



**COUNTY OF HUMBOLDT**  
**PLANNING AND BUILDING DEPARTMENT**  
**CURRENT PLANNING DIVISION**

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Phone: (707) 445-7541 Fax: (707) 268-3792

Hearing Date: January 21, 2021

To: Humboldt County Planning Commission

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

Subject: **KMS Farms, LLC Conditional Use Permit**  
Application Number 12922  
Case Numbers CUP 16-922  
Assessor's Parcel Number (APN) 216-012-007 and 216-013-011  
0 Reed Mountain Road, Benbow, CA 95542

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Please contact David J. R. Mack, AICP, Project Manager/Senior Planner (Harris & Associates) at 831-320-0413 or by email at david.mack@weareharris.com, if you have any questions about the scheduled public hearing item.

## AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
January 21, 2020	Conditional Use Permit –	David Mack, AICP

**Project Description:** KMS Farms seek a Conditional Use Permit (CUP-12-922) to allow 18,500 square feet (SF) of existing outdoor cannabis cultivation, and a propagation facility/nursery totaling 1,850 SF is also proposed.

Irrigation water is sourced from an onsite well, which produces 4 gallons/minute (5,680 gallons/day) (permit # WDID -1\_12CC429820), and a surface water diversion (SIUR Certificate# H100467) from an unnamed stream. Estimated annual water usage is 244,500 gallons which equates to 13.2 gallons per square foot of cultivation area.

Existing water storage is 119,000 gallons, stored as follows: eight 3,000 gallon High Density Polyethylene plastic (HDPE) tanks (24,000 gallons) and nineteen 5,000-gallon HDPE tanks (95,000 gallons). The onsite well will provide all additional water needed for the remainder of the cultivation season after April 1. The water right to divert water (from an unnamed stream on the property) combined with the water made available by the well yields approximately 480,000 gallons and would allow for full forbearance during the forbearance period.

Drying will occur onsite within a dedicated Agriculture drying building, while bucking and further processing would occur at a licensed third party facility. There is an average of 3 employees utilized throughout the year, and up to 4 employees during peak operations. Power is provided by solar and one onsite generator (Honda EU2000 200 kW).

**Project Location:** The project is located at 0 Reed Mountain Road (APN: 216-012-007), five miles southeast of the unincorporated community of Benbow, located in southern Humboldt County.

**Present Plan Land Use Designations:** Agricultural Grazing (AG) Density: 20 to 60 acres per dwelling unit; Slope Stability: High Instability

**Present Zoning:** Agricultural Exclusive (AE), Special Building Site (B-5-160) and Timber Production (TPZ)

**Record Number:** PLN-12922-CUP

**Case Numbers:** CUP-12-922

**Assessor's Parcel Number:** 216-012-007 and 216-013-011

### Applicant

KMS Farms LLC  
C/O Kent Eubanks  
12503 Saratoga Creek Drive  
Saratoga, CA 95070

### Owner

KMS Farms LLC  
C/O Kent Eubanks  
12503 Saratoga Creek Drive  
Saratoga, CA 95070

### Agents

Timberland Resource  
Consultants  
C/O Chris Carroll (RFP)  
165 South Fortuna Boulevard  
Fortuna, CA 95540

**Environmental Review:** An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per § 15164 of the State CEQA Guidelines.

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

**Major Issues:** No major issues/concerns were identified for this project.

**KMS Farms, LLC**  
Record Number: PLN-12922-CUP  
Assessor's Parcel Number: 216-012-007 & 216-013-011

**Recommended Commission Action**

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

*Adopt the Resolution to:*

- (a) Find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO), as described by Section §15164 of the State CEQA Guidelines;*
- (b) make the required findings for approval of the Conditional Use Permit; and*
- (c) Approve the KMS Farms, LLC Conditional Use Permit as recommended by staff subject to the recommended conditions.*

**Executive Summary:** KMS Farms seeks a Conditional Use Permit (CUP-12-922) to permit a maximum of 18,500 square feet (SF) of existing outdoor cannabis cultivation. This permit application is in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO).

The site is zoned as Agricultural Exclusive (AE), Special Building Site (B-5-160) and Timber Production (TPZ) and has a land use designation of Agricultural General (AG) as defined in the Humboldt County 2017 General Plan Update. Cultivation currently takes place in three different areas, totaling 18,500 SF. Area A North is comprised of 4,800 SF (1,500 SF outdoor; 3,300 SF of light deprivation); Area A South is comprised of 5,300 SF (1,100 outdoor; 4,200 SF light deprivation); and Area A East is comprised of 8,400 SF (3,200 SF outdoor; 5,200 SF light deprivation). The cultivation area takes place on the portion of the property zoned AE.

Drying takes place on site and further processing would occur at a licensed third party facility. There is an average of 3 employees utilized throughout the year, and up to 4 employees during peak operations. Power is provided by a solar panel and one onsite Honda EU2000 (200kW) generator.

**Water Resources**

Water for irrigation is currently sourced from an onsite well (WDID# 1\_12CC429820) that produces 4 gallons/minute (5,760 gallons/day), and a surface water diversion (SIUR Certificate# H100467) from an unnamed stream. The well is permitted with the California Department of Water Resources, as part of the State Licensing process, and appears not to be hydrologically connected to surface water, according to the Well Log where depth to first water was measured to be 30-feet below surface. The surface water diversion is registered with the State Water Resources Control Board, and is derived from the East Branch South Fork tributary to the Eel River.

A Water Resources Protection Plan (WRPP) was created in order to protect the water resources of the project area through annual site inspection, monitoring, and reporting of Tier 2 discharges to the North Coast Regional Water Quality Control Board (NCRWQC). There are four stream crossings located within the property. Two crossings have drainage structures, one crossing has a drainage facility, and one crossing has a wooden footbridge that includes a post and pier foundation within the watercourse. Both crossings with drainage structures are in reasonable condition, with one crossing requiring rock armoring at the inlet to aid in water flow and erosion control (**Condition 16**). A Lake and Streambed Alteration Agreement (LSAA) has been filed with the California Department of Fish and Wildlife to address all work to be done within the waterways. The LSAA is for a diversion and three crossings in Class I and II watercourses, as well as vegetation removal and remediation within abandoned waterways.

The proposed project is within a Streamside Management Area (SMA) and therefore is required to be consistent with the Humboldt County General Plan Policy BR-P6, which requires development within a SMA to comply with erosion control and required mitigation measures. An assessment of the property determined that active cultivation areas and associated facilities are not located within 100 feet of any Class I or II watercourse, or within 50 feet of any Class III watercourse or wetland.

Existing available water storage is 119,000 gallons, stored as follows: eight 3,000-gallon HDPE tanks (24,000 total gallons); and nineteen 5,000-gallon HDPE tanks (95,000 total gallons). The onsite well will provide all additional water (approximately 480,000 gallons) needed for the remainder of the cultivation season after April 1, which would allow a sufficient volume of storage to meet full forbearance requirements. Estimated annual water usage is 244,500 gallons (WRPP 2019) throughout the cultivation season (from April to October), thus meeting the forbearance requirements by having more water available than necessary for cultivation activities.

The Appropriate Right for water usage allows up to 0.37 acre-feet per year (120,565 gallons) which cannot be diverted during the forbearance period. The rate of diversion to storage is limited to 14,400 gallons per day (10 gallons per minute x 1,440 minutes/day), pursuant to the current State Water Board's Cannabis Policy 78. The well would produce approximately 480,000 gallons (4 gallons per minute running 10 hours per day for 200 days), which would provide more than enough water for all cultivation related activities.

### **Biological Resources**

A Biological Reconnaissance Report was prepared by Jessica Stauffer (July 2019) to identify any special status wildlife or wildlife habitat within the project area. A list of potential special species was generated using the following information systems: California Natural Diversity Database (CDFW 2019) and Biogeographic Information and Observation system (BIOS), Northern Spotted Owl Viewer (CDFW 2019), US Fish and Wildlife Service (USFWS) database. Although 25 special-status wildlife species are documented within the vicinity of the project area (Appendix A Bio Report) project activities are not expected to produce any adverse or cumulative effects to any special-species or habitat, due to the small size of the project area combined with the type of proposed activities (Stauffer, July 2019).

### **Tribal Cultural Resource Coordination**

The project site is located within *Shelter Cove Sinkyone* and *Wailaki* ethnographic territory of the County. A site field survey and a Cultural Resource Investigation was conducted by Mark Arsenault, M.A., RPA (August 2020), in order to determine if any cultural resources exist within the project's 71-acre study area. The Cultural Resources Investigation includes: emails sent to the Native American organizations identified on the Native American Heritage Commission (NAHC) list, contacting the Northwest Information Center (NWIC), as well as a historical background search of existing maps and publications relevant to the study area.

The NWIC responded in September 2020 by indicating there are no known resources present in the project area, and identified five previous studies that have been identified within a ½ mile buffer of the project area. Although one pre-historic archaeological site (P-12-003904) was identified within the ½ mile search buffer, the cultivation areas within the project site are well outside of this area, and project implementation would not affect this resource.

The Cultural Resources Investigation concluded that the proposed project would not result in any adverse changes to historical or archaeological resources (Arsenault, August 2020). The lead investigator, Mark Arsenault, recommends the use of Inadvertent Discoveries Protocol (PRC 15064.5 (f)) by a qualified professional archaeologist if any previously unidentified cultural resources or human remains are encountered throughout project implementation.

## Access

The site is located in southern Humboldt County, approximately 6.5 miles southeast of the unincorporated community of Garberville. The project site is located off Reed Mountain Road, which is maintained by the County. There have been prior road evaluations prepared for this road which have found the road sufficient to accommodate existing cannabis cultivation. The applicant will become part of the Road Maintenance association to maintain the Unnamed road will need to be improved to provide erosion control measures such as water bars and rolling dips. The Private Access Road contains slopes which exceed 16% grade in one location.

PWA prepared a Watershed Restoration report recommending that erosion control measures (waterbars and rolling dips) be installed in both roadway locations. To bring the roadways into compliance, the project has been conditioned to: construct and install waterbars and rolling dips (Appendix D of Road Evaluation Report) along Unnamed Road (off of Reed Mountain Road at APN 223-032-004) and the Private Access Road, as well as clear clogged culverts (**Condition 12**). These erosion control measures combined with clearing culverts would aid in runoff conveyance during flood events to help avoid roadway erosion and scour. With the implementation of these recommendations, both the Unnamed Road off of Reed Mountain Road and the Private Access road would meet their intended use based on the Engineer's evaluation.

## Remediation/Abatement of Prior Violations

A Restoration and Restocking Plan (RRP) was developed in July 2020 to address the abatement of an existing violation pertaining to the illegal grading of an approximately 14,260 SF "flat area" on the project site (Cultivation Area D). The RRP was developed in accordance with a Violation Resolution Letter wherein the property owner agreed to remediate the illegal grading activities and pay a fine for conducting development associated with cannabis operations prior to receiving required permits. The RRP prescribes immediate removal of all cultivation related infrastructure within Cultivation Area D, and revegetation of all exposed soil with erosion control measures (placement of mulched straw and spreading of native grass seed mix specified in RRP). A Timber Restocking Plan is outlined in the RFP, and states that 0.53 acres of the project site at Cultivation Area D would be replanted with 231 Douglas-fir trees, in order to establish a timber stand (**Condition 17**).

The RRP also states that the applicant is currently seeking a Lake and Streambed Alteration Agreement (LSAA) with the California Department of Fish and Wildlife for all in-stream work on the parcel (as of June 27, 2019). Any disturbed water course is required to be disclosed in the LSAA Notification for review by CDFW. The project has been conditioned to provide evidence of obtaining a LSAA and compliance with all conditions for remediation/abatement (**Condition 16**).

## Electrical Power:

The current source of power is a combination of generator and solar. A condition has been added requiring that by 2026 generators will only be used for backup power.

## California Environmental Quality Act (CEQA)

Environmental review for this project was conducted in December 2020 by the County. Based on the results of that analysis, staff finds that all aspects of the project have been considered in the Mitigated Negative Declaration (MND) that was adopted by the County for the Commercial Medical Marijuana Land Use Ordinance on January 26, 2016. Accordingly, staff has prepared an addendum to this document for consideration by the Planning Commission. See **Attachment 2** for more information.

**RECOMMENDATION:** Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit (CUP).

**ALTERNATIVES:** The Planning Commission could elect to 1) not approve the project, or 2) require the applicant to submit further evidence, or 3) modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be

implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

The Planning Commission could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As the lead agency, the Planning and Building Department has determined that the project is consistent with the MND for the CMMLUO as stated above. However, the Commission may reach a different conclusion. In which case, the Commission should continue the item to a future date at least two months later to provide staff adequate time to complete further environmental review.

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT**

**Resolution Number 21-xx**

**Record Number: PLN-12922-CUP**

**Assessor's Parcel Number: 216-012-007 & 216-013-011**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the KMS Farms, LLC, Conditional Use Permit.**

**WHEREAS, KMS Farms, LLC,** submitted an application and evidence in support of approving a Conditional Use Permit (CUP-16-922) for the continued operation of an existing 18,500 square foot (SF) outdoor cannabis cultivation operation;

**WHEREAS,** the County, prepared an Addendum to the Final Mitigated Negative Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO), adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented, as described by §15162(c) of CEQA Guidelines; and

**WHEREAS,** the Humboldt County Planning Commission held a duly-noticed public hearing on **January 21, 2020**, and reviewed, considered, and discussed the application for the requested Conditional Use Permits and reviewed and considered all evidence and testimony presented at the hearing.

**Now, THEREFORE BE IT RESOLVED,** that the Planning Commission makes all the following findings:

- 1. FINDING:**                      **Project Description:** The application is a Conditional Use Permits CUP-12-922 for the continued operation of an existing 18,500 square foot (SF) outdoor cannabis cultivation operation, with appurtenant propagation and drying activities. Power is provided by an onsite solar system and a Honda EU2000 (200 kW) onsite generator. Irrigation water is sourced from a permitted onsite well and a surface water diversion.

**EVIDENCE:**                      a) Project File: PLN-12922-CUP

- 2. FINDING:**                      **CEQA.** The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission has considered the Addendum to and the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016.

