



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

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Hearing Date: September 16, 2021

To: Humboldt County Planning Commission

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

Subject: **Eubank Creek, LLC, Conditional Use Permit**  
Record Numbers: PLN-12972-CUP and PLN-2020-16319  
Assessor's Parcel Numbers: 220-072-014, 220-171-017, 220-171-018, and 220-171-021  
Briceland area

**Page**

**Table of Contents**

Agenda Item Transmittal	2
Recommended Action and Executive Summary	3
Draft Resolution for CUP, SP, and LLA	8
Maps	
Topo Map	15
Zoning Map	16
Aerial Map	17
Site Plan and Lot Line Adjustment Map	18
Attachments	
Attachment 1A: Recommended Conditions of Approval for CUP	20
Attachment 1B: Recommended Conditions of Approval for LLA	27
Attachment 2: CEQA Addendum	29
Attachment 3: Applicant's Evidence in Support of the Required Findings	33
Attachment 4: Referral Agency Comments and Recommendations	101

Please contact Abbie Strickland, Planner, at 707-441-2630 or by email at [astrickland@co.humboldt.ca.us](mailto:astrickland@co.humboldt.ca.us), if you have any questions about the scheduled public hearing item.

## AGENDA ITEM TRANSMITTAL

<b>Hearing Date</b> September 16, 2021	<b>Subject</b> Conditional Use Permit, Special Permit, and Lot Line Adjustment	<b>Contact</b> Abbie Strickland
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**Project Description:** The applicant is seeking a Conditional Use Permit for 43,560 square-feet of existing commercial cannabis cultivation. Light deprivation techniques are utilized to achieve two harvests annually. The project will be supported by 3,320 square-feet of proposed propagation space. Irrigation water is sourced from an existing permitted groundwater well located on the adjacent parcel under the same ownership (APN 220-072-006), a registered point of diversion from Eubank Creek, and a proposed 1.4-million-gallon rainwater catchment pond. Existing available hard tank water storage totals 205,000 gallons. Projected annual water usage totals 594,500 gallons. Processing such as drying and curing will occur onsite in a proposed 3,200 square-foot ag-exempt barn. Further processing will occur off site at a licensed third-party processing facility. Two full time employees will be required for the project and up to four seasonal employees may be utilized during the peak season. Energy for the project will be supplied by two 3kW generators until such time the 800 square-foot solar array can be installed on the proposed ag-exempt barn. The applicant is also seeking a Special Permit for the ongoing use and maintenance of the point of diversion located in the Streamside Management Area.

The applicant is also seeking the completion of a LLA between two parcels resulting in two parcels. The purpose of the LLA is to create two approximate 80-acre parcels that allow for more beneficial and valuable land use opportunities for the property owners. Each parcel has an active cannabis application (Application No. 12972 and 12958).

<b>Resultant Parcel</b>	<b>Creation Document</b>	<b>Area Before LLA</b>	<b>Area After LLA</b>
Parcel A	The parcel is determined to be one legal parcel as recorded as Parcel 2 of Parcel Map 1882 Book 16 Page 101-102.	36.8 acres	74.9 acres
Parcel B	The parcel was created by Deed recorded April 20, 1970 in Volume 1040, page 124 in violation of County subdivision regulations, and is subject to a conditional certificate of compliance.	124.9 acres	86.83 acres

**Project Location:** The project is located in Humboldt County, in the Briceland area, on the west, east, and south side of Eubanks Road, approximately 3 miles from the intersection of Briceland Thorne Road and Eubanks Road, on the property known as 705 Eubanks Road, Briceland.

**Present Plan Land Use Designations:** Residential Agriculture (RA), 2017 General Plan, Density: 40 acres per unit, Slope Stability: Moderate Instability (2).

**Present Zoning:** Unclassified (U)

**Record Number:** PLN-12972-CUP

**Assessor's Parcel Number:** 220-072-014, 220-171-017, 220-171-018, 220-171-021

### **Applicant**

Eubank Creek, LLC  
Fernando Olea  
P.O. Box 443  
Fortuna, CA 95540

### **Owner**

Granite LLC, Co.  
P.O. Box 1020  
Garberville, CA 95542

### **Agents**

NorthPoint Consulting Group  
1117 Samoa Blvd  
Arcata, CA 95521

**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:** None.

## Eubank Creek, LLC, Conditional Use Permit

Record Number: PLN-12972-CUP

Assessor's Parcel Number: 220-171-017

### Recommended Commission Action:

1. Describe the application as a public hearing;
2. Request that staff present the project;
3. Open the public hearing and receive testimony; and
4. Close the hearing and take the following action:

*Find the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) pursuant to Section §15164 of the State CEQA Guidelines, making all of the required findings for approval of the Conditional Use Permit and adopt the Resolution approving the Eubank Creek, LLC, project subject to the recommended conditions.*

**Executive Summary:** The applicant is seeking a Conditional Use Permit for 43,560 square-feet of existing commercial cannabis cultivation on a parcel proposed to be adjusted through a Lot Line Adjustment (LLA). Light deprivation techniques are utilized to achieve two harvests annually. The project will be supported by 3,320 square-feet of proposed propagation space. Projected annual water usage totals 594,500 gallons (13.6 gallons/sf). Processing such as drying and curing will occur onsite in a proposed 3,200 square-foot ag-exempt barn. Further processing will occur off site at a licensed third-party processing facility. Two full time employees will be required for the project and up to four seasonal employees may be utilized during the peak season. Energy for the project will be supplied by two generators until such time the 800 square-foot solar array can be installed on the proposed ag-exempt barn. The applicant is also seeking a Special Permit for the ongoing use and maintenance of the point of diversion located in the Streamside Management Area.

### Lot Line Adjustment

The applicant is seeking the completion of a LLA between two parcels resulting in two parcels. The purpose of the LLA is to create two approximate 80-acre parcels that allow for more beneficial and valuable land use opportunities for the property owners. Each parcel has an active cannabis application (Application No. 12972 and 12958). The recommended conditions of approval for the Lot Line Adjustment are located in Attachment 1B.

