⁴ These and other Project facilities will be visible from the trail. Despite this proximity within the viewshed of this trail, the Revised IS/MND fails to even mention the planned trail, much less consider the Project’s potentially significant impacts to future users of the trail. In the analysis of the Project’s aesthetic impacts, the IS/MND considers the impacts associated with nighttime light and glare but it is silent with respect to the Project’s impacts to users of this planned trail.²⁵

The omission of any analysis concerning Project-related impacts to scenic resources that users of the Great Redwood Trail would be subjected to in perpetuity also constitutes a failure to consider the Project’s contribution to cumulative impacts.

II. Conclusion: The Planning Commission Should Not Approve the Project and, if the Project is Pursued, it Should Require the Preparation of an EIR.

As Petitioners’ extensive prior 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 Planning Commission has authority to deny the application based on the difficult access issues and multiple potentially significant

²³ See staff report to Planning Commission for Jan. 7, 2020 meeting, p. 7.

²⁴ See <http://www.thegreatredwoodtrail.org/>; see also Report to the Legislature re planned Great Redwood Trail, Assessment of the North Coast Railroad Authority and Viability of a Great Redwood Trail (2020), available at: <https://calsta.ca.gov/-/media/calsta-media/documents/sb-1029-assessment-of-nkra-report-to-legislature-111220.pdf>, accessed 01/06/21.

²⁵ See Revised IS/MND, pp. 37-43.

environmental impacts. It would be justified in exercising its sound discretion to deny the Project as proposed.

Very Truly Yours,

A handwritten signature in black ink, appearing to be 'JH' followed by a long horizontal stroke.

Jason Holder

cc: (Via e-mail only)
Client contacts

Exhibits:

- Exh. 1. Email exchange with County planner re comments submitted on revised IS/MND, dated 12/30/2020
- Exh. 2. Email exchange with County planner re supplemental materials provided to Planning Commission, dated 01/07/2021



Exhibit 1

Jason Holder <jason@holderecolaw.com>

Comments on Revised IS/MND for Rolling Meadow Ranch Commercial Cannabis Project (PLN-12529-CUP) (1 of 3)

Ryan, Meghan <mryan2@co.humboldt.ca.us>
To: Jason Holder <jason@holderecolaw.com>
Cc: "Gregory.OConnell@wildlife.ca.gov" <Gregory.OConnell@wildlife.ca.gov>

Wed, Dec 30, 2020 at 2:11 PM

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. Thank you



Jason Holder <jason@holderecolaw.com>

RMR Project: supplement to staff report and responses to comments

Ryan, Meghan <mryan2@co.humboldt.ca.us>

Thu, Jan 7, 2021 at 10:12 AM

To: Jason Holder <jason@holderecolaw.com>

Cc: Frances Greenleaf <frangreenleaf@gmail.com>, "Johnson, Cliff" <CJohnson@co.humboldt.ca.us>

Good morning, Jason – Thank you for contacting me. The Planning Commission was provided a Supplemental Item #1 yesterday that included all comments that were received as of Monday, January 4, 2021. Please see attached. Supplemental items are a part of the record and will be posted to the website after tonight's hearing. The project is the second public hearing item scheduled for tonight's hearing.

Please let me know if you have any additional questions.

Thanks again,

Meghan

From: Jason Holder <jason@holderecolaw.com>**Date:** Thursday, January 7, 2021 at 8:41 AM**To:** "Ryan, Meghan" <mryan2@co.humboldt.ca.us>**Cc:** Frances Greenleaf <frangreenleaf@gmail.com>**Subject:** RMR Project: supplement to staff report and responses to comments

Good morning, Ms. Ryan,

As you know, on December 30th, and on behalf of my clients, I submitted timely comments on the revised IS/MND for the Rolling Meadow Ranch project. You responded to my submission via email as follows: "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."

Over the past several days, my clients and I have continually checked the County's website for Planning Commission materials for any supplemental materials for the Planning Commission to consider at its meeting this evening, including the "response to comments" document you referred to in the response email on December 30th. As you can understand, we are keenly interested in reviewing any such supplemental analysis and information. As of the time of this email, no supplemental materials are currently available for public review.

When will these materials be posted to legistar and otherwise be made available to the public and decision-makers? In light of the lack of timely disclosure of public comments on the revised IS/MND and any response to those comments, will the Rolling Meadow Ranch project be considered for approval tomorrow or will consideration by the Planning Commission be continued yet again? If the latter, then this would be the third time the project has been placed on the Planning Commission agenda, with a staff recommendation for approval and the assurance that the existing analysis is sufficient, only to be continued and reconsidered later, after supplemental environmental impact analysis is conducted.

Prior to the Planning Commission meeting where the RMR project will be considered for approval, we anticipate submitting additional comments on the staff report and any supplemental materials provided to the Planning Commission. Accordingly, please let us know whether the Project will be considered for approval at the meeting this evening and, if so, please provide any supplemental material at your earliest convenience so that we may review the material and respond to it as appropriate.

Thank you,

-Jason

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Jason W. Holder

Holder Law Group

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