**EVIDENCE:**                      a) Addendum to the MND prepared for the proposed project in compliance with CEQA.

b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.

c) A Biological Report was prepared for the project was prepared by Jessica Stauffer in July 2019); and a list of species was generated using the following wildlife database systems: California Natural Diversity Database (CDFW 2019) and Biogeographic Information and Observation system

(BIOS), Norther Spotted Owl Viewer (CDFW 2019), US Fish and Wildlife Service (USFWS) database. Although the CNDDDB identified 25 occurrences of listed species in the general vicinity, the proposed cultivation activities would not degrade or remove any suitable habitat, or result in noise or disturbance that would adversely impact any protected species. Therefore, potential impacts to biological resources are considered low/unlikely.

- d) A Water Resources Protection Plan was prepared by Timberland Resource Consultants to show compliance with the North Coast Regional Water Quality Control Board Order No. 2015-0023, in order to protect the water quality of waterways within the project area.
- e) A Cultural Resources Investigation Report was prepared by Arsenault & Associates Archaeological Consulting in August 2020. The Arsenault investigation concluded that the proposed project would not result in any adverse changes to historical or archaeological resources, and recommends the use of Inadvertent Discoveries Protocol in the event of unanticipated discoveries of resources and/or human remains.
- f) A Restoration and Restocking Plan (RRP) was developed in July 2020 to address the abatement of an existing violation pertaining to the illegal grading of a 14,260 SF "flat area" on the project site. The RRP was developed in accordance with a Violation Resolution Letter, wherein the property owner agreed to remediate the illegal grading activities and pay a fine for conducting development associated with cannabis operations prior to receiving required permits. The RRP details immediate revegetation actions that occurred, and states that 0.53 acres of the project site at Cultivation Area D would be replanted with 231 Douglas-fir trees, in order to establish a timber stand (**Condition 17**).

#### FINDINGS FOR CONDITIONAL USE PERMIT

### 3. FINDING

#### EVIDENCE

- The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.
- a) General agriculture is a use type permitted in the Agricultural Grazing (AG) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.
  - b) The proposed project is within a Streamside Management Area (SMA) and therefore is required to be consistent with the Humboldt County General Plan Policy BR-P6, which requires development within a SMA to comply with Standards BR-S8 (Required Mitigation Measures) and BR-S9 (Erosion Control). The proposed project was designed with mitigating features, including: 1) Cultivation is sited to avoid activity within the stream channel; 2) All cultivation areas will not be located on slopes, and will not involve vegetation removal or land clearing; and 3) Prior unseeded exposed soils have been abated under a separate Violation Resolution Letter. A disturbed area is located within a riparian setback (Cultivation Area B); however, because it is located downslope of the watercourse and on the downslope side of a ridge, surface runoff would be unable to enter the

watercourse. Therefore the project is not considered 'High Risk' and is consistent with Policy BR-P6, and Standards BR-S8 and BR-S9.

**4. FINDING** The proposed development is consistent with the purposes of the existing Special Building Site (B-5-160) in which the site is located.

**EVIDENCE**

- a) Timber Production Zones are intended to be applied to areas of the County in which timber production is the desirable predominant uses.
- b) Humboldt County Code section 313-106.6 allows cultivation of up to 43,560 square feet of existing outdoor cannabis and up to 22,000 square feet of existing mixed-light cannabis on a parcel over 1 acres, subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for a total of 18,500 SF of cultivation area, consisting of 12,300 SF outdoor and 6,200 SF of mixed-light cultivation on a 78-acre parcel, is consistent with the Humboldt County Code and with the Cultivation Area Verification prepared by the County.

**5. FINDING** The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

**EVIDENCE**

- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned TPZ (HCC 314-55.4.8.2.2).
- b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created in its current configuration by deed recorded before the establishment of county and state subdivision regulations that would have applied to the creation of the parcel.
- c) The project will obtain water from a permitted well and from one surface diversion. The well is permitted with the California Department of Water Resources, as part of the State Licensing process. The surface water diversion is registered with the State Water Resources Control board, and is derived from the East Branch South Fork tributary to the Eel River.
- d) The slope of the land where cannabis will be cultivated is less than 15%.
- e) The cultivation of cannabis will not result in the net conversion of timberland. The proposed cultivation area(s) are located within a historical cultivation area. Prior illegal grading has been conducted on the site and was abated pursuant to a Violation Resolution Letter (VRL). After providing a Restoration and Timber Restocking Plan, the project has been conditioned to remove all cultivation related infrastructure and material from the illegally graded Cultivation Area D. Any exposed soil shall be treated with erosion control measures that include native grass seed and straw mulch, set forth in the Revegetation Plan. The landowner shall plant 231 Douglas-fir trees, to cover a total of 0.53 acres, to facilitate timber stand re-establishment (**Condition 17**).
- f) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, more than 300 feet from any off-site residence, and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

**6. FINDING** The cultivation of 18,500 square feet of cannabis and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or

improvements in the vicinity.

**EVIDENCE**

- a) The site is accessed by a road that has been certified by a licensed engineer to safely accommodate the amount of traffic generated by the proposed cannabis cultivation. All roads on the property shall be maintained in compliance with the State Water Resources Control Board Order WQ 2019-0001-DWQ, which states that all access roads are hydrologically disconnected to receiving waters. All access roads within the project area have been assessed by an Engineer, who recommends erosion control measures and clearing clogged culverts. The project has been conditioned to apply the above stated recommendations to facilitate the proper maintenance and roadway access within the project area (**Condition 12**).
- b) The site is in a rural part of the County where the typical parcel size is over 40 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites, which have been approved or are in the application process, will not change the character of the area due to the large parcel sized in the area.
- c) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water will come from an onsite groundwater well and a surface water diversion. The well is not likely connected to surface water, because the depth to first water is 30 feet below surface. The well is permitted (WCR2020-011369), and the surface water is certified with the Water Board (H1000467).
- e) The Appropriate Right for water usage allows up to 0.37 acre-feet per year (120,565 gallons/year) to be collected from January 1 to December 31, as well as the diversion season specified by the current State Water Board's Cannabis Policy. The rate of diversion to storage is limited to 14,400 gallons per day (10 gallons/minute x 1,440 minutes/day), pursuant to the current State Water Board's Cannabis Policy 78. The well produces 5,760 gallons/day (4 gallons/minute x 1,440 minutes/day), which is less than the diversion rate set forth by Policy 78 and is therefore consistent with the baseline pumping standard.
- f) Estimated annual water use is 244,500 gallons. The overall water usage is calculated to be approximately 13.2 gallons/SF.
- g) Existing available water storage is 119,000 gallons, and the new onsite well will provide the additional water (approximately 480,000 gallons) needed for the remainder of the cultivation season after April 1, which would allow a sufficient volume of storage to meet full forbearance requirements. The estimated annual water usage for cultivation activities is 244,500 gallons.
- h) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection monitoring and reporting to the North Coast Regional Water Quality Control Board (NCRWQCB). As detailed in the Water Resources Protection Plan (WRPP) dated November 2018, at a minimum, the site shall be inspected and monitoring reports prepared for the following activities: 1) before and after any alteration or upgrade to a

given stream crossing, road segment, or other controllable sediment discharge site; 2) prior to the start of the water year (October 15) to evaluate site preparedness for storm events and associated storm water runoff; 3) site inspection no later than December 15 of each year; and 4) following any rainfall event with an intensity of 3 inches of precipitation within any 24 hour period. Annual reporting shall be submitted to the NCRWQCB by March 31 of each year. Therefore, runoff to adjacent property and infiltration of water to groundwater resources will not be adversely affected.

**7. FINDING**

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

**EVIDENCE**

- a) The parcel currently contains two existing residential units. The approval of cannabis cultivation on this parcel will not conflict with the operation or use of the existing residential units on site.

**DECISION**

**NOW, THEREFORE,** based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

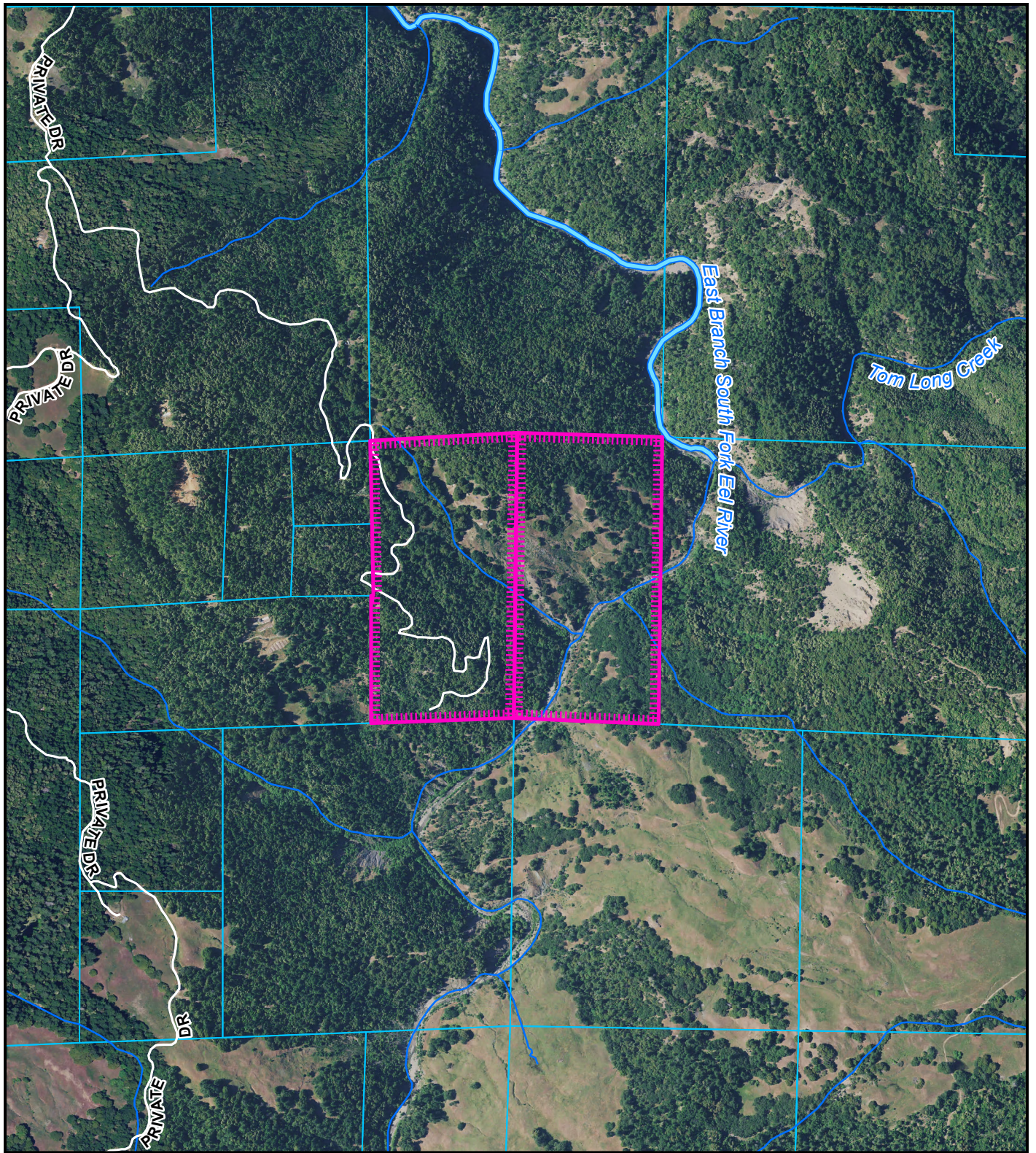
- Adopt the findings set forth in this resolution; and
- Conditionally approve the Conditional Use Permits (PLN-12922-CUP) for KMS Farms, LLC, subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

The motion was made by COMMISSIONER \_\_\_\_\_ and second by COMMISSIONER \_\_\_\_\_ and the following ROLL CALL vote:

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSENT: COMMISSIONERS:  
ABSTAIN: COMMISSIONERS:  
DECISION:

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

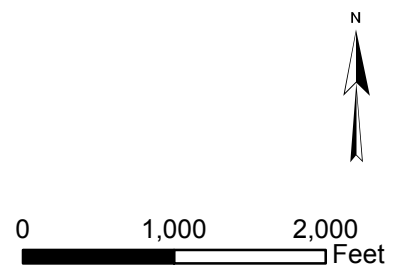
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John H. Ford, Director  
Planning and Building Department

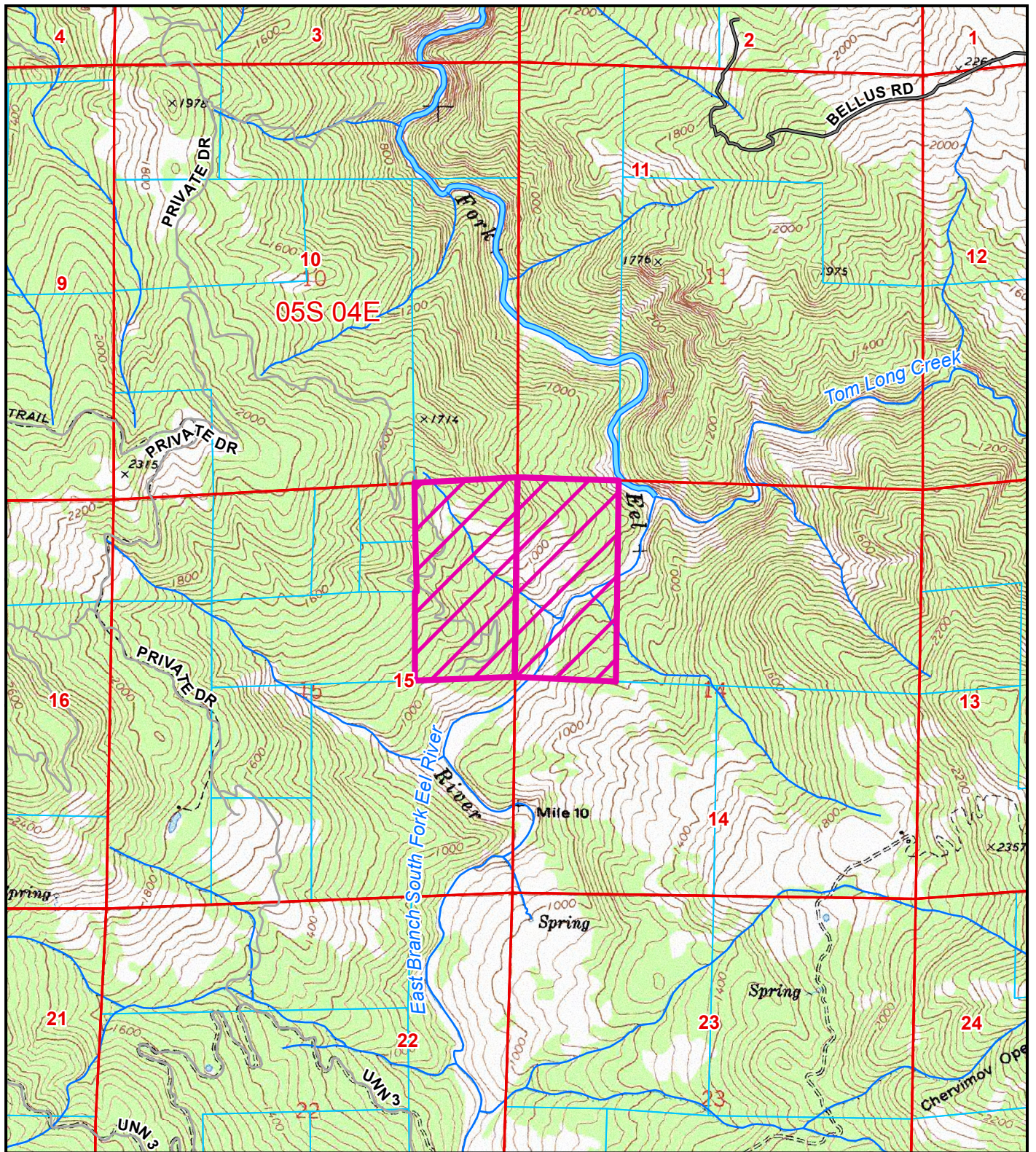


Project Area = 

**AERIAL MAP  
PROPOSED K M S FARMS LLC  
BENBOW AREA  
CUP-16-922  
APN: 216-012-007-000; ET AL.  
T05S R04E S15; S14 HB&M  
(HARRIS)**