### Site History

The applicant has been operating under an Interim Permit for 10,000 square feet of outdoor cultivation. However, on March 5, 2021, Planning Staff conducted a site visit to view evidence of historic cultivation. Remnants of old water lines, grow bags, and pots were found at three distinct sites indicating over 1,300 plants having been cultivated on the site in a large gully area that would have been hidden from the air. Timberland Resource Consultants prepared a Historic Cultivation Report which identified and quantified the historic cultivation areas. Upon approval of the project the applicant will relocate the historic cultivation to the main cultivation area and a condition of approval will require the applicant to remediate the historic cultivation areas (**General Condition A.7**).

### Timber Conversion

Historically, unauthorized tree removal occurred on the subject parcel to enhance cannabis cultivation, the most recent activity occurred between 2016 and 2018. The applicant submitted a *Timber Conversion Evaluation Report* prepared by Registered Professional Forester Chris Carroll of Timberland Resource Consultants. The report includes recommendations for remedial actions to bring the conversion areas into compliance with the Forest Practice Act and the California Forest Practice Rules. According to the report, approximately 2.02 acres of unauthorized timberland conversion has occurred on the subject



parcel but that . The RPF recommends that the slash logs decks be chipped, burned, or processed into firewood. On August 18, 2021, Chris Carroll submitted a revised recommendation regarding the Timber Conversion Evaluation Report, which stated that he no longer believes timber conversion occurred and that the area of tree removal did not occur on "Timberland" as defined by PRC 4526. A condition of approval for the project will require the applicant to submit a restocking plan equivalent to the amount of timber converted for cannabis cultivation post-2015 baseline conditions or submit documentation from CAL FIRE supporting the RPF's revised recommendation that no timber conversion occurred (**General Condition A.8**).

## Water Resources

Water for irrigation is sourced from an existing permitted groundwater well located on the adjacent parcel under the same ownership (APN 220-072-006). The well is located at an elevation of 1360 feet and the nearest watercourses to the well are located over 1200 feet to the east and west and are approximately 1050 feet in elevation. According to the *Well Completion Report* submitted by the applicant, the well penetrated two layers of shale and solid blue sandstone before reaching water at 150 feet and landing at a depth of 200 feet. Staff believe that the aquifer is confined and therefore not hydrologically connected to surface water.

The applicant will also be obtaining irrigation water from a registered point of diversion from Eubank Creek. In accordance with the State Waterboards Cannabis Cultivation Policy, the applicant will forebear from use of the diversion from April 1<sup>st</sup> through October 31<sup>st</sup> of each year. Projected annual water usage totals 594,500 gallons and existing available water storage totals 205,000 gallons. The applicant is also proposing to construct a 1.4-million-gallon rainwater catchment pond. Once completed, the applicant will utilize the diversion, well, and rainwater catchment pond for irrigation.

The project was referred to the Division of Environmental Health (DEH) who recommended the application be approved with the added condition that the applicant submit receipts of portable toilets to the DEH on an annual basis or provide an approved means of sewage disposal to serve the needs of cultivation staff. A condition of approval for the project will require the applicant to submit receipts for portable toilets to the DEH on an annual basis. Additionally, the applicant will be required to maintain these records at the project site to be made available at each annual inspection (**Ongoing Requirement B.4**).

## Biological Resources

The applicant submitted a *Biological Assessment* prepared by Jack Henry of Timberland Resource Consultants. The *Biological Assessment* identified potential impacts the project may have on sensitive and protected species, their habitat, and sensitive natural communities. The Biological Assessment Area (BAA) contains Class I, Class II, and Class III watercourses, however, not all of these watercourses exist on the subject parcel. The subject parcel is located in the Headwaters of the Mattole River and contains Class I and Class III watercourses. Eubank Creek is a fish bearing Class I perennial watercourse that flows through the southern portion of the subject parcel and has the potential to provide habitat for the red-bellied newt and the Yellow-legged frog which are Amphibian Species of Special Concern. The project is not anticipated to impact these species as all infrastructure adheres to the Streamside Management Area setbacks. As stated in the *Biological Assessment* the BAA may contain habitat suitable for Bird Species of Special Concern and Mammal Species of Special Concern. A Northern Spotted Owl observation has been documented approximately .73 miles southeast of the project site and was recorded in 1974. The existing project is not anticipated to impact these species as noise and light attenuation measures have been incorporated in the project. A condition of approval will require the applicant to maintain project related noise at or below 50 decibels as measured 100 feet from the noise source or edge of habitat, whichever is closer (**Ongoing Requirement B.1**). The applicant will also be required to adhere to international dark sky standards (**Ongoing Requirement B.2**). The *Biological Assessment* also recommends the applicant conduct Nesting Bird Surveys prior to any additional ground

disturbance or vegetation removal, this has been included as a condition of approval (**General Condition A.9**).

The project site is dominated by nonnative grass species and no sensitive natural communities or Plant Species of Special Concern were identified during the site visit. The biologist recommended that a Floristic Survey be submitted prior to the construction of any new development as the site may contain Pacific Gilia and maple-leaved checkerbloom. If any Plant Species of Special Concern are identified within the project area, the development of the site shall be altered in consultation with CDFW to avoid impacting the species. A condition of approval for the project will require the applicant to submit a Floristic Survey prior to the construction of the proposed structures and pond (**General Condition A.10**).

The project was referred to the California Department of Fish and Wildlife (CDFW) on August 24, 2017. No response was received; however, the applicant has entered into two *Lake and Streambed Alteration Agreements* with CDFW.

### **Tribal Cultural Coordination**

The applicant has submitted a *Cultural Resource Investigation* prepared by Arsenault and Associates dated January 2020. A comprehensive field survey was conducted on January 21, 2020. No tribal cultural resources were identified in the assessment area. The project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol. The project was referred to the Bear River Band of Rohnerville Rancheria, Intertribal Sinkiyone Wilderness Council, and the Northwest Information Center (NWIC). A response was received from the Bear River Band and NWIC, both of which recommended that a survey be completed. Upon completion, the *Cultural Resource Investigation* was forwarded to the Bear River Band and the Intertribal Sinkiyone Wilderness Council. No response has been recorded.