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

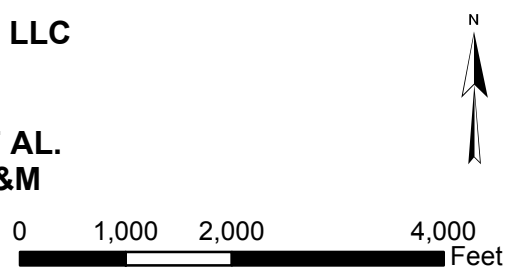


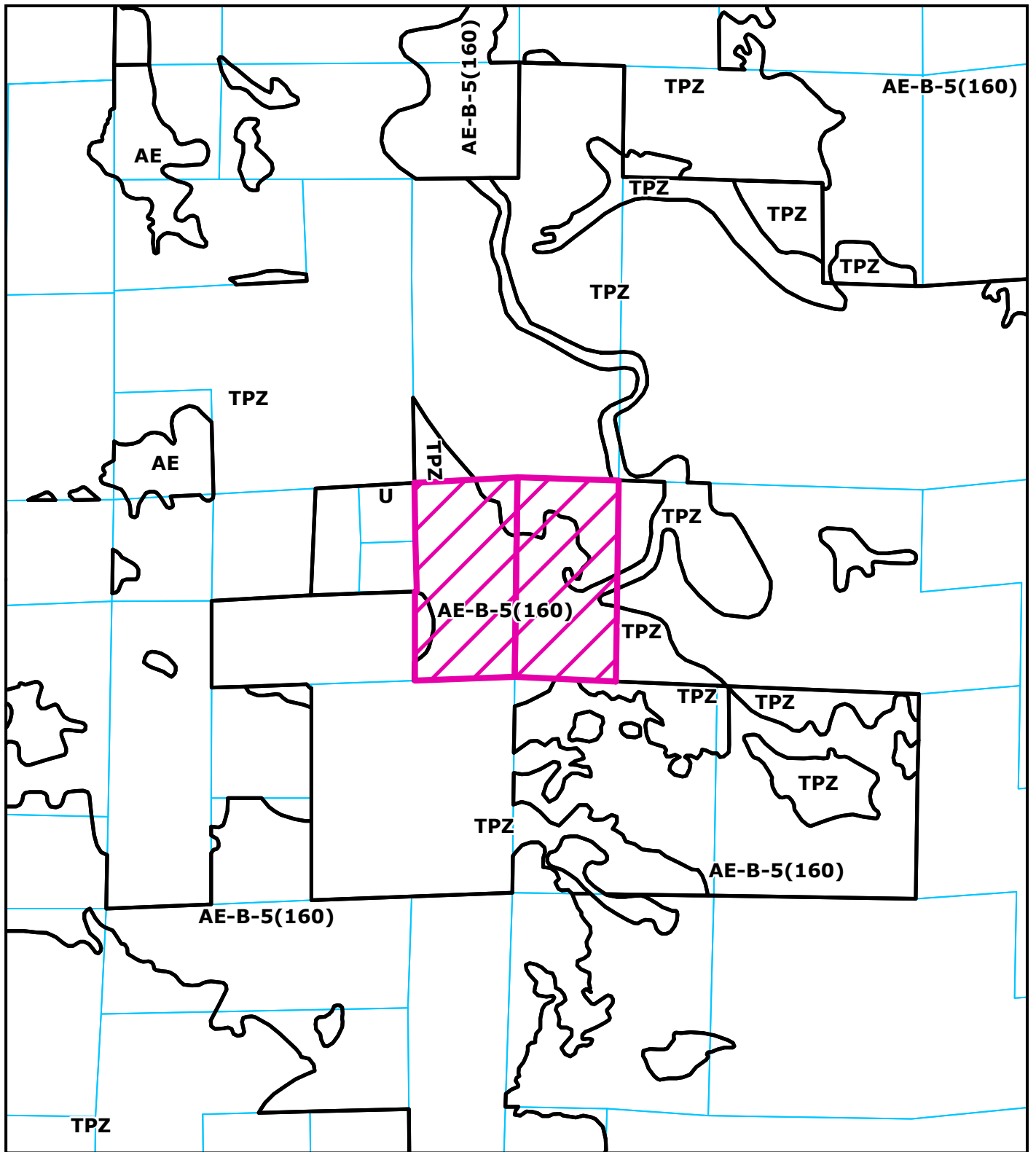


Project Area = 

**TOPO MAP**  
**PROPOSED K M S FARMS LLC**  
**BENBOW AREA**  
**CUP-16-922**  
**APN: 216-012-007-000; ET AL.**  
**T05S R04E S15; S14 HB&M**  
**(HARRIS)**

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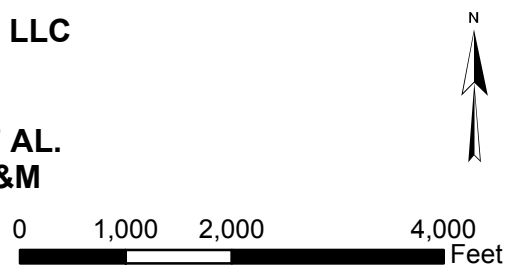


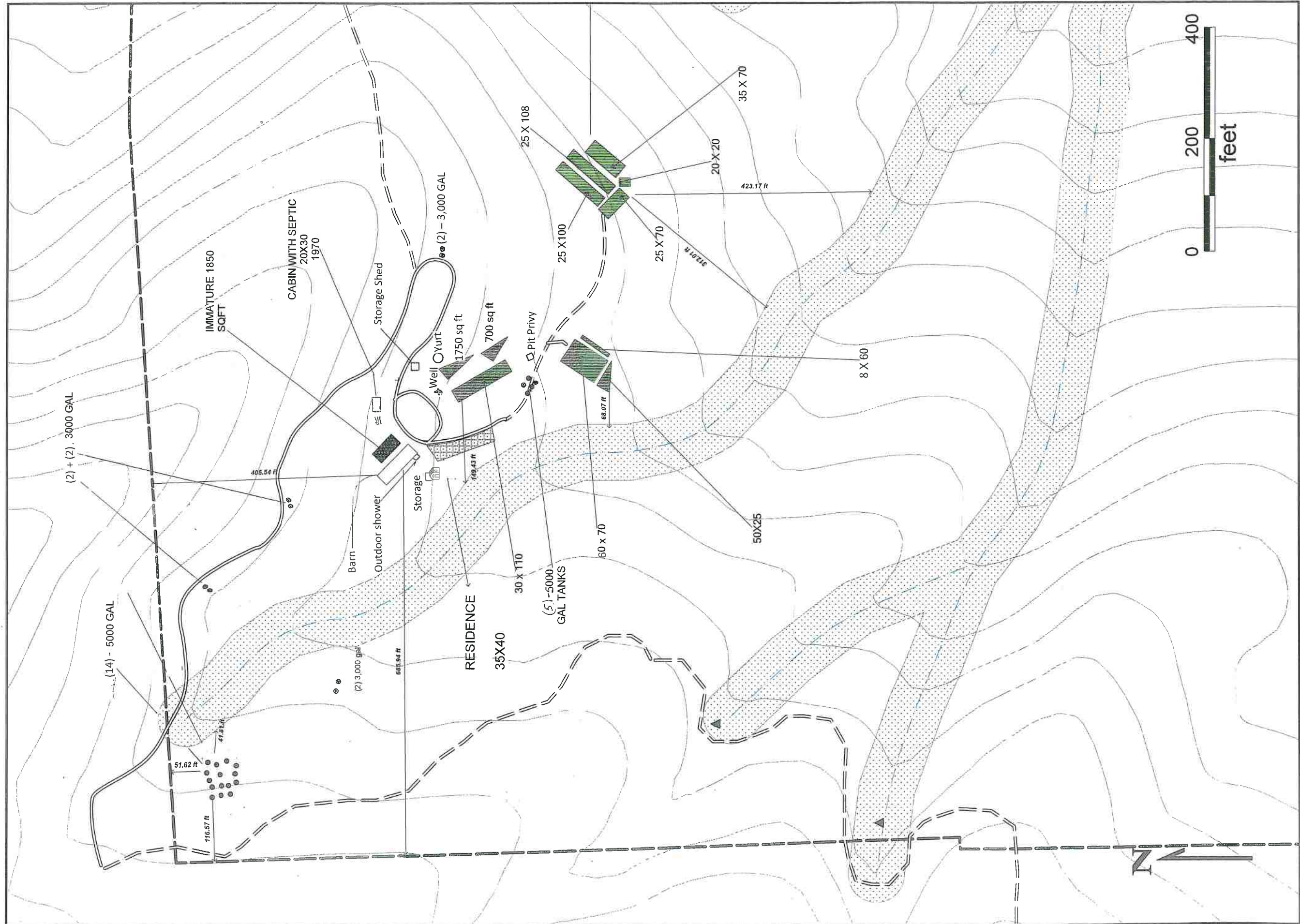


Project Area = 

**ZONING MAP  
PROPOSED K M S FARMS LLC  
BENBOW AREA  
CUP-16-922  
APN: 216-012-007-000; ET AL.  
T05S R04E S15; S14 HB&M  
(HARRIS)**

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





APPLICANT: KMS HOLDINGS LLC  
APN: 216-013-011 & 216-012-007

Acres: 160  
Zoning: AE/TPZ  
Cultivation Area 18,500 sq. ft. Outdoor



08/17/2020 9/1/2020



## ATTACHMENT 1

### RECOMMENDED CONDITIONS OF APPROVAL

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

#### **A. General Conditions**

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.
2. The applicant is required to pay for permit processing on a time and material basis, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
3. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover the staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use, and at the time of annual inspection. A conformance review deposit, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750), shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines, the Planning and Building Department will file the NOD and will charge this cost to the project.
5. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #6 through #20. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
6. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to: existing and proposed greenhouses, water tanks over 5,000 gallons, existing and proposed structures associated with drying and storage or any activity with a nexus to cannabis, and any noise containment structures as necessary. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan. Communication from the Building Division, verifying that all structures related to the cannabis cultivation are permitted, was approved by Building Inspection Department on August 27, 2020.
7. The approved building plans shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project by the Building Inspection Division. Sign-off on the Occupancy Permit by the Building Division shall satisfy this requirement.

8. Obtain a permit to operate the proposed generator (Honda EU2000) from the North Coast Unified Air Quality Management District (NCUAQMD) and obtain an electric permit from the County's Building Department.
9. The applicant shall submit a grading, erosion and sediment control plan prepared by a qualified engineer. The plan shall identify the cubic yards of all grading that has been completed, and any proposed grading. A letter or similar communication from the Building Division verifying that all grading related to the cannabis cultivation operation are permitted, or not needed, will satisfy this condition.
10. Prior to renewal of the permit, the operator is required to submit to the Department of Environmental Health (DEH), receipts or copy of contract confirming sufficient use of portable toilets to serve staff for the duration of the first year, or provide written assessment from a qualified septic consultant confirming a Tier 0 status for the addition of an onsite wastewater treatment system serving the dwelling (Department of Environmental Services).
11. COUNTY ROADS – FENCES & ENCROACHMENTS: All fences and gates shall be relocated out of the County right of way. All gates shall be setback sufficiently from the County road so that vehicles will not block traffic when staging to open/close the gate. In addition, no materials shall be stored or placed in the County right of way. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
12. COUNTY ROAD – DRIVEWAY (PART 2): Any existing or proposed driveways, which will serve as access for the proposed project that connect to a county maintained road, shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. This also includes installing or replacing driveway culverts; minimum size is typically 18 inches. If the County road has a paved surface at the location of the driveway, the driveway apron shall be paved for a minimum width of 18 feet and a length of 50 feet. The exact location and quantity of driveways shall be approved by the Department of Public Works at the time the applicant applies to the Department for an Encroachment Permit. Access roads are conditioned to install erosion control measures (water bars and rolling dips) and clear clogged culverts, as outlined in the Road Evaluation Report. The project has been conditioned to apply the above stated recommendations to facilitate the proper maintenance and roadway access within the project area. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approve for a business license.
13. COUNTY ROADS – DRIVEWAY & PRIVATE ROAD INTERSECTION VISIBILITY: All driveways and private road intersections onto the County road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approve for a business license.
14. The applicant shall install a water monitoring device on each source – groundwater well and surface water diversion - if/when utilized and on storage tanks as applicable to monitor water used for cannabis irrigation separate from domestic use.
15. The applicant shall demonstrate evidence of obtaining a Lake and Streambed Alteration Agreement (LSAA) from the California Department of Fish and Wildlife (CDFW) and shall implement all corrective actions detailed/required within the LSAA. A letter or similar communication from CDFW verifying that all their requirements have been met will satisfy this condition. One waterway crossing within the project area requires rock armoring at the inlet of Site 15, which shall be completed to the satisfaction of CDFW.

16. A Restoration and Restocking Plan (RRP) was developed in July 2020 and outlines a timber restocking plan for previous illegal grading activities within the project area. The applicant shall work with a Registered Professional Forester (RPF) to determine the appropriate timing for replanting and monitoring of the required Douglas Fir replacement trees, as required in the Restoration and Restocking Plan (RRP). The RPF report shall be submitted and reviewed to the satisfaction of the Director of Planning and Building within one year of issuance of this permit. A letter or similar communication from a RPF verifying that replanting has already been adequately completed will satisfy this condition.
17. The applicant shall contact the Garberville Fire Protection District and furnish written documentation from that agency of the available emergency response and fire suppression services and any recommended project mitigation measures. Mitigation measures shall be incorporated into the project, if applicable. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning and Building Department. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.
18. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
19. The applicant shall execute and file with the Planning and Building Department the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.
20. At such time the applicant increases cultivation to maximum aggregate allotment, allowed under the CMMLUO 1.0 and Cultivation Area Verification (CAV) allowances, the applicant/operator/owner shall submit a revised site plan showing placement of all cannabis cultivation, broken down by zone and growing version at least 30 days prior to placement/development of the cultivation area(s). The site plan shall be reviewed and approved by the Director of Planning and Building.
22. Not later than December 31, 2025, the source of power for all cannabis activities shall be either from a utility or alternative form of renewable energy. Starting January 1, 2026, the use of a generator is only permitted as an emergency power source. Prior to December 31, 2025 the applicant must submit information to the Planning and Building department demonstrating there is sufficient power available that generator use will cease.

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

1. The combined noise from background, generator, greenhouse fan, or other operational activities and equipment must not result in the harassment of Northern Spotted Owl species, as required to meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11 (o) requirements. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
2. All artificial light utilized in mixed-light greenhouses shall be limited to 6 watts per square foot, with no wattage limit in the ancillary propagation greenhouse. All artificial lighting shall be fully contained within structures such that no light escapes (i.e., through the use of blackout curtains). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to

crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program (refer to <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>). Standards include, but are not limited to: Light shall 1) be shielded and downward facing, 2) consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less, and 3) only placed where needed.

3. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment and noise levels have been repaired, inspected, and corrected as necessary.
4. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, the Permittee shall not use any erosion control and/or cultivation materials that contain synthetic (e.g., plastic or nylon) 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.
5. All refuse shall be contained in wildlife proof storage containers at all times and disposed at an authorized waste management facility.
6. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and shall be allowed to leave the work site unharmed.
7. The use of anticoagulant rodenticide is prohibited.
8. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.
9. All components of the project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Any changes shall require modification of this permit, except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
10. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
11. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.
12. The permittee shall have possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.

13. The permittee shall be in compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
14. The permittee shall ensure confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
15. The permittee shall maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
16. The permittee shall comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from the California Department of Fish and Wildlife (CDFW).
17. The permittee shall comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire), if applicable.
18. The permittee shall consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
19. The permittee shall pay all applicable fees for application review to ensure conformance with conditions and annual inspection fees.
20. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.
21. Fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be properly stored, handled, and used in accordance with applicable regulations.
22. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
23. The permittee shall pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

#### Performance Standards for Cultivation and Processing Operations

24. Pursuant to the MCRSA, Health and Safety Code Section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
25. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws,

Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).

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

30. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a re-inspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request re-inspection or to cure any items of noncompliance shall terminate the Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to Section 55.4.13.
31. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
32. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.
33. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
  - a. Identifying information for the new owner(s) and management as required in an initial permit application;
  - b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
  - c. The specific date on which the transfer is to occur;
  - d. Acknowledgement of full responsibility for complying with the existing permit; and
  - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
34. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

**Informational Notes:**

1. Pursuant to Section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years after the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to Section 314-55.4.13 of the CMMLUO.
2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"), except where the Compliance

Agreement per Condition of Approval #B.11 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Conditions of Approval #B.29 and B.30 of the Ongoing Requirements/Development Restrictions, above.

3. If cultural resources are encountered during construction activities, the contractor on-site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

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

4. The applicant shall be aware that the Federal Government considers the cultivation of cannabis to be an illegal activity. This project is accessed by using roads that pass-through lands owned by the Federal Government. The Federal Government may not allow the applicant to use these roads to transport cannabis. In such case, Humboldt County will not provide relief to the applicant. Approval of this permit does not authorize transportation of cannabis across Federal lands.

**ATTACHMENT 2**

**CEQA ADDENDUM TO THE  
MITIGATED NEGATIVE DECLARATION FOR THE COMMERCIAL MEDICINAL MARIJUANA LAND USE  
ORDINANCE**

**Commercial Medical Marijuana Land Use Ordinance Mitigated Negative Declaration (MND)  
(State Clearinghouse # 2015102005), January 2016**

**APN 216-012-007 & 216-012-011; 0 Reed Mountain Road, Benbow, CA 95514  
County of Humboldt**

**Prepared By  
Humboldt County Planning and Building Department  
3015 H Street, Eureka, CA 95501**

**December 2020**

## Background

### **Modified Project Description and Project History**

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. The CMMLUO was considered a "project" under the California Environmental Quality Act (CEQA) and thus required analysis for potential environmental impacts. Therefore, the CMMLUO regulations were developed and adopted in concert with the environmental analysis and Mitigated Negative Declaration (MND) that was adopted for the ordinance in 2016.

The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations and unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015, was included in the environmental baseline for the MND. The MND states that "Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting." As applications are filed for new or differing cultivation activities, the "modification" to the CMMLUO is evaluated for consistency and compliance with the CMMLUO MND.

The modified project involves a Conditional Use Permit (CUP-12-922) for an existing 18,500 square foot (SF) outdoor cultivation area and 1,850 ancillary propagation area. Water sources for irrigation are provided by an onsite well and a surface water diversion. Existing water storage includes 119,000 total gallons of water storage, subdivided into eight (8) 3,000-gallon tanks and nineteen (19) 5,000-gallon tanks. The onsite well will provide approximately 480,000 gallons of water (for the approximately 200 days it would be used) for cultivation activities, and would allow a sufficient volume of storage to meet full forbearance requirements. Estimated annual water usage is 244,500 gallons (WRPP 2019) to be used throughout the cultivation season, from April to October. Drying would occur onsite, and further processing would occur at a licensed third party facility. Electricity is provided by an onsite solar system with a backup Honda EU2000 (200 kW) generator.

Irrigation water sources include an onsite well (WDID# 1\_12CC429820) and a surface water diversion (SIUR Certificate# H100467). A Water Resources Protection Plan (WRPP) was created in order to protect the water resources of the project area, through annual site inspection, monitoring, and reporting of Tier II Discharges to the North Coast Regional Water Quality Control Board (NCRWQC), by March 31<sup>st</sup> of each year. The proposed project is within a Streamside Management Area (SMA) and therefore is required to be consistent with the Humboldt County General Plan Policy BR-P6, which requires development within a SMA to comply with erosion control and required mitigation measures.

A Lake and Streambed Alteration Agreement (LSAA) has been filed with the California Department of Fish and Wildlife (CDFW). The LSAA is for two Points of Diversion and three crossings in Class II and II watercourses, as well as vegetation removal and remediation within abandoned waterways.

A Biological Reconnaissance Report was conducted to identify any special status wildlife species or wildlife habitat within the project area (Stauffer, July 2019). A list of potential special species was generated using the following information systems: California Natural Diversity Database (CDFW 2019) and Biogeographic Information and Observation system (BIOS), Norther Spotted Owl Viewer (CDFW 2019), US Fish and Wildlife Service (USFWS) database. Although 25 special-status wildlife species are documented within the vicinity of the project area (Appendix A Bio Report), project activities are not expected to produce any adverse or cumulative effects to any special-species or habitat, due to the small size of the project of the project area combined with the type of proposed activities.

A Cultural Resources Investigation was prepared by Arsenault & Associates, and concluded that the proposed project would not result in any adverse changes to historical or archaeological resources (Arsenault, 2020). The Northwest Information Center (NWIC) was contacted and responded by indicating there are no known resources present in the project area. The lead investigator, Mark Arsenault, recommends the use of Inadvertent Discoveries Protocol by a qualified professional archaeologist, if any previously unidentified cultural resources are encountered throughout project implementation.

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO, which were intended to mitigate impacts of existing cultivation. This includes restocking 0.53 acres with timber (Douglas Fir) that was converted after the CEQA baseline was established to remediate for loss of wildlife habitat and reestablish the timber stand. This also includes ensuring that supplemental lighting and security lighting adheres to Dark Sky Association standards, and that project related noise does not harass nearby wildlife, thus limiting impacts to biological resources caused by light and noise.

**Purpose** - Section 15164 of the CEQA Guidelines provides that the lead agency shall prepare an addendum to a previously certified MND if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

### **Summary of Significant Project Effects and Mitigation Recommended**

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an 18,300 square feet of existing cannabis cultivation fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents.

- Site Plan prepared by Timberland Resource Consultants, received 12/17/2019
- Plot Plan prepared by Timberland Resource Consultants, dated 9/1/2020 and received 9/2/2020
- Cultivation and Operations Plan prepared by Timberland Resources Consultants report dated 9/1/2020 and received 9/2/2020
- Well Completion Report, Chris Fisch, Fisch Drilling Well ID # WCR2020-011369 (located on APN 216-013--011), submitted 8/25/2020 and received 9/2/2020
- Water Resources Protection Plan (WRPP) prepared by Timberland Resource Consultants, (WDID: 1B161213CHUM) for the North Coast Regional Water Quality Control Board Order No. 2015-0023. Report dated 2/5/2018 and received 12/17/2019
- Right to Divert and Use Water (SIUR #: H100467), granted by the State Water Resources Control Board, 4/26/2019.
- Lake and Streambed Alteration Agreement for CDFW, prepared by Chris Carroll, RPF #2628, Timberland Resources Consultants. Report dated 9/27/2019 and received 12/17/2019
- Biological Reconnaissance Assessment prepared by Jessica R. Stauffer report dated 8/14/2029, received 12/17/2019
- Cultural Resource Investigation for KMS Farms, Humboldt County California, conducted by Mark Arsenault, M.A., RPA (#41855166), Principal Investigator, Arsenault & Associates, 1085 I Street, Suite 206, Arcata CA 95521. Report dated 8/31/2020, received 9/2/2020
- North West Information Center (NWIC) records search conducted by y Lisa Hagel (File #20-0268) on 9/19/2020
- Restoration and Timber Restocking Plan, conducted by Timberland Resource Consultants, report dated 7/27/2020, received 9/2/2020
- Road Evaluation Report, conducted by David Nicoletti, PE QSD/QSP, DNT Engineering & Consulting, 2731 K Street Unit A, Eureka, Ca 9550. Site assessment occurred 4/8/2019 and 5/10/2019
- Public Works Road Evaluation Report, dated 5/23/2019 and received 12/17/2019
- Cal Fire application communication with forester Lucas Titus, dated 8/30/2020
- Department of Health and Human Services, letter (find date online)

### Other CEQA Considerations

Staff suggests no changes for the revised project.

### EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT

See Purpose statement above.

For every environmental topic analyzed in this review, the potential environmental impacts of the current proposed project would be the same, similar, or less than those of the initial project for which the MND was adopted. There would be no new significant impacts or a substantial increase in the severity of an impact. Based upon this review, the following findings are supported.

### FINDINGS

1. The proposed project will permit an existing cannabis operation and bring the operation into compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.
3. For the current proposed project, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence

at the time the previous MND was adopted as complete.

## **CONCLUSION**

Based on these findings, it is concluded that an Addendum to the certified MND is appropriate to address the requirements under CEQA for the current project proposal. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND remain in full force and effect on the original project.

## ATTACHMENT 3

### Applicant's Evidence in Support of the Required Findings

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

1. The name, contact address, and phone number(s) of the applicant. **(On file)**
2. If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement. **(On file)**
3. Site plan showing the entire parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within one-quarter mile (1,320 feet) of a school, school bus stop, church or other place of religious worship, public park, or tribal cultural resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet. (Site Plan prepared by Timberland Resource Consultants, received 12/17/2019, **see map section**)
4. A cultivation and operations plan that meets or exceeds minimum legal standards for water source, storage, irrigation plan, conservation, and projected use; drainage, runoff and erosion control; watershed and habitat protection; and storage of fertilizers, pesticides, and other regulated products to be used on the parcel. A description of cultivation activities (outdoor, indoor, mixed light); the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable; and schedule of activities during each month of the growing and harvesting season. (Timberland Resources Consultants, report dated 9/1/2020– **Attached**)
5. Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable. (Not Applicable due to the presence of a well on site [WDID # 1\_12CC429820] **(Attached)**)
6. Description of water source, storage, irrigation plan, and projected water usage. (Included in Cultivation Operations Plan - see item 4 above)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board (NCRWQCB) demonstrating enrollment in Tier 1, 2 or 3, NCRWQCB Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. (Water Resources Protection Plan [WRPP] prepared by Timberland Resources Consultants, dated September 1, 2020 – **Attachment 3.A – Attached Separately and On file**)
8. If any on-site or off-site component of the cultivation facility (including access roads, water supply, grading or terracing) impacts the bed or bank of any stream or other watercourse, a copy of the Lake and Streambed Alteration Permit obtained from the California Department of Fish and Wildlife **(On file)**. (Lake and Streambed Alteration Agreement for APN 216-012-007 and 216-013-011 prepared by Timberland Resources Consultants, report dated September 27, 2019 – **Attachment 3.B Attached separately and On file**)

9. If the source of water is a well, a copy of the County well permit, if available. (WDID # 1\_12CC429820 -**On file**)
10. If the parcel is zoned FR, U or TPZ, or involves the conversion of timberland as defined under Section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that the landowner has completed a civil or criminal process and/or entered into a negotiated settlement with Cal Fire. (Restoration and Timber Restocking Plan created by Timberland Resources Consultants, dated July 27, 2020- **Attached**)
11. Consent for on-site inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter. (**On file**)
12. For indoor cultivation facilities, identification of the source of electrical power, how it will meet the energy requirements in Section 55.4.8.2.3, and the plan for compliance with applicable building codes. (**Not applicable**)
13. Acknowledgment that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section, in the event that environmental conditions, such as a sustained drought or low flows in the watershed, will not support diversions for irrigation. (**On file**)
14. Acknowledgment that the County reserves the right to engage with local tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize, or mitigate impacts to tribal cultural resources, as defined herein. Examples include, but are not limited to, conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The County shall request that a records search be performed through the California Historical Resources Information System (CHRIS). (**On file**)
15. Archaeological Survey Report for KMS Farms, Humboldt County California, conducted by Mark Arsenault, M.A., RPA (#41855166), Principal Investigator, Arsenault & Associates dated August 31, 2019, received September 2, 2020 (**On file and confidential**).
16. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits (DEH Form). (**On file**)
17. Biological Reconnaissance Report for KMS Farms, conducted by Jessica R. Stauffer, dated July 14, 2019 and received December 17, 2019. (**On file**).