### **Access**

Access to the site is provided by an unnamed privately maintained road which takes access from Eubanks Road. Eubanks Road is also a privately maintained road which is located off Ettersburg-Honeydew Road. The applicant submitted a *Road Evaluation Report* prepared by Northpoint Consulting Group for the unnamed private access road. The report states that the project's employee count would result in the Average Daily Traffic (ADT) increasing from 44 to approximately 58 trips per day. The road is approximately 1.92 miles in length and meets the functional equivalent of a category 4 road standard. The *Road Evaluation Report* recommends that the applicant maintain the existing turnouts and road width at Road Points 1-16. This recommendation has been included as a condition of approval (**Ongoing Requirement B.5**). A *Road Evaluation Report* was also submitted for Eubanks Road which states that Eubanks Road is developed to the functional equivalent of a category 4 road standard.

The project was referred to the Department of Public Works Land Use Division who recommended the project be approved with the condition that the applicant pave where the Eubanks Road meets Ettersburg-Honeydew Road, for a minimum of 20 feet in width and 50 feet in length if the county-maintained road is paved. The applicant shall also maintain compliance with HCC 314-1 Sight Visibility Ordinance where Eubanks Road meets Ettersburg-Honeydew Road. Both actions have been included as conditions of approval for the project (**General Condition A.11**).

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and 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.

**ALTERNATIVES:** The Planning Commission could elect not to approve the project, or to require the applicant to submit further evidence, or 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 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 that case, the Commission should continue the item to a future date at least two months later to give staff the time to complete further environmental review.

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT  
Resolution Number 21-  
Record Number PLN-12972-CUP  
Assessor's Parcel Number: 220-171-017**

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

**WHEREAS, Eubank Creek, LLC,** submitted an application and evidence in support of approving a Conditional Use Permit for 43,560 square-feet of existing commercial cannabis cultivation. Light deprivation techniques are utilized to achieve two harvests annually. The project will be supported by 3,320 square-feet of proposed propagation space. Irrigation water is sourced from an existing groundwater well located on the adjacent parcel under the same ownership (APN 220-072-006), a registered point of diversion from Eubank Creek, and a proposed 1.4-million-gallon rainwater catchment pond. Existing available hard tank water storage totals 205,000 gallons. Projected annual water usage totals 594,500 gallons. Processing such as drying and curing will occur onsite in a proposed 3,200 square-foot ag-exempt barn. Further processing will occur off site at a licensed third-party processing facility. Two full time employees will be required for the project and up to four seasonal employees may be utilized during the peak season. Energy for the project will be supplied by two generators until such time the 800 square-foot solar array can be installed on the proposed ag-exempt barn. The applicant is also seeking a Special Permit for the ongoing use and maintenance of the point of diversion located in the Streamside Management Area.

**WHEREAS,** the County Planning Division, the lead agency, prepared an Addendum to the Final Mitigated Negative Declaration (MND) prepared for the Commercial Medical 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 Mitigated Negative Declaration. 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 September 16, 2021 and reviewed, considered, and discussed the application for a Conditional Use Permit 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 Permit for 43,560 square-feet of existing commercial cannabis cultivation. Light deprivation techniques are utilized to achieve two harvests annually. The project will be supported by 3,320 square-feet of proposed propagation space. Irrigation water is sourced from an existing groundwater well located on the adjacent parcel under the same ownership (APN 220-072-006), a registered point of diversion from Eubank Creek, and a proposed 1.4-million-gallon rainwater catchment pond. Existing available hard tank water storage totals 205,000 gallons. Projected annual water usage totals 594,500 gallons. Processing such as drying and curing will occur onsite in a proposed 3,200 square-foot ag-exempt barn. Further processing will occur off site at a licensed third-party processing facility. Two full time employees and up to four seasonal employees may be utilized for the project. Energy will be supplied by two generators until the 800 square-foot solar array can be installed on the proposed ag-exempt barn. The applicant is also seeking a Special Permit for the ongoing use and maintenance of the point of diversion located in the Streamside

Management Area.

**EVIDENCE:** a) Project File: PLN-12972-CUP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. 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 prepared for the proposed project.
  - b) Noise from project related activities shall not exceed 50 decibels of continuous noise as measured 100 feet from the noise source or edge of habitat, whichever is closer.
  - c) The applicant submitted a *Biological Assessment* prepared by Timberland Resource Consultants, dated January 2020. The continued cultivation of 43,560 square feet of outdoor commercial cannabis cultivation is not anticipated to impact any special status plant or animal species or sensitive natural community with the recommended mitigation. A Floristic Survey will be submitted prior to conducting any new ground disturbance.
  - d) Lighting used in the propagation greenhouse will adhere to International Dark Sky Standards and shall be shielded such that no light escapes. Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife.
  - e) The applicant submitted a *Cultural Resource Investigation Report* prepared by Arsenault & Associates, dated January 2020. A comprehensive field survey was conducted, no tribal cultural resources were identified in the assessment area. The project is not anticipated to impact any tribal cultural resources; however, a condition of approval will require the applicant to adhere to the inadvertent discovery protocol.
  - f) The applicant submitted a *Timber Conversion Evaluation Report* prepared by Registered Professional Forester Chris Carroll of Timberland Resource Consultants. The report includes recommendations for remedial actions to bring the conversion areas into compliance with the Forest Practice Act and the California Forest Practice Rules. According to the report, approximately 2.02 acres of unauthorized timberland conversion has occurred on the subject parcel. The RPF recommends that the slash logs decks be chipped, burned, or processed into firewood. A condition of approval for the project will require the applicant to submit a restocking plan equivalent to the amount of timber converted post-2015 baseline conditions or submit documentation from CAL FIRE supporting the RPF's revised recommendation that no timber conversion occurred.
  - g) A *Road Evaluation Report* was prepared for the privately maintained access road and Eubanks Road. The access roads meet the functional capacity required for the project needs. provisions have been made within the applicants *Site Management Plan* to prevent erosion and sediment discharge to surface waters.