CMMLUO SITE/OPERATIONS OVERVIEW 09/01/2020

APPS: 12922

APN: 216-013-011 & 216-012-007



**Project Description:** The applicant is seeking a Conditional Use Permit under the Humboldt County CMMLUO to allow continued outdoor cannabis cultivation up to 18,500 ft<sup>2</sup> and development of appurtenant support infrastructure/facilities on the subject parcel consistent with February 20, 2019 resolution determination (included). Propagation facilities totaling 1,850 ft<sup>2</sup> are also proposed.

Development of appurtenant support infrastructure/facilities proposed under this permit application includes: development of new cultivation sites, construction of an Ag Building, future water well and approved onsite wastewater disposal facilities.

The applicant acknowledges that the commercial cannabis activity approval being sought is subject to compliance with all other applicable Humboldt County zoning and land use regulations, as well as other applicable provisions of the Humboldt County Code and applicable state laws and, may also require site inspections by personnel from various governmental agencies.

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

**Parcel Information:** The subject adjoining parcels (APN: 216-013-011 & 216-012-007) comprise approximately 160 acres, are zoned AE-B-5(160) with AG framework designation and are located approximately 4 miles east of the community of Benbow.

**Topography/Landscape:** The western parcel APN: 216-013-011 is primarily forested hillside with some natural clearing in the NE quadrant. The adjoining parcel to the east APN: 216-012-007, has natural grassland hillsides on the northern section and is forested on the southern half.

**Surface Water Features:** East Branch-South Fork Eel River flows through the SE quadrant of APN: 216-012-007 with Class II tributaries connecting from the northwest and southeast.

**Roads/Stream Crossings/Easements:** Interior road conditions and crossings were evaluated as part of a Water Resources Protection Plan (WRPP) included with this submission. Road conditions/crossings requiring corrections are identified in the WRPP along with a timeline in which to complete corrective measures. Corrective measures prescribed in the WRPP do not preclude the need for roads and associated features to be brought into compliance with all applicable state and local requirements. Seasonal monitoring of road conditions and stream crossings will be completed in accordance with requirements set forth in RWQCB order No. R1-2015-0023.

There are no easements for ingress/egress to neighboring parcels on the subject parcel; parking and turnaround locations are indicated on site plan.

**Utilities:** Electrical power is supplied to the subject parcel by solar facilities, portable auxiliary generators are also onsite, domestic water is supplied from a spring, a conventional septic system serves the cabin and domestic propane is supplied by Blue Star Gas out of Garberville

**Water Supply:** Water for domestic and agricultural use is currently sourced from springs on the parcel. A permitted well has recently been completed. Documentation which demonstrates and defines the legal authorization, terms and conditions for the ongoing use of the existing water source(s) and/or development of other potential water sources (applicable to activity/development proposed under the aforementioned permit application) shall be provided upon availability.

**Water Storage:** Consists of the following

8 – 3,000 gallon tanks

19 – 5,000 gallon tanks

Current storage is 119,000 gallons. Plans to augment current storage capacity by additional storage tanks are under development in conjunction with well development.

**Residence/Structures/Facilities:** Are shown on the site plan accompanying this submission.

**Cultivation Area(s):** Pre-2016 Cultivation (CAV) recognized by the County Planning Division occurred in four (4) areas designated as follows:

Area	CAV ft <sup>2</sup>	Shade Garden Resolution ft <sup>2</sup>
A	2,529	2,529
B	3,000	3,000
C	6,800	16,471
D	450	

Proposed cultivation under this permit application intends to decommission historical “Guerrilla Grow” cultivation Area C and D (located within a topographical tributary to the Eel River) and Area B (adjacent to unstable hillside above the Eel River) for incorporation into **environmentally superior** cultivation areas around Area A in the NW parcel quadrant to achieve proper siting and appropriate watercourse setbacks.

RWQCB WDR Order R1-2015-0023 addresses historical cannabis cultivation practices proven to have detrimental impacts on water resources/ environment. The Order calls for corrective action, implementation of BMP’s and site monitoring. In this particular case, appropriately designed cultivation areas contained within a limited area will facilitate efficient implementation of BMP’s and site monitoring when compared to a piecemeal approach necessitated by multiple cultivation areas spread around steep hillsides.

In this particular case, use of extended lengths of substandard roads to attend remote cultivation areas can be discontinued by decommissioning “Guerrilla Grow” cultivation. Limiting cultivation to a more environmentally appropriate area as proposed, reduces unnecessary use of extended dirt roads thereby significantly reducing erosion/sediment transport impacts.

The decommissioning of inferior peripheral cultivation areas will allow removal and proper disposal of plastic water-line previously spread around the hillsides along with other cultivation waste materials; which will prevent unwanted materials from being transported by animals/weather to sensitive locations or impacting habitat.

The risk of spillage and/or unwanted discharge from needlessly transporting fertilizers and petroleum products to remote areas around hillsides can be nearly eliminated through decommissioning such areas and incorporating them into a more limited suitable cultivation configuration.

Decommissioning peripheral cultivation areas for re-establishment into areas having close proximity prevents ongoing habitat fragmentation and reduces the total disturbance footprint from agricultural activity.

**Restoration of the decommissioned cultivation areas will include:**

Removal and proper disposal of all cultivation related waste and materials

Evaluation of decommissioned cultivation area(s) by a qualified professional to determine if any landscape characteristics therein pose a threat to nearby drainage/watercourse features.

Implement any corrective measures identified in the decommissioned cultivation area evaluation.

Monitor decommissioned cultivation area under winter conditions to ensure any prescribed corrective measures are effective.

The removal of native tree/shrub species in the decommissioned cultivation areas was negligible as they were used to camouflage cannabis plants. Therefore, replanting of these species is not warranted.

Proposed cultivation is focused around Area A identified in the County CAV document. There are three (3) distinct sites (shown on Site Plan) which are referenced as:

<b>Area A</b>	<b>Description</b>	<b>ft<sup>2</sup></b>
<b>North</b>	30' x 110' greenhouse	<b>3,300</b>
	Triangular Full Sun	<b>1,500</b>
<b>South</b>	60' x 70' greenhouse	<b>4,200</b>
	8' x 60' bed	<b>480</b>
	Triangular Full Sun	<b>620</b>
<b>East</b>	25' x 100' greenhouse	<b>2,500</b>
	25' x 108' greenhouse	<b>2,700</b>
	Two Contoured Beds	
	Each 10' x 160'	
		<b>3,200</b>
<b>Total</b>		<b>18,500</b>

Proposed cultivation areas and surrounding ground surfaces will be evaluated in the development of a site-specific Water Resources Protection Plan (WRPP) prepared by Timberland Resource Consultants. If deemed necessary, the WRPP will prescribe corrective measures to address conditions which may adversely impact water resources and it will establish a timeline in which to achieve compliance with RWQCB Order No. R1-2015-0023. Corrective measures prescribed in the WRPP do not preclude the need for Cultivation Areas and/or other manmade features to be brought into compliance with all applicable state and local grading, excavation and erosion/sediment control requirements. Cultivation areas will be monitored to ensure operations and activities conducted therein are in compliance with applicable regulations and water resources are not adversely impacted.

**Peak Water Demand:** The projected peak monthly water demand to maintain plant growth during the warm summer months is approximately 31,000 gallons per month. The “Monthly Water Use” Table below shows projected water use (gallons) throughout the growing season.

*January-March: No Water Use*

month	gallons
April	5,000
May	16,000
June	20,000
July	35,000
August	40,000
September	31,000
October	12,000

Totalizing flow meters shall be installed into the irrigation system to monitor and record water usage in accordance with applicable state/local requirements

**Irrigation Method(s):** Irrigation is accomplished by use of drip lines. The flow to drip lines is regulated by timers and adjusted for maximum efficiency taking into consideration temperature, plant demand etc. Water delivery throughout the system is carefully monitored on a regular basis to ensure proper function and responsible water use. Mulch is carefully placed as a top dressing to optimize soil water retention. Occasional hand watering may be employed if needed.

**Irrigation Runoff/Erosion control:** Irrigation runoff from cultivation areas is minimized by the use of carefully regulated drip irrigation to prevent any overwatering or residual discharge of nutrient solutions outside of the “targeted” root zone. In the unlikely event that residual discharge did occur, it would be absorbed upon contact with permeable soil surrounding the cultivation area. Cultivation activities are limited to the immediate area surrounding cultivation areas and conducted so materials are kept confined. The ground surface within and around the cultivation areas is formed and managed year-round to prevent any movement of entrained constituents such as fine sediment, fertilizer or other organic particles beyond the cultivation area.

**Watershed Protection:** Cultivation Areas on the subject parcels meet applicable setback requirements to watercourses, riparian zones or wetlands (see site plan). Transport of cultivation byproducts over permeable, gently sloped soils in and around the cultivation area is unlikely. Vegetative buffers have been maintained at natural slope around the entire perimeter cultivation areas. Watershed protection will be further ensured by adherence to measures prescribed in the Water Resources Protection Plan (WDID: 1B161213CHUM) developed specifically for this parcel by Timberland Resource Consultants under Regional Water Quality Control Board WDR Order # R1-2015-0023 enrollment requirements. Included with this submittal is a signed copy of Appendix A, "Enrollment Notice of Intent".

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

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

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

Electric power is currently supplied on the subject parcel(s) from solar panels. Expansion and upgrades to the solar system are planned and the use of generators would only occur in the unlikely event of that solar electric facilities failed. There is no anticipated noise expected with cultivation.

Black-out tarps shall be utilized to prevent any light spillage from propagation facilities. The tarps shall be in place any times lights are in use from 1 hour prior to sunset and 30 minutes post-sunrise.

The noise level from interim generator (Honda EU2000) usage at a location 100 feet from the source is not expected to exceed 19 Db according to

[https://www.engineeringtoolbox.com/inverse-square-law-d\\_890.html](https://www.engineeringtoolbox.com/inverse-square-law-d_890.html)

Generator usage shall not occur any closer than 100 feet from any neighboring property line.

***Fertilizers/Amendments/Regulated Products:***

***List and describe machinery and equipment used for cultivation and associated activities.***

Electrical power is primarily derived from solar facilities; there are portable Honda EU2000 generators retained for auxiliary back up purposes. Dehumidifiers and fans may be used on occasion as well as heaters. There are two ATV's also used occasionally.

***Describe equipment service and maintenance; including where it is done.***

Generator oil changes may be done on site with proper spill containment in place. Other equipment will be serviced in Redway or Garberville.

***List and describe petroleum products and automotive fluids used onsite.***

Gasoline is kept in conventional gas containers inside the Ag building, quantities normally not exceeding 25 gallons. Spill kits shall be kept alongside gasoline canisters.

***List and describe compressed gases, cleaners, solvents and sanitizers; indicate amounts normally stored and how/where they are stored.***

Domestic propane is delivered from Blue Star Gas in Garberville and stored in a standard propane tank located behind the house. Small quantities of rubbing alcohol and Clean Green cleaner may be stored with other domestic products inside the residence beneath the kitchen sink.

***List and describe fertilizers, soil amendments, pesticides, herbicides and rodenticides used.***

***Indicate the amount normally stored and how/where they are stored***

The following products are used primarily at the start of the grow season. The mixing of these products takes place only within a small area near cultivation sites and the products are kept protected from accidental spillage or disturbance from wildlife during that process.

Earth Worm Castings
Organic Chicken Manure
Bone Meal
Feather Meal
Kelp Meal
Alfalfa Meal
Bat/Seabird Guano
Humus/Humic Acid
Vermicrop: Grow
Bloom
PK Boost
Dr. Zymes (OMRI Listed)
Insect Frass

Any product remaining after initial start-up will be **stored** in original packaging atop pallets inside the Ag building protected from weather in accordance with manufacturers requirements. The applicant acknowledges that the storage and/or use of certain materials in specified volumes and/or weights will be subject to regulation through Humboldt County Division of Environmental Health CUPA and may require: submittal of inventories for those materials, documentation of emergency and training procedures, maintenance of hazardous waste disposal records, obtaining an EPA generator ID number and be subject to site inspections.

**Cultivation Related Wastes:** Cultivation related wastes are sorted such that compostable materials are recycled/composted onsite within a small area equipped with perimeter and top containment to prevent unwanted movement of materials due to weather conditions or animals/pests. Other materials, unsuitable for composting, are stored in conventional lid trash containers along with domestic garbage and hauled to an approved transfer station/disposal facility as needed. If necessary, exhausted soil is removed from cultivation beds and carefully mixed and spread over native soils on level ground at select locations to initiate microbial reconditioning and prevent unwanted constituent migration. Spent growth medium containing inorganic substances such as perlite, will be stored in weatherproof containers and hauled to an approved waste facility as needed.

**Human Waste:** Normal day to day operations shall be carried out by individuals residing on the subject parcel. **Restrooms** connected to conventional septic tank leach-field systems are located inside the residence/dwelling on the subject parcel and they are within close proximity to all cultivation areas and are easily accessed by the residents.

	<b>Cultivation Practices</b> – Up to four (4) individuals in addition to owner/applicant may reside on premises and assist w/operations.	Back-Up Generator Hours/day	Lights On Hours/day
January	No cultivation activities, site monitoring and planning		
February	Implement control measures if needed, site preparation		
March	Prepare gardens and agricultural infrastructure, initiate plant (supplemental lighting) propagation if weather conditions allow.	Solar Power	4
April	Continue garden preparations and plant propagation (supplemental lighting). Ongoing site maintenance.	Solar Power	4
May	Ongoing garden care - finish supplemental lighting, continue overall property maintenance	Solar Power	4
June	General garden care		
July	Continue garden care and maintenance, initiate 1 <sup>st</sup> round harvest, set plants to dry		
August	1 <sup>st</sup> round harvest/dry complete, offsite processing, ongoing garden care		
September	Continue garden care and site maintenance		
October	2 <sup>ND</sup> round harvest		
November	Clean up cultivation sites, winterize roads etc.		

**Processing:** Plants are periodically inspected to ensure that any indication of pests, molds, mildews or disease are immediately addressed and crop quality is maintained. When ready, individual plants are hand harvested, placed inside clean transport containers and immediately transferred to the Ag building where they are hung to dry. The drying area is cleaned thoroughly prior to placement of any harvested plants therein to minimize potential contaminant contact. Natural air flow may be supplemented with careful use of household fans facilitate drying and maintain product quality control.

There are four (4) employees utilized in the cultivation operations on the subject parcel during peak operations.

All equipment, surfaces and tools used in the harvesting/drying of cultivated product are used exclusively for that purpose. Equipment, surfaces and tools are visually inspected, washed and sanitized throughout the day. A Gentle detergent (such as *Simple Green or equivalent*) is used for cleaning followed by rinsing with potable water. Isopropyl Alcohol is applied as a sanitizer.

The applicant/operator is cognizant of potential mold and mildew problems associated with cultivation/processing. Handwashing with potable water and soap occurs upon entrance into the Ag building and any suspect plant matter which appears compromised for any reason is carefully removed and disposed of avoiding cross contaminant contact with other product, equipment or utensils. A separately designated green-waste stream is implemented to recycle plant waste.

The applicant/operator is well versed in the use/cleaning of equipment utilized throughout the operation. Cleaning materials are stored on shelves away from working surfaces. A fire extinguisher is readily available. The working space is kept clean and orderly.

Ample potable water for handwashing and restroom facilities are in close proximity to the Ag building. The restroom is equipped with first aid kits and eye-wash kits for emergency use. Wastewater from the restroom is plumbed to a conventional septic system. Cultivation operations are carried out by owner/applicant individuals residing on the property, not transient/temporary employees; therefore, the daily **wastewater flow** will not increase above normal domestic usage.

Individuals handling harvested plants will receive information/training prior to commencement of any work to ensure all operational activities are conducted in a safe manner. This will include the following:

Explanation of the required use of personal protection equipment – sterile safety gloves, protective eyewear and respiratory protection.

Emergency action response plans.

Fire prevention and response.

Hazard communications policies, including maintenance of material safety sheets (MSDS).

Job hazard analyses.

Periodic review and evaluation of operational practices including security procedures.

Dried Plants will be sent off-site to a licensed third party facility to undergo further processing.

**Security:** Access to the parcel is restricted by use of locking metal gates at private road entrances. Premises is normally occupied by property owner(s) and/or other residents.



RECEIVED

OCT 31 2019

HUMBOLDT CO. DIVISION  
OF ENVIRONMENTAL HEALTH

Division of Environmental Health

100 H Street - Suite 100 - Eureka, CA 95501

Phone: 707-445-6215 - Toll Free: 800-963-9241

Fax: 707-441-5699

envhealth@co.humboldt.ca.us

19/20-0350

**WATER WELL APPLICATION**

**CONSTRUCTION - REPAIR - DESTRUCTION**

The Well Permit will be returned to the property owner when approved by  
Humboldt County Division of Environmental Health (DEH)



**Instructions:**

1. Complete both sides and submit the Water Well Application with required fee. Include Well Driller's signature and property owner's signature.
2. Work on a well shall not be started prior to approval of the Water Well Application by DEH.
3. Any changes made to the location of a new well shall be approved by DEH prior to commencement of drilling.
4. Well Driller shall notify DEH a minimum of 24 hours prior to sealing the annular space.

Site Address	Reed Mountain Road	APN	216-013-011
City/State/Zip	Benbow	CA	95542
Directions to Site	From Hwy 101 Exit Benbow Dr. Turn Rt on Reed Mtn Rd (under overpass) Drive about 7 miles keep Left at any forks. Look for BEAR wood carving, keep Left		
Applicant	FISCH DRILLING	Contact	CHRIS FISCH
Mailing Address	3150 JOHNSON ROAD	Work Phone	707-768-9800
City/State/Zip	HYDESVILLE, CA 95547	Cell Phone	
Property Owner	KMS Holdings, LLC Co Kent Eubanks	Home Phone	
Mailing Address	12503 Saratoga Creek Drive	Work Phone	
City/State/Zip	Saratoga, CA 95070	Cell Phone	510-549-6123
I hereby grant 'right-of-entry' for inspection purposes			
Drilling	C-57		
Contractor	FISCH DRILLING	License #	683865
I hereby agree to comply with all laws and regulations of the County of Humboldt and the State of California Department of Water Resources Bulletin 74 pertaining to water well construction. I will contact Humboldt County Division of Environmental Health (DEH) when I commence work. Within 30 days after completion of work, I will furnish DEH a report of the work performed.			
Well Driller Signature:	Chris Fisch		
Would driller like a copy of approved application?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
<input type="checkbox"/> U.S. Mail address:			
<input checked="" type="checkbox"/> Email address:	chris@fischdrilling.com		
Type of Application:	Construction:	Intended Use:	
<input checked="" type="checkbox"/> Construction	Estimated Depth (ft.)	<input type="checkbox"/> Domestic - private	
<input type="checkbox"/> Destruction	Diameter (in.)	<input type="checkbox"/> Community Supply	
<input type="checkbox"/> Repair/Modification	Depth of Seal (ft.)	<input checked="" type="checkbox"/> Irrigation	
	Sealing Material	<input type="checkbox"/> Other	
	BENTONITE		

<b>Estimated Work Dates:</b> Start _____ Completion _____	<b>Casing:</b> Diameter (in.) <u>5"</u> Material <u>PVC</u>	<b>Type of Sewage System:</b> <input type="checkbox"/> Community Sewer <input checked="" type="checkbox"/> OWTS (Septic) Distance from well site to OWTS <u>200'</u>
<b>Special Requirements/Comments:</b> Lat Long Top Spot 40.0280 -123.7088 2nd site 40.02695 -123.70724 _____ _____ _____ _____		
<b>PLOT PLAN</b>		

**FOR OFFICE USE ONLY**

Fee: <u>\$377</u> Date: <u>10/31/19</u> Receipt: <u>310915</u> Project #: <u>19/20-0350</u> Paid by: <u>FISHL DALL</u>	Site Approved by: <u>J. Whitham</u> Site Approved Date: <u>11/6/19</u> Sealed to Depth of: _____ Seal observed: <input type="checkbox"/> Yes <input type="checkbox"/> No Final Approved Date: _____
--	---

Well Owner (must remain confidential pursuant to Water Code 13752)					Planned Use and Activity	
Name	KMS HOLDINGS, LLC, Kent Eubanks				Activity	New Well
Mailing Address	12503 Saratoga Creek Drive				Planned Use	Water Supply Irrigation - Agriculture
City	Saratoga	State	CA	Zip	95070	

Address										0 Reed Mountain RD										APN										216-0103-011																																																																																									
City										Benbow										Zip										95542										County										Humboldt										Township										05 S																																																	
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Dec. Lat.										40.026881																				Dec. Long.										-123.707116																				Baseline Meridian										Humboldt																																																	
Vertical Datum																				Horizontal Datum										WGS84																				Ground Surface Elevation																																																																					
Location Accuracy																				Location Determination Method																				Elevation Accuracy																																																																															
																																								Elevation Determination Method																																																																															

Orientation	Vertical	Specify	
Drilling Method	Other - under-ream down hole hammer	Drilling Fluid	Air
Total Depth of Boring	180	Feet	
Total Depth of Completed Well	180	Feet	

Depth to first water	30	(Feet below surface)	
Depth to Static			
Water Level	28	(Feet)	Date Measured 08/18/2020
Estimated Yield*	6	(GPM)	Test Type Air Lift
Test Length	4	(Hours)	Total Drawdown 150 (feet)

\*May not be representative of a well's long term yield.

Depth from Surface Feet to Feet		Description
0	4	top soil
4	18	brown clay
18	25	soft serpentine
25	41	hard serpentine
41	82	green sandstone
82	111	hard shale with quartz
111	180	soft shale serpentine mix

### Casings

Casing #	Depth from Surface Feet to Feet		Casing Type	Material	Casings Specifications	Wall Thickness (inches)	Outside Diameter (inches)	Screen Type	Slot Size If any (inches)	Description
1	0	30	Blank	Low Carbon Steel	Grade: ASTM A53	0.188	6			
1	30	120	Screen	Low Carbon Steel	Grade: ASTM A53	0.188	6	Milled Slots	0.05	
1	120	180	Blank	Low Carbon Steel	Grade: ASTM A53	0.188	6			

### Annular Material

Depth from Surface Feet to Feet		Fill	Fill Type Details	Filter Pack Size	Description
0	20	Bentonite	Other Bentonite		Sanitary Seal
20	180	Filter Pack	Other Gravel Pack	3/8 inch	Pea Gravel

### Other Observations:

### Borehole Specifications

Depth from Surface Feet to Feet		Borehole Diameter (inches)
0	180	10

### Certification Statement

I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief

Name FISCH DRILLING  
 Person, Firm or Corporation  
3150 JOHNSON ROAD HYDEVILLE CA 95547  
 Address City State Zip  
 Signed *electronic signature received* 08/25/2020 683865  
 C-57 Licensed Water Well Contractor Date Signed C-57 License Number

### Attachments

scan.pdf - Location Map

### DWR Use Only

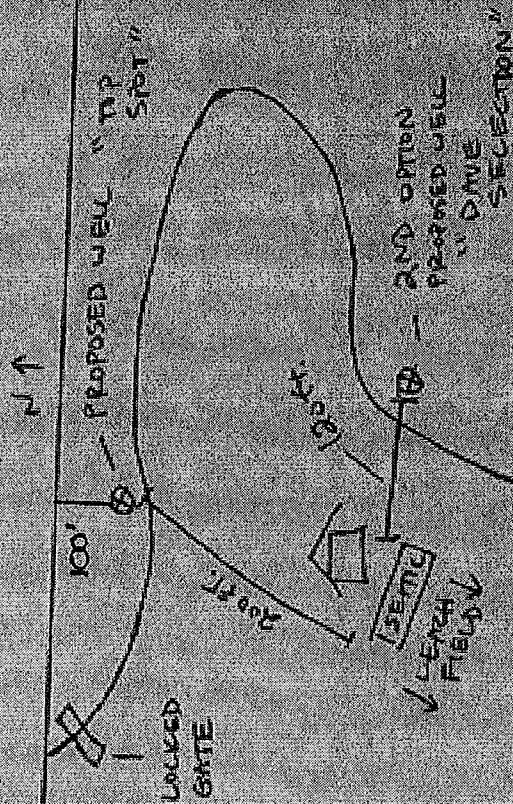
CSG #	State Well Number	Site Code	Local Well Number

Latitude Deg/Min/Sec Longitude Deg/Min/Sec

TRS:

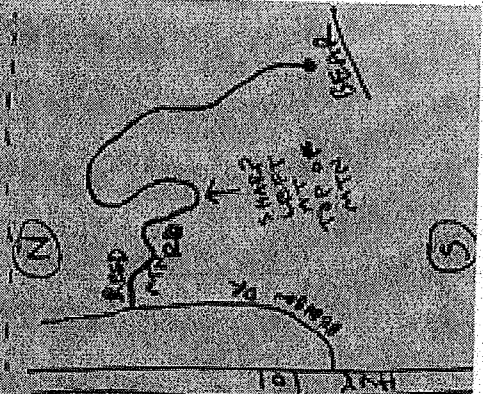
APN:

# SITE MAP



DIRECTIONS TO  
PARCEL:

FROM HWY 101  
EXIT GEMBOW DE.  
TURN RIGHT ON  
REED MOUNTAIN RD.  
(UNDER OVERPASS)  
DRIVE APPROX 7 MI  
KEEP LEFT AT  
ANY FORKS.  
YOU WILL SEE A  
BEAR WOOD  
CARVING, KEEP  
LEFT. MEET  
YOU THERE.



**lacy@fischdrilling.com**

---

**From:** chris@fischdrilling.com  
**Sent:** Tuesday, August 25, 2020 10:22 AM  
**To:** lacy@fischdrilling.com  
**Subject:** FW: OSWCR: Thank you for submitting Well Completion Report WCR2020-011369

Thank you,

Chris Fisch  
Fisch Drilling

**From:** OSWCR-NoReply@water.ca.gov <OSWCR-NoReply@water.ca.gov>  
**Sent:** Tuesday, August 25, 2020 10:21 AM  
**To:** chris@fischdrilling.com  
**Subject:** OSWCR: Thank you for submitting Well Completion Report WCR2020-011369

**\*\*\*\*\*Please do not reply to this e-mail message\*\*\*\*\***

Thank you for submitting your Well Completion Report - A New Production or Monitoring Well, **WCR2020-011369**, using the Online System for Well Completion Reports (OSWCR). The Department of Water Resources will review it for completeness. You will be notified if additional information is required. If you have any questions, please call your local DWR Region Office WCR contact.

DWR Northern Region Office  
April Scholzen  
(530)529-7368  
April.Scholzen@water.ca.gov

To view this record, log in to OSWCR, or use the following link:  
[https://clivicnet.resources.ca.gov/DWR\\_WELLS/ur/routing.ashx?type=1000&Module=WellCompletion&capID1=20CAP&capID2=00000&capID3=009DZ&agencyCode=DWR\\_WELLS](https://clivicnet.resources.ca.gov/DWR_WELLS/ur/routing.ashx?type=1000&Module=WellCompletion&capID1=20CAP&capID2=00000&capID3=009DZ&agencyCode=DWR_WELLS)

Licensed Contractor: FISCH DRILLING License Number: 683865  
Well Owner: Kent Eubanks KMS Holdings, LLC  
Well Owner Address: 12503 Saratoga Creek Drive Saratoga CA 95070

Well Address: 0 Reed Mountain RD, Benbow, CA 95542 County: Humboldt Parcel: 216-0103-011  
Latitude/Longitude: 40.026881°N, -123.707116°W  
Submitted: 08/25/2020  
Record Status: Submitted

# Restoration Plan



**APN 216-013-011**  
**Application #12922**

*Prepared by:*



165 South Fortuna Boulevard, Fortuna, CA 95540  
707-725-1897 • fax 707-725-0972  
trc@timberlandresource.com

July 27, 2020

## **Purpose**

This Restoration Plan has been prepared on behalf of Kent Eubanks, Michael Ramos, and Soren Jensen; the present owners of property identified as Assessor Parcel Number's 216-012-007 & 216-013-011. This Restoration Plan is being submitted to the Humboldt County Planning and Building Department to demonstrate compliance with Application Number 12922, which requires the restoration of Cultivation Area D as shown on the attached maps.