## FINDINGS FOR CONDITIONAL USE PERMIT

- 3. FINDING** The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.
- EVIDENCE**
- a) General agriculture is a use type permitted in the Residential Agriculture (RA) land use designation. The existing 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 project is consistent with, and complimentary to, the Open Space Plan and its Open Space Action Program.
- 4. FINDING** The proposed development is consistent with the purposes of the existing U zone in which the site is located.
- EVIDENCE**
- a) The Unclassified or U Zone is intended to be applied to areas of the County in which general agriculture residential uses are the desirable predominant uses.
  - b) All general agricultural uses are principally permitted in the U zone.
  - c) Humboldt County Code section 314-55.4.8.2.2 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 5 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 43,560 square feet of existing outdoor cultivation on an 80-acre parcel is consistent with the CMMLUO and with the cultivation area verification prepared by the County and supplemental documentation provided by the applicant.
  - d) The applicant is seeking the completion of a LLA to create two approximate 80-acre parcels that allow for more beneficial and valuable land use opportunities for the property owners.
- 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 U (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 per parcel map 1822 book 16 pages 1-2.
  - c) The project will obtain water from an existing well that is permitted with the Division of Environmental Health (Permit number 17/18 0137). The applicant will also be obtaining irrigation water from a registered point of diversion from Eubank Creek. In accordance with the State Waterboards Cannabis Cultivation Policy, the applicant will forebear from use of the diversion from April 1<sup>st</sup> through October 31<sup>st</sup> of each year.
  - d) The applicant submitted a Biological Assessment which recommended that a Floristic Survey be submitted prior to the construction of any new development as the site may contain Pacific Gilia and maple-leaved checkerbloom. If any Plant Species of Special Concern are identified within the project area, the development of the site shall be altered in

consultation with CDFW to avoid impacting the species. This recommendation has been included as a condition of approval for the project which must be completed before the proposed structures and pond can be constructed.

- e) The applicant submitted a *Timber Conversion Evaluation Report* prepared by Registered Professional Forester Chris Carroll of Timberland Resource Consultants. The report includes recommendations for remedial actions to bring the conversion areas into compliance with the Forest Practice Act and the California Forest Practice Rules. According to the report, approximately 2.02 acres of unauthorized timberland conversion has occurred on the subject parcel. The RPF recommends that the slash logs decks be chipped, burned, or processed into firewood. A condition of approval for the project will require the applicant to submit a restocking plan equivalent to the amount of timber converted post-2015 baseline conditions or submit documentation from CAL FIRE supporting the RPF's revised recommendation that no timber conversion occurred.
- f) All fertilizers, fuel, pesticides, or otherwise hazardous materials will be properly stored in a secondary containment unit.
- g) The continued cultivation of 43,560 square-feet and the proposed improvements shall not result in more than 50 decibels of continuous noise as measured from the property line.
- h) 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, more than 600 feet from any school, school bus stop, church, or other place of worship, public park, or Tribal Cultural Resource and 1,000 feet from any Tribal Ceremonial Site.

## 6. FINDING

The continued cultivation of 43,560 square feet of cannabis cultivation 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 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. 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
- b) 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 and more than 600 feet from any school, church, public park or Tribal Cultural Resource and over 1,000 feet from any Tribal Ceremonial Site.
- c) The applicant submitted a *Cultural Resource Investigation Report* prepared by Arsenault & Associates, dated January 2020. A comprehensive field survey was conducted, no tribal cultural resources were identified in the assessment area. The project is not anticipated to impact any tribal cultural resources; however, a condition of approval will require the applicant to adhere to the inadvertent discovery protocol.
- d) The applicant submitted a Biological Assessment which recommended that a Floristic Survey be submitted prior to the construction of any new development as the site may contain Pacific Gilia and maple-leaved checkerbloom. If any Plant Species of Special Concern are identified within the project area, the development of the site shall be altered in

consultation with CDFW to avoid impacting the species. This recommendation has been included as a condition of approval for the project which must be completed before the proposed structures and pond can be constructed.

- e) The project will obtain water from an existing well that is permitted with the Division of Environmental Health (Permit number 17/18 0137). The applicant will also be obtaining irrigation water from a registered point of diversion from Eubank Creek. In accordance with the State Waterboards Cannabis Cultivation Policy, the applicant will forebear from use of the diversion from April 1st through October 31st of each year.
- f) A *Site Management Plan* (SMP) was prepared by Timberland Resource Consultants to reflect compliance with the North Coast Regional Water Quality Control Board Order No. 2015-0023. Provisions have been made in the applicant's *Site Management Plan* to minimize discharge of sediment off-site, improve the private access road, and remediate historic cultivation areas and waste.
- g) Noise and Light attenuation measures have been included as ongoing requirements of the project.
- h) All fertilizers, fuel, pesticides, or otherwise hazardous materials will be properly stored in a secondary containment unit.

**7. FINDING**

The existing 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 was not included in the housing inventory of Humboldt County's 2019 Housing Element but does have the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be constructed on this parcel.

**FINDINGS FOR LOT LINE ADJUSTMENT**

**8. FINDING**

The proposed Lot Line Adjustment (LLA) is consistent with the requirements of Humboldt County Code §325.5-1.

- a) The applicant has submitted a complete application to the Planning Department for review (Apps 16319). This includes the required Preliminary Title Reports, a Lot Line Adjustment Site Plan, and a written statement from the applicant explaining the reason for the LLA.
- b) Parcel A has been determined to be one legal parcel as recorded Parcel Map 1882 Book 16 Page 101-102 and is in compliance with the Subdivision Map Act.
- c) Parcel B was created by Deed recorded April 20, 1970 in Volume 1040, page 124 in violation of County subdivision regulations, and is subject to a conditional certificate of compliance. The completion of the LLA will result in Parcel B becoming a legal parcel and therefore in compliance with the subdivision map act.

**9. FINDING**

The proposed development is in conformance with the purposes of the existing U zone.

- a) The LLA neither causes non-conformance nor increases the severity of pre-existing nonconformity with zoning and building ordinances. The project



complies with all applicable setbacks of the zone.

## **10. FINDING**

The proposed Lot Line Adjustment is in conformance with the County General Plan.

- a) The site is not within the Alquist-Priolo Fault Hazard Area. Slope stability is moderate instability. The site is in an area of minimal flooding and of high fire hazard rating. The subject parcels are located in the State Fire Responsibility Area. Future development must comply with County Building regulations.
- b) No Biological Resources will be impacted as a result of the LLA. The areas of existing development have been adequately surveyed by a qualified professional.
- c) No Tribal Cultural Resources will be impacted as a result of the LLA. The areas of existing development have been adequately surveyed by a qualified professional.
- d) No increase in Noise levels is anticipated as a result of the LLA. Noise attenuation measures have been included as provisions for this project.

## **11. FINDING**

The proposed development will not adversely impact the environment, and will not be detrimental to the public health, safety or welfare and will not be materially injurious to properties or improvements in the vicinity.

- a) The purpose of the LLA is to facilitate a more beneficial and valuable agricultural opportunities for the property owners. While one of the existing parcels is subject to a conditional certificate that requires a demonstration of consistency with General Plan policies and zoning standards, these findings can be made as the parcel is consistent with the general plan designation (RA40) and the underlying zone district (Unclassified) and the applicant has submitted documentation showing that the parcel would have been eligible for an unconditional certificate of compliance. The LLA will result in two legal parcels of approximately 80 acres.

## 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 approves the Conditional Use Permit and Lot Line Adjustment for Eubank Creek, LLC, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on September 16, 2021.

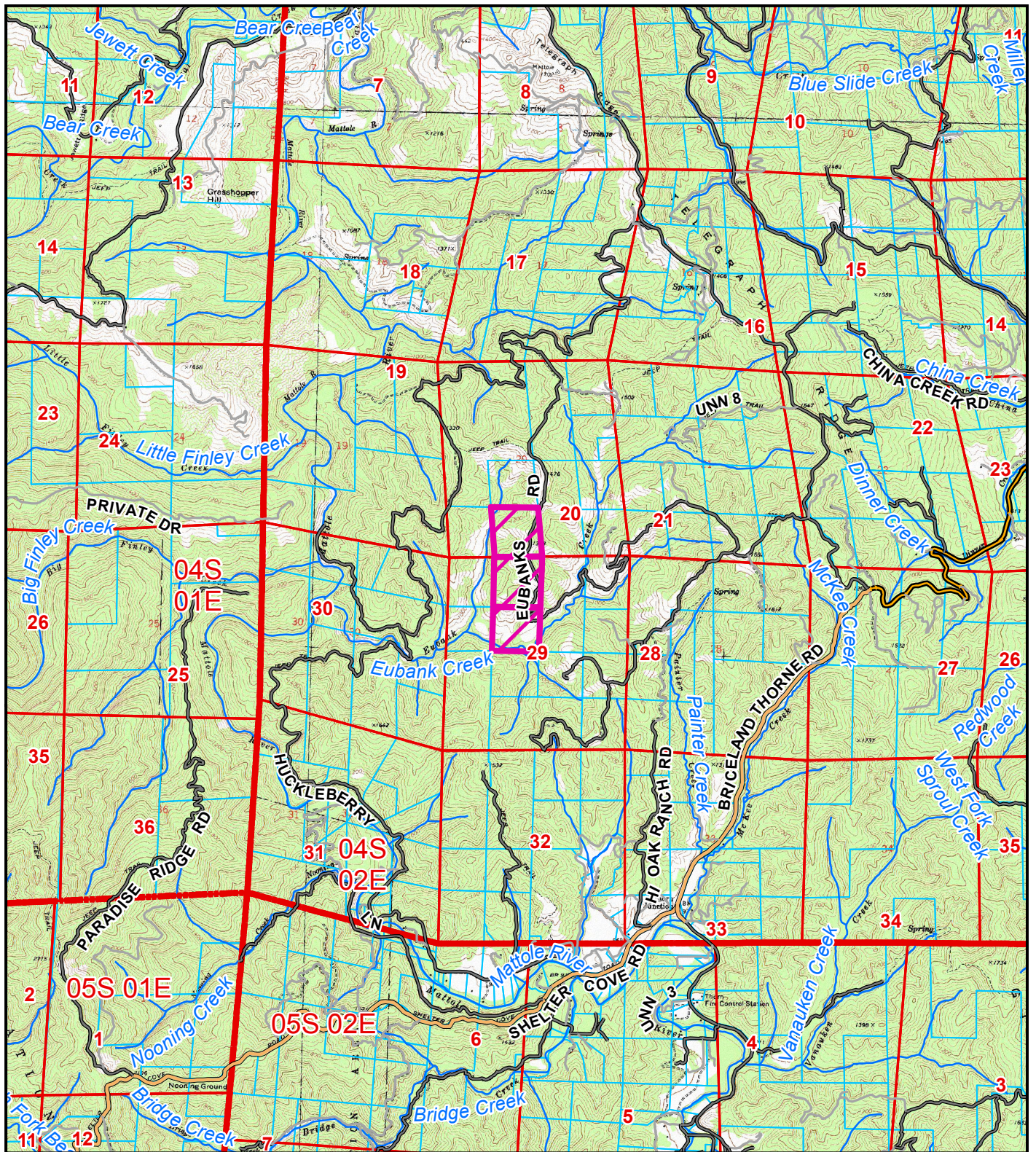
The motion was made by COMMISSIONER \_\_\_\_\_ and second by COMMISSIONER \_\_\_\_\_ and the following ROLL CALL vote:

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

I, John 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.

\_\_\_\_\_  
John Ford, Director  
Planning and Building Department



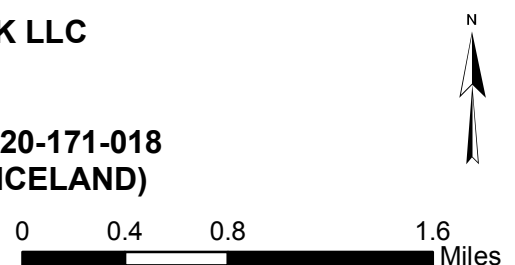


**TOPO MAP**  
**PROPOSED EUBANK CREEK LLC**  
**BRICELAND AREA**  
**CUP-16-940**

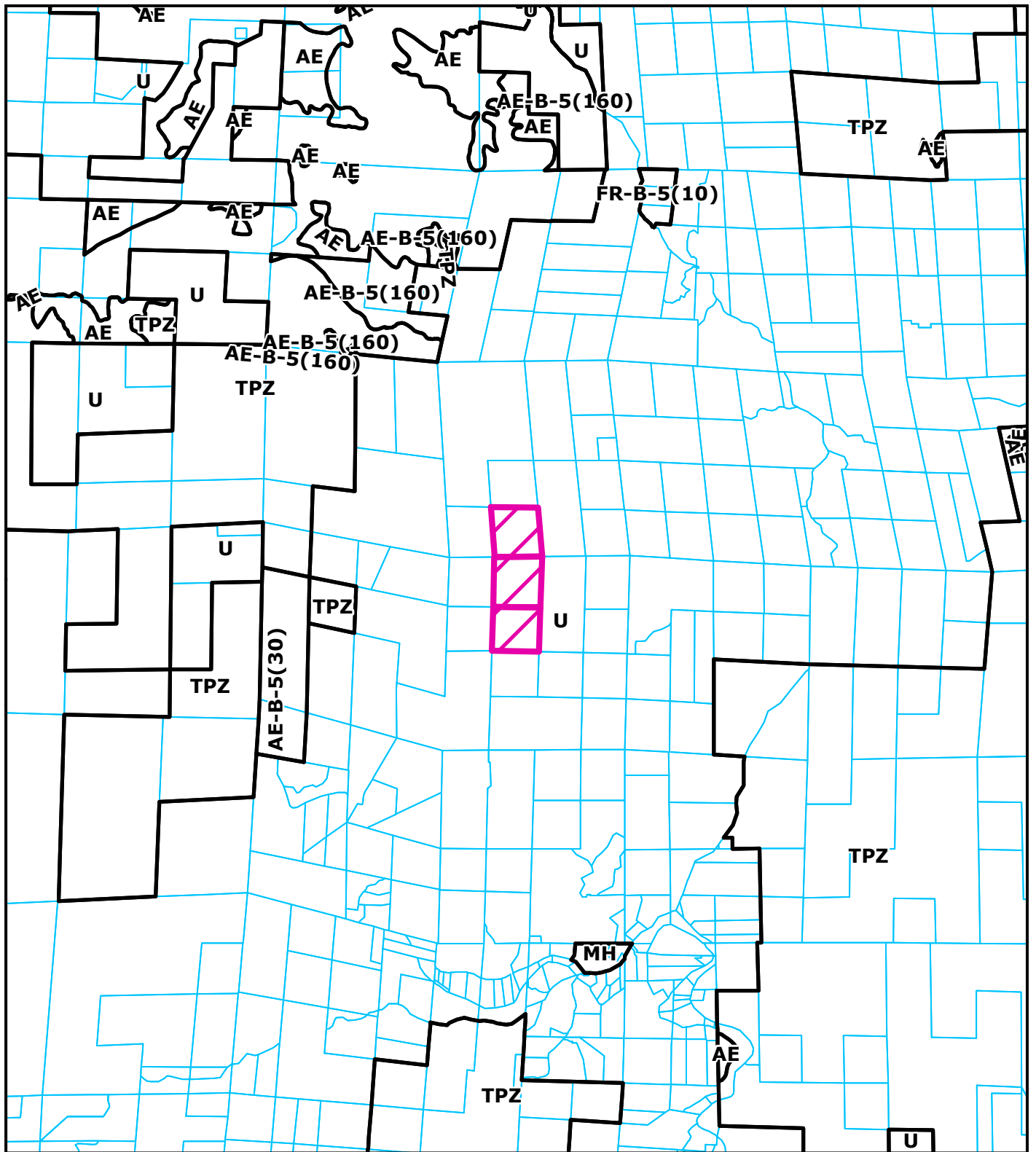
Project Area = 

**APN: 220-171-017; 220-072-014; 220-171-018**  
**T04S R02E S20; S29 HB&M (BRICELAND)**

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.







**ZONING MAP  
PROPOSED EUBANK CREEK LLC  
BRICELAND AREA  
CUP-16-940**

**Project Area =** 

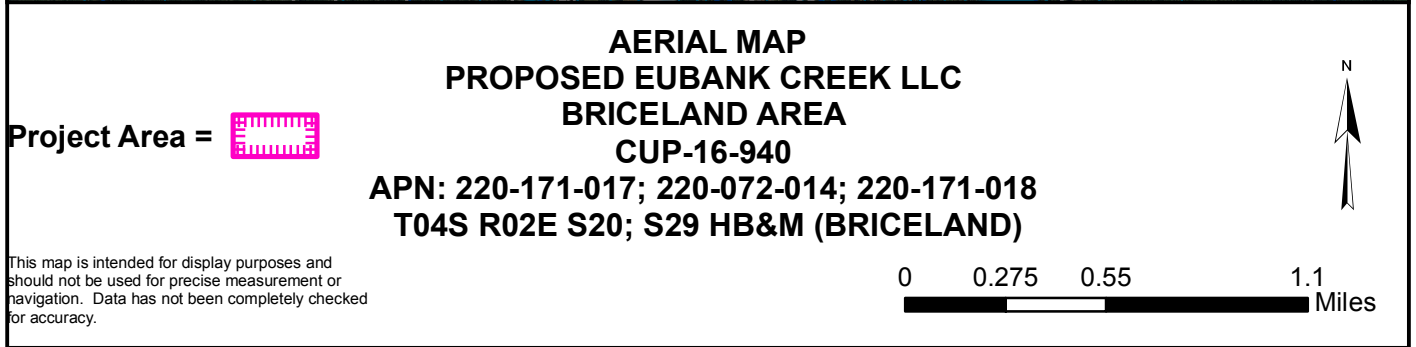
**APN: 220-171-017; 220-072-014; 220-171-018  
T04S R02E S20; S29 HB&M (BRICELAND)**

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.

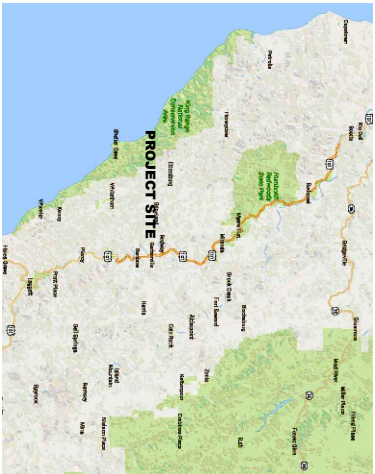
0 0.4 0.8 1.6  
Miles











VICINITY MAP  
NOT TO SCALE

**DIRECTIONS TO SITE:**  
FROM EUREKA, CA  
-FOLLOW US 101 SOUTH TO  
EXIT 642 FOR REDWOOD DRIVE  
TOWARD REDWAY  
(APPROX. 63 MILES)  
-CONTINUE ONTO REDWOOD  
DR. TURN RIGHT ONTO  
BRICELAND THORN ROAD  
(APPROX. 12 MILES)  
-CONTINUE AS BRICELAND  
BECOMES ETTERSBURG  
ROAD/ETTERSBURG  
HONEYDEW ROAD THEN TURN  
LEFT ONTO EUBANKS ROAD  
(APPROX. .5 MILES)

# EUBANK CREEK, LLC

## CONDITIONAL USE PERMIT APPLICATION

### WHITETHORN, CA 95589

APNS: 220-072-014, 220-171-017  
APPS#12972

#### PROJECT INFORMATION:

**APPLICANT:**  
EUBANK CREEK, LLC  
P.O. BOX 464  
GARBERVILLE, CA 95542

**PROPERTY OWNER:**  
GRANITE, LLC  
P.O. BOX 1020  
GARBERVILLE, CA 95542

**OWNERS AGENT:**  
NORTHPOINT CONSULTING GROUP, INC  
1117 SAMOA BLVD.  
ARCATA, CA 95521  
(707) 798-6438

**SITE ADDRESS:**  
APN: 220-072-014, 220-171-017, 220-171-018  
675 EUBANKS ROAD  
WHITETHORN, CA 95589

**TREES TO BE REMOVED** = NONE

**EXISTING OUTDOOR CULTIVATION AREA** = ±1.5 ACRES

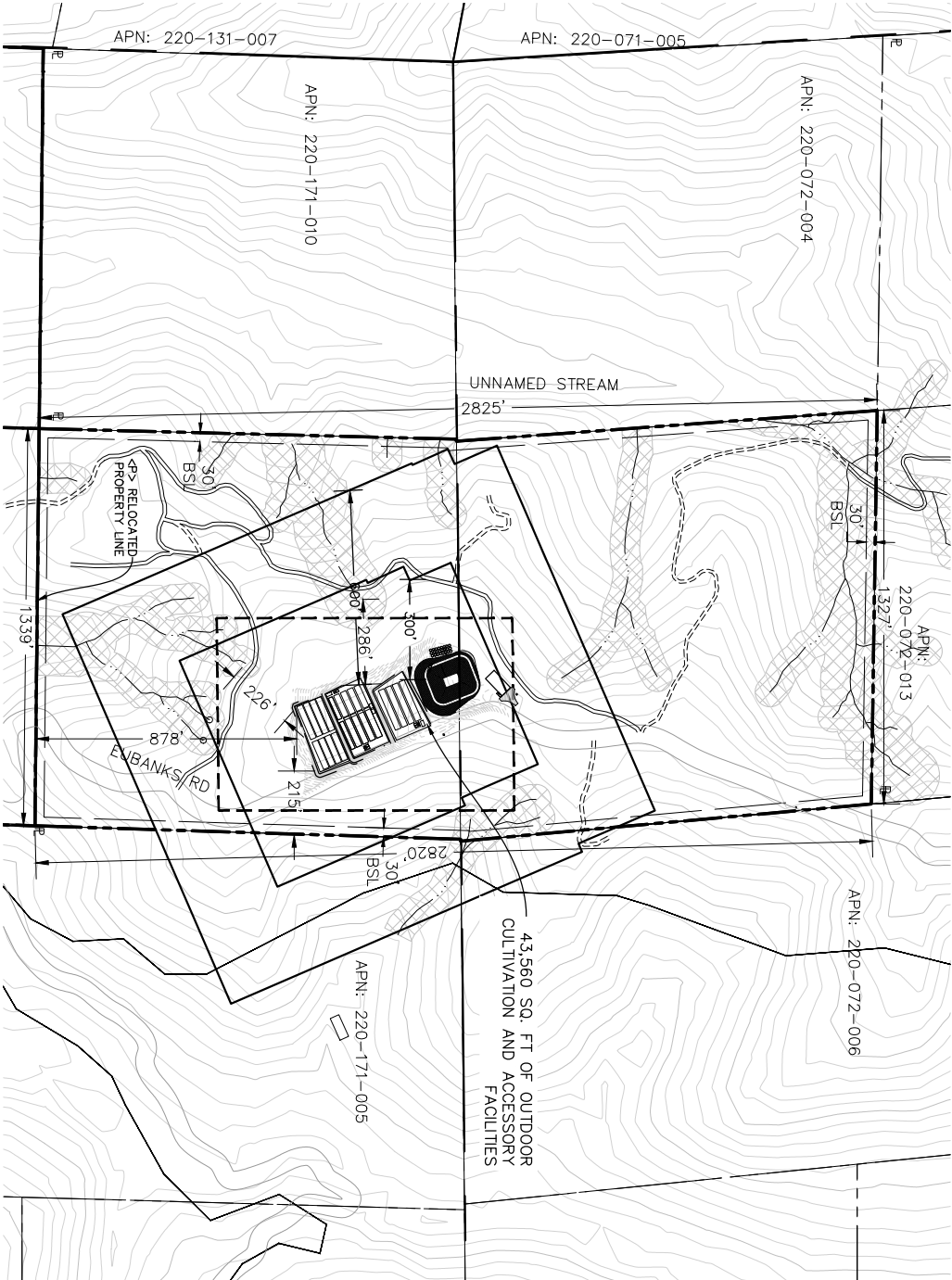
**EARTHWORK QUANTITIES** = TBD

**WATER** = PRIVATE  
**SEWER** = PRIVATE

**PARCEL SIZE:**  
APN: 220-072-014 = ±43.01 ACRE  
APN: 220-171-017 = ±43.82 ACRES  
APN: 220-171-018 = ±38.19 ACRES  
PROPOSED PARCEL SIZE: ±86.83 ACRES

#### GENERAL NOTES:

1. DRAWING SCALE AS NOTED. WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS.
2. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY INFORMATION DEPICTED HAS BEEN OBTAINED FROM HUMBOLDT COUNTY 2015 GIS DATA. MANHARD CONSULTING LTD. HAS NOT VERIFIED THIS PROPERTY BOUNDARY.
3. THERE ARE NO NEARBY SCHOOLS, SCHOOL BUS STOPS, PLACES OF WORSHIP, PUBLIC PARKS OR TRIBAL RESOURCES WITHIN 600 FEET OF THE CULTIVATION AREA.
4. THERE ARE NO RESIDENCES ON ADJOINING PARCELS WITHIN 300 FEET OF THE CULTIVATION AREAS.
5. ANY EXISTING DEVELOPMENT CONSTRUCTED WITHOUT THE BENEFIT OF COUNTY REVIEW WILL BE SUBJECT TO THE HUMBOLDT COUNTY BUILDING DEPARTMENT UPON APPROVAL OF THE CONDITIONAL USE PERMIT.



#### SHEET INDEX:

C0 - ZONING PLOT PLAN, VICINITY MAP, &  
PROJECT NOTES  
C1 - EXISTING AND PROPOSED SITE PLANS

#### PLOT PLAN

22x34 SHEET: 1"=300'  
11x17 SHEET: 1"=600'  
0 150 300 600

EUBANK CREEK, LLC

WHITETHORN, CA 95589

ZONING PLOT PLAN, VICINITY MAP, AND PROJECT NOTES

PROJECT NO: PLN-12972-001

DRAWN BY: JC

DATE: 01/10/20

SCALE: AS SHOWN

SHEET

C0

18-034

NORTHPOINT

CONSULTING GROUP, INC.

1117 Samoa Blvd., Arcata, CA 95521

DATE	REVISIONS	DRAWN BY
6/7/2021	UPDATES FOR SRA, PARKING, RESTROOM (Sheet C1)	PRH



APN: 220-072-014, 220-171-017

## ATTACHMENT 1A

### 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 this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at 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. 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/or proposed greenhouses, water tanks over 5,000 gallons, existing and/or 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. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
5. 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 Department will file the NOD and will charge this cost to the project.
6. 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 #14. 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.
7. Within 6 months from the date of permit approval the applicant shall remediate Site 1 and Site 2 as outlined within the *Historic Cultivation Report* prepared by Timberland Resource Consultants. The applicant shall implement the remedial actions outlined within the Mitigation Report of the *Site Management Plan* which states that the applicant shall remove any fencing, pots, or other cultivation related waste and materials from Site 1 and Site 2. The applicant shall submit a list of activities completed to the Planning Department for review. A final sign-off from the Planning Department will fulfill this condition.



8. Within 6 months from the date of permit approval the applicant shall submit a Restocking Plan equivalent to the amount of timber converted for cannabis cultivation post-2015 baseline conditions or the applicant shall submit documentation from CAL FIRE supporting the RPF's revised recommendation that no timber conversion occurred for cannabis cultivation. Documentation shall be submitted to the Planning Department for review and the Restocking Plan shall be completed within two years from the date of permit approval.
9. As recommended in the *Biological Assessment*, prior to conducting ground disturbing activities, the applicant shall submit a Floristic Survey prepared by a qualified professional. If any Plant Species of Special Concern are identified within the project area, the development of the site shall be altered in consultation with CDFW to avoid impacting the species. The Floristic Survey shall be submitted to the Planning Department for review. A sign off from the Planning Department shall satisfy this condition.
10. As recommended in the *Biological Assessment*, prior to conducting ground disturbing activities, the applicant shall conduct Nesting Bird Surveys within the project area. The applicant shall submit the Nesting Bird Surveys to the Planning Department for review. If any special status species are identified within the project area the development of the site shall be altered in consultation with CDFW to avoid impacting the species. A sign off from the Planning Department shall satisfy this condition.
11. The applicant shall implement the following recommendations made by the Department of Public Works Land Use Division:
  - a) The applicant shall obtain an encroachment permit and pave where the Eubanks Road meets Ettersburg-Honeydew Road, for a minimum of 20 feet in width and 50 feet in length, if the county-maintained road is paved.
  - b) The applicant shall also maintain compliance with HCC 314-1 Sight Visibility Ordinance and ensure that visibility is not obstructed where Eubanks Road meets Ettersburg-Honeydew Road.

A final sign off from the Department of Public Works stating that the work has been completed to their satisfaction shall satisfy this requirement.

12. The applicant shall implement all corrective actions detailed in the *Site Management Plan* developed for the parcel, prepared pursuant to Tier 1 enrollment under the State Water Resource Control Board (State Water Board) Cannabis Cultivation Policy (Cannabis Policy), in congruence with Order WQ 2017-0023-DWQ General Waste Discharge Requirements for Dischargers of Waste Associated with Cannabis Cultivation Activities (General Order). A letter or similar communication from the State Water Board verifying that all their requirements have been met will satisfy this condition.
13. 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.
14. The applicant shall execute and file with the Planning Division 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.

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

1. The combination of background, generator and greenhouse fan or other operational equipment

created noise 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 (e.g., through 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; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>.
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. The applicant shall provide portable toilets to serve the operation, meeting the appropriate setbacks, or install a permitted onsite wastewater treatment system associated with a permitted structure. The applicant shall maintain records representing the use of portable toilets throughout the cultivation season and these records shall be made available upon request at the applicant's annual inspection. These records shall also be submitted to the Division of Environmental Health on an annual basis.
5. The applicant shall implement the road improvements recommended within the Road Evaluation Report which require the applicant to maintain the existing turnouts and road width at Road Points 1-16. Continued compliance with this condition will be assessed at the applicant's annual inspection.
6. Ensure all generators be located on stable surfaces with a minimum 200 feet buffer from all waterways measured horizontally from the outer edge of the riparian drip zone, per CDFW referral comments received January 4, 2018.
7. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, 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.
8. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
9. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
10. The use of anticoagulant rodenticide is prohibited.
11. 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.

12. All components of 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. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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).
18. Maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (RWQCB) 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.
19. 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).
20. 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.
21. 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).
22. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
23. Pay