## **Project Location – Cultivation Area D**

APN: 216-013-011

Acreage: 77 acres

Legal Description: E ½ of NE ¼ of Section 15

Township 5 South, Range 4 East,

Humboldt Base & Meridian, Humboldt County

Located on USGS 7.5' Quadrangle: Harris

Humboldt County Zoning: AE-B-5(160) and Timber Production

Site Address: None

## **Cultivation Area D**

Review of Terra Server aerial imagery reveals that the Cultivation Area D was constructed between 4-20-2017 and 6-17-2017 on a rocky ridge located approximately 500 feet upslope of the East Branch South Fork Eel River. Review of aerial imagery reveals that Cultivation Area D and surrounding timbered areas were harvested between 1948 and 1968 (likely late 1950's/early 1960's). Cultivation Area D is located on what appears to be either a small log landing, road turn-out, or other disturbed area associated with the truck road or skid trail system used for the harvesting of the scattered old growth Douglas-fir. The timber surrounding Cultivation Area D consists of combination of second growth tanoak and Douglas-fir, and old growth (never harvested) patches of live oak, madrone, and tanoak. Given the rocky nature of this site, this particular area was never completely clearcut/regenerated in the late 1950's/early 1960's. Harvesting was patchy due to the low concentration of old growth Douglas-fir and resembled a "fuzzy clearcut".

Per the Water Resource Protection Plan, Cultivation Area D is located on a graded flat with slopes of less than 5% and adjoining natural hillslopes of approximately 30 to 40%. The terrace has been excavated into an extremely rocky hillside consisting of bedrock of the Yager Formation. Rocks from the Yager Formation are much harder than those of the older Franciscan and the younger formations which overlie it. Consequently, Cultivation Area D's cut banks, albeit steep, are extremely rocky, planar, and stable. Likewise, the fill material is similarly rocky with no signs of slumping or sloughing.

## **Restoration of Cultivation Area D**

The landowner shall remove all cultivation related infrastructure and material from the cultivation site and surrounding areas. Trash, refuse, and solid waste shall be disposed of at an appropriate waste disposal facility. Any exposed bare mineral soil shall be treated with erosion control in the form of grass seed and straw mulch per the following Revegetation Plan. In addition, the site shall be replanted per the following Restocking Plan with conifers to improve timberland productivity. Restoration to natural contours is not necessary or recommended. This site is an historic log landing, which may be re-used as such in the future. Common treatment for temporary log landings

that are expected to be needed in the future is "Deactivation" per 14CCR 895.1 of the Forest Practice Rules as follows.

***Deactivation** means implementing measures necessary to prevent the active use of an existing logging road, landing, or logging road watercourse crossing.*

Deactivated landings are left in a condition that provides for long-term, maintenance-free function of drainage and erosion controls until such future time when timber operations are to occur. TRC recommends that the landing be "deactivated". This will not require any grading. Based upon the landowner's Water Resource Protection Plan, there were no erosion

### **Cannabis Irrigation and Water Infrastructure**

Plastic water tanks, poly-piping and any other associated infrastructure or equipment shall be removed and properly disposed of or stored off-site. The source of water for cannabis irrigation are two surface diversions located upslope to the northwest. This source will continue to be used for irrigation purposes on other cultivation sites located on the property.

### **Appurtenant Seasonal Access Road**

All roads on the property shall be maintained per State Water Resources Control Board Order WQ 2019-0001-DWQ (WDID:1\_12CC418830); which states the following:

*Cannabis cultivators shall ensure that all access roads are hydrologically disconnected to receiving waters to the extent possible by installing disconnecting drainage features, increasing the frequency of (inside) ditch drain relief as needed, constructing out-sloped roads, constructing energy dissipating structures, avoiding concentrating flows in unstable areas, and performing inspection and maintenance as needed to optimize the access road performance.*

The Site Management Plan will propose the abandonment of the steep spur road accessing Cultivation Site D from the west. The balance of the existing seasonal road shall be kept open and passable but requires upgrading. The site-specific location for drainage structures and facilities are identified in the landowner's SMP.

### **Revegetation Plan**

Reseeding Methods: Reseeding is key to site restoration, especially at sites where understory vegetation or topsoil has been removed. Grasses are fast-growing and quickly provide vegetative cover to protect exposed soils from erosion. Native grasses are typically better adapted to site-specific climate and environmental conditions. Though reseeding is a simple practice, timing is important. Seeds should be planted during the wet seasons so soils are viable for seed germination. Planting during hot summer or early fall months can deprive seeds of necessary moisture.

*Recommendation:* Reseed all bare mineral soil within Cultivation Area D, and any additional areas of disturbed soil with a native grass seed mix. Manually distribute seed mix evenly across the site during late fall, winter, or early spring and follow any specific instructions accompanying seed mix. No equipment use or seed burial is required. Some areas will have begun to naturally revegetate; if a given area has more than 75% ground cover, no reseeding is necessary. Though the seed mix may vary, the RPF recommends the following:

#### Native Erosion Control Mix

##### Species Content:

- Bromus carinatus, California Brome
- Elymus glaucus, Blue Wildrye
- Festuca microstachys, Small Fescue
- Trifolium willdenovii, Tomcat Clover

This grass mixture features California native grasses that are acclimated to varying conditions around our state. Typically, this mix will grow 2 to 3 ft tall given normal soil conditions and normal rainfall patterns. On shallow soils, there is potential for vegetative cover if there are adequate resources to sustain 24 to 36 inches of annual reseeding vegetation. This mix can be modified with the addition of other species including wildflowers.

This seed mix can be purchased from Pacific Coast Seed in Livermore, California, on the following website: <http://store.pcseed.com/product/UNative-Erosion-Control-Mix.aspx>

Straw Mulching: Straw mulching can be used to protect newly sown seeds from wind and high precipitation events as well as stabilize exposed soils. Water Board Order WQ 2019-0001-DWQ requires that restored areas must be mulched, using at least 2 to 4 inches of weed-free, clean straw or similar biodegradable mulch over the seeded area.

*Recommendation:* After reseeding, apply weed-free straw mulch to Cultivation Area D and all additional areas of disturbed soil at one bale per 800 square feet. Some areas will have begun to naturally revegetate; if a given area has more than 75% ground cover, no mulching is necessary. See NRCS Straw Mulching guidelines for more instructions.



**RESTOCKING PLAN**  
**FOR**  
**APN 216-013-011**

July 27, 2020

165 South Fortuna Blvd  
Fortuna, CA 95540  
707-725-1897  
707-725-0972 Fax  
[trc@timberlandresource.com](mailto:trc@timberlandresource.com)

## Restocking Plan

**Restocking Area:** See attached Restoration Plan Map

Site	Total Acreage	# Trees at 10'x10' Spacing
Cultivation Area D	0.53	231

**Site Preparation:** Site preparation is commonly utilized to facilitate timber stand establishment. The primary objective of this practice is to create an area suitable for planting seedlings and establishing a new stand of trees. Site preparation activities remove or reduce competing vegetation, reduce or remove unwanted trees and logging debris, and prepare the soil to ultimately promote the growth and survival of desired tree species. There are many methods of site preparation that fall under either chemical or mechanical site preparation. Subsoiling/ripping is a mechanical site prep method for heavy soils on cutover timberlands or agricultural lands that have a compacted layer at or below the soil surface that limits root growth and development. Subsoiling/ripping increases aeration and water-holding capacity of compacted soils and breaks up root restricting hardpans and/or traffic pans. Chemical preparation includes broadcast and directed herbicide application.

*Recommendation:* Mechanical site preparation in the form of ripping is required at Cultivation Area D.

**Types of Seedlings:** Harvested and/or understocked timberlands should be artificially regenerated with naturally-occurring conifer species and cultivars well-adapted to the timber stand's specific climate, elevation, and other environmental conditions. Planting seedlings from appropriate seed zones and elevation ranges ensures better seedling success and, eventually, a more resilient timber stand. Specifically, timberland within the property is characterized by Douglas-fir. The areas to be planted occur within California Seed Zone 340 at approximately 1,000 feet in elevation.

*Recommendation:* The landowner shall plant Douglas-fir, (best suited for Seed Zone 340 at 1,000-foot elevation) at a uniform spacing no less than 10-feet by 10-feet, or 435 trees per acre.

Most conifer seedlings that come from nurseries are available in two forms: bareroot seedlings and containerized seedlings. Bareroot seedlings are essentially stock whose roots are exposed at the time of planting. Bareroot seedlings are grown in nursery seedbeds and lifted from the soil in which they are grown to be planted in the field. Containerized seedlings are grown individually in a variety of hard-walled vessels or in peat pots from seed. They're typically more expensive than bareroots but usually have a higher survival rate after planting due to their well-formed root system.

*Recommendation:* Given the conditions of the site and the higher survival rate associated with containerized stock, use containerized seedlings if available.

**Seedling Care:** Seedling care and handling is extremely important to ensure post planting survival.

*Recommendation:* For long-term storage (more than 3 days), store seedlings at 33 to 36 degrees Fahrenheit. For short-term storage (several hours to less than 3 days), store below 42 degrees Fahrenheit. At the planting site, take care not to let the roots dry out and avoid exposure to the sun or warmer temperatures.

**Stock Purchase:** Ideally, landowners should procure seedlings from sources growing local, site-specific stock. Appropriate stock is determined by stand type, seed zone, elevation, as well as other factors like soil type, site quality, and weather.

*Recommendation:* The RPF recommends acquiring conifer seedlings from Green Diamond Resource Company's nursery in Korbel, California. For inquiries, contact Nursery Superintendent Glen Lehar at (707) 668-4439. He will recommend the appropriate stock based on geographic area and site conditions.

## Restocking Plan

**Planting Instructions:** When planting seedlings, the landowner or tree planter should abide by the following:

1. Tree planting shall only occur in winter or early spring. Tree planting should not occur if the ground is frozen or during unusually warm periods.
2. Dig a hole at least one inch deeper and wider than the seedling roots. If planting from a container, dig the hole an inch deeper and wider than the container.
3. Place the seedling into the hole taking care not to bend the taproot, or main vertical root, and cover with soil.
4. Pack the soil down firmly around the seedling to remove any air pockets.
5. See Appendices A-D for illustrations for correct planting techniques.

**Monitoring Seedling Survival:** Although a newly planted stand immediately fulfills stocking standards, the timber stand must continually contain an average density of at least 300 trees per acre (or 12-foot by 12-foot spacing) in order to meet the intent of the California Forest Practice Rules (CFPRs). A **Countable Tree** per 14CCR 895.1 must be in place at least two growing seasons among other requirements. Seedling survival can vary widely depending on several factors including genetics, weather, herbivory, etc. Monitoring growth and success of planted seedlings is key to ensure a minimum 300-point count stocking level is maintained or achieved 2-years after planting.

**Recommendation:** Monitor growth and success of planted trees one year after planting. Conduct a point count stocking sampling survey (protocol described in CFPRs 14CCR 1072). If less than 55% of the planted area meets the 300-point count minimum stocking level, repeat the planting process.

**Certification:** Within five years of planting, a report of stocking shall be submitted to the county by an RPF, which certifies that the area meets the minimum stocking standards of 14 CCR 912.7.

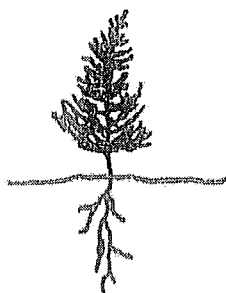
Sincerely,



Chris Carroll, RPF# 2628  
Timberland Resource Consultants

## APPENDIX A

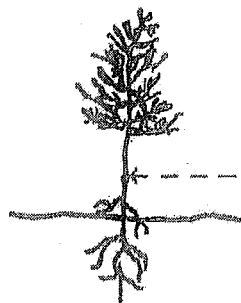
### CORRECT METHOD OF SEEDLING PLANTING



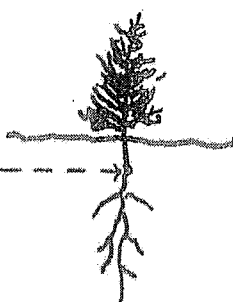
- Soil firmly packed around roots.
- No air pockets.
- Roots straight with no J or L bends.
- Root collar at or slightly below ground level.
- Root not pruned.

### ERROR IN PLANTING

**Too shallow**



**Too Deep**

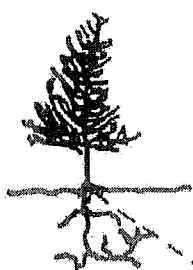


Root Collar

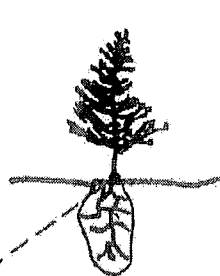
- Hole not deep enough.
- Root collar and upper roots exposed.
- Roots dry out.

- Hole is too deep.
- Root collar buried.

**J or L Roots**



**Air Pockets**



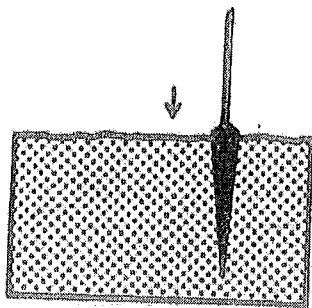
Root Collar

Hole is not deep enough — planting in rocky soil.  
Roots cannot effectively take up water.  
Tree not wind-firm.

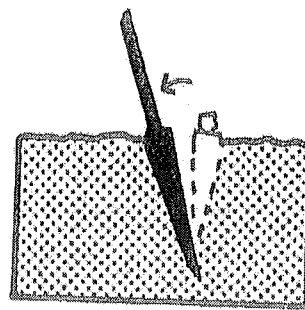
- Soil not firmly packed around roots.
- Air pocket forms.
- Roots dry out.

APPENDIX B  
PLANTING WITH A FLAT BAR

1. Insert flat bar straight down.

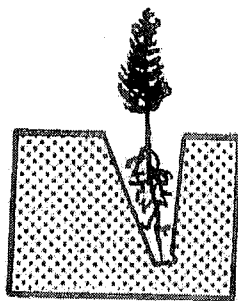


2. Pull flat bar backward to open hole.

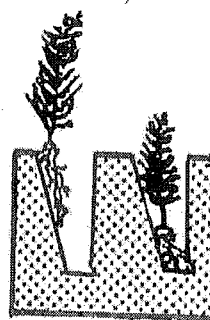


3. Remove flat bar and place seedling at correct depth with root collar at or slightly below ground level.

Correct

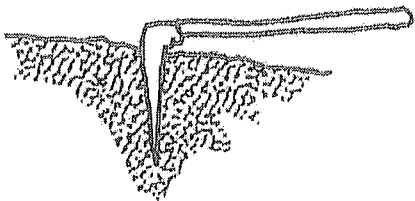


Incorrect

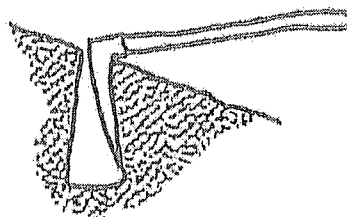


APPENDIX C  
PLANTING WITH A HOE

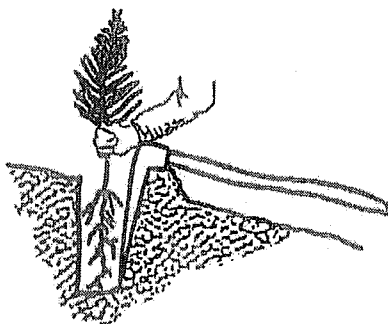
1. Swing hoe to get full penetration.



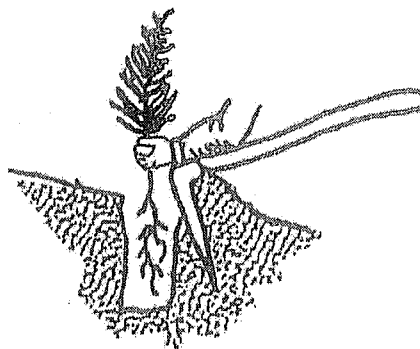
2. Lift handle and pull up to widen hole.



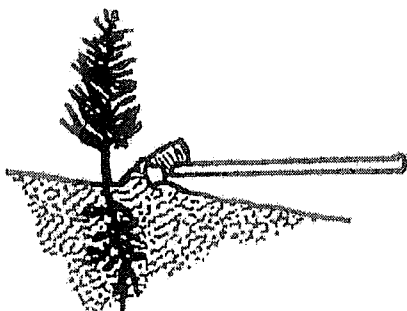
3. Place seedling while using hoe to hold back soil.



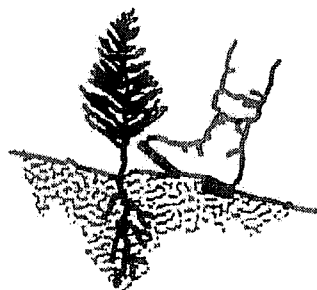
4. Use hoe to pack soil at bottom of hole.



5. Use hoe to pack soil at top hole.

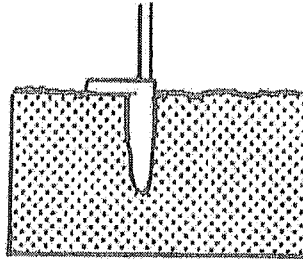


6. Firm soil around seedling with feet.

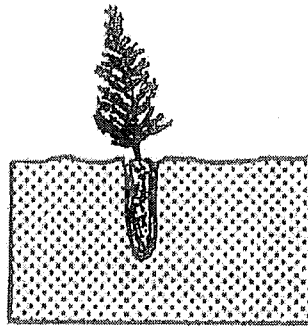
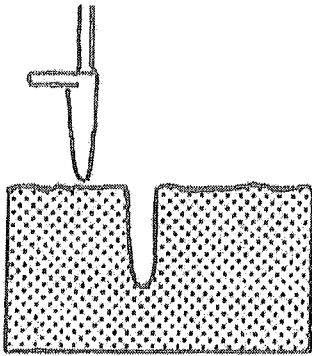


APPENDIX D  
PUNTING WITH A PLUG BAR

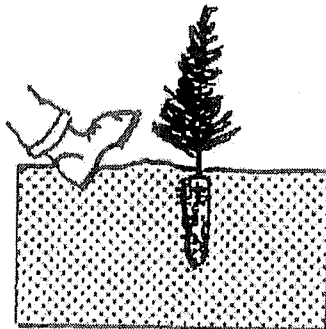
1. Insert plug bar straight down until plug bar footrest is level with ground.



2. Remove plug bar and place seedling in hole.



3. Firm soil around seedling with heel of boot.



# Restoration Plan Map



Property Boundary



Cultivation Area



Abandoned & Relocated Cultivation Area



Restoration Area

## Watercourses

Class I

Class II

Class III

## Roads

Permanent

Seasonal

Trail



Unstable Area



Point of Diversion (POD)



Water storage tank



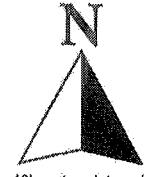
Shed



Residence



Barn



40' contour intervals  
Map Scale 1" = 350'  
Map Date 1-30-2019

APN 216-013-011

APN 216-012-007

POD 1

POD 2

POD 3

CAB

CAA

CAC

CAG

CAE

CAF

CAD

East Branch

South Fork

Eel River

## ATTACHMENT 4

### REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

The project was referred to the following agencies for review and comment.

AG Commissioner, County Counsel, District Attorney, Environmental Health, Sheriff, PW Land Use, Building Inspections, FPD: Palo Verde VFC, RWQCB, NCUAQMD, School District: Southern Humboldt JUSD, Cal Fish & Wildlife, Division of Water Resources, CalFire, CA Division of Water Rights, Intertribal Sinkyone Wilderness Council, NWIC, Williamson Act, FPD: Garberville VFD

The agencies that provided written comments are noted below.

Referral Agency	Response	Recommendation	Location
Building Inspection Division	✓	Approved	Attached
Department of Health & Human Services	✓	Conditional Approval	Attached
Public Works, Land Use Division	✓	Revisions Required	Attached
CalFIRE	✓	No Comment	Attached
Northwest Information Center (NWIC)	✓		On File
Sheriff	✓		On File

**PLN-12922-CUP**

KMS Farms, LLC 18,500 sf existing outdoor  
Conditional Use Permit for 18,500 sf of exist...

**STATUS**

> In Referrals  
08/03/2020 by John Moredo

**LOCATION**

> None Pr

## Summary

## Project Description

## Workflow

## 1 Referral Assignments

## 2 Planning Information

## 3 GP / Zoning Information

## 4 CEQA

## 5 Cannabis

## Project Tracking

## 6 Referral Task Log (2)

## Fee (4)

## Payment

Cancel

Help

Task	Due Date	Assigned Date
Building Inspections	08/14/2020	
Assigned to Department	Assigned to	Status
Building Department		Approved
Action by Department	Action By	Status Date
Building Department	Ross Eskra	08/27/2020
Start Time	End Time	Hours Spent
		0.0
Billable	Overtime	Comments
No	No	Planning referral completed. Approved
Time Tracking Start Date	Est. Completion Date	In Possession Time (hrs)
Display E-mail Address in ACA	<input checked="" type="checkbox"/> Display Comment in ACA	Comment Display in ACA
No		<input checked="" type="checkbox"/> All ACA Users
		<input checked="" type="checkbox"/> Record Creator
		<input checked="" type="checkbox"/> Licensed Professional
		<input checked="" type="checkbox"/> Contact
		<input checked="" type="checkbox"/> Owner
Estimated Hours	Action	Workflow Calendar
0.0	Updated	Workflow Blockout

**Paul, Gayle**

---

**From:** Hilton, Keenan  
**Sent:** Tuesday, September 22, 2020 11:56 AM  
**To:** Planning Clerk  
**Subject:** FW: KMS Farms 216-012-007 12922

Please update record w additional input from BID

Thank you!

**From:** Eskra, Ross <[reskra@co.humboldt.ca.us](mailto:reskra@co.humboldt.ca.us)>  
**Sent:** martes, 22 de septiembre de 2020 11:46 a. m.  
**To:** Hilton, Keenan <[KHilton@co.humboldt.ca.us](mailto:KHilton@co.humboldt.ca.us)>  
**Subject:** RE: KMS Farms 216-012-007 12922

Keenan,

I used aerial imagery to draw this conclusion. I did not see any signs of flowing water or a creek during my site visit, and if I interpreted the GIS layer correctly I believe it to be intermittent.

**From:** Hilton, Keenan <[KHilton@co.humboldt.ca.us](mailto:KHilton@co.humboldt.ca.us)>  
**Sent:** Tuesday, September 22, 2020 11:32 AM  
**To:** Eskra, Ross <[reskra@co.humboldt.ca.us](mailto:reskra@co.humboldt.ca.us)>  
**Subject:** RE: KMS Farms 216-012-007 12922

Ross,

Thank you for the prompt reply! Did you look at the creek during the site visit (i.e. was it the site visit or aerial imagery analysis that led you to identify the stream as intermittent)?

Again, thanks for getting back to me,  
Keenan

**From:** Eskra, Ross <[reskra@co.humboldt.ca.us](mailto:reskra@co.humboldt.ca.us)>  
**Sent:** martes, 22 de septiembre de 2020 10:47 a. m.  
**To:** Hilton, Keenan <[KHilton@co.humboldt.ca.us](mailto:KHilton@co.humboldt.ca.us)>  
**Subject:** RE: KMS Farms 216-012-007 12922

Hey Keenan,

Here you go. Also, if you look on GIS it is pretty clear, assuming some level of accuracy per GIS. I made this note based on GIS review, not my site visit itself. Additionally, the creek appears to be intermittent. Let me know if I can help any further.

**From:** Hilton, Keenan <[KHilton@co.humboldt.ca.us](mailto:KHilton@co.humboldt.ca.us)>  
**Sent:** Monday, September 21, 2020 4:07 PM  
**To:** Eskra, Ross <[reskra@co.humboldt.ca.us](mailto:reskra@co.humboldt.ca.us)>  
**Subject:** KMS Farms 216-012-007 12922

Hi Ross,

You uploaded your record of a site inspection of the cannabis operation referenced above on 8-27-20. In your comments you mention that they have development within the SMA. Could you identify this area on the attached site plan? Is the stream in question perennial or intermittent?

Thank you!  
Keenan



Keenan Hilton  
Planner II, Cannabis Services Division  
[Planning and Building Department](#)  
707.268.3722

12922-CUP 18,500 sf existing outdoor Conditional Use Permit for 18,500 sf of exist...

> In Referrals  
08/03/2020 by John Moredo

> None Provided

> K M S Farms LLC

> 17 total Task

8 completed 3 active

Cancel Help

^

Summary

Project Description

Workflow

1 Referral Assignments

Planning Information

CUP / Zoning Information

4 CEQA

5 Cannabis

Project Tracking

6 Referral Task Log (2)

Fee (4)

Payment

Task  
Environmental Health  
Assigned Date  
09/26/2020

Assigned to Department  
Environmental Health  
Assigned to  
Ben Dolf  
Status  
Approved with Conditions

Action by Department  
Environmental Health  
Action By  
Joey Whitlesey  
Status Date  
09/16/2020

Start Time  
End Time  
Hours Spent  
0.0

Billable  
No  
Overtime  
No  
Comments  
Applicant must demonstrate that a properly functioning onsite wastewater treatment system serves the operation. This can be accomplished by either installing a new, permitted septic system; or by providing DEH with an assessment of the existing system performed by a qualified professional engineer, geologist, soil scientist, or REHS that certifies that the existing system complies with the State RWQCB definition of a Tier 0 system - not impairing groundwater or surface water resources.

Time Tracking Start Date  
Est. Completion Date  
Display E-mail Address in ACA  
No  
Display Comment in ACA  
All ACA Users

☒ Record Creator

☒ Licensed Professional

☒ Contact

☒ Owner

Estimated Hours  
0.0  
Action  
Updated  
Workflow Calendar

Cancel

Help

Summary	
Project Description	
Workflow	
1 Referral Assignments	
Planning Information	
GP / Zoning Information	
4 CEQA	
5 Cannabis	
Project Tracking	
6 Referral Task Log (2)	
Fee (4)	
Payment	

Task PW Land Use	Due Date 08/31/2020	Assigned Date 08/03/2020
Assigned to Department Public Works Department	Assigned to Ken Freed	Status Revisions Required
Action by Department Public Works Department	Action By Ken Freed	Status Date 09/10/2020
Start Time	End Time	Hours Spent 0.0
Billable No	Overtime No	Comments Applicant shall provide a road evaluation that starts at Benbow Drive and ends at the subject parcels. The portion of road evaluation submitted does not encompass the entire route. For clarity the Engineer shall provide a route map with road names (Ranch Rd, Reed Loop Rd) as shown on the County GIS system. If the road evaluations have been completed by various Engineering firms then all should be submitted with the portions that will be used for this project identified.
Time Tracking Start Date	Est. Completion Date	In Possession Time (hrs)
Display E-mail Address in ACA No	<input checked="" type="checkbox"/> Display Comment in ACA	<input checked="" type="checkbox"/> Comment Display in ACA
		<input checked="" type="checkbox"/> All ACA Users
		<input checked="" type="checkbox"/> Record Creator
		<input checked="" type="checkbox"/> Licensed Professional
		<input checked="" type="checkbox"/> Contact
		<input checked="" type="checkbox"/> Owner
Estimated Hours 0.0	Action Updated	Workflow Calendar Workflow Blockout

**We have reviewed the above application and recommend the following (please check one):**

The Department has no comment at this time.

Suggested conditions attached.

Applicant needs to submit additional information. List of Items attached.

Recommend denial.

Other comments.

Date:

Name:

**Forester Comments:**

Date:

Name:

**Battalion Chief Comments:**

**Summary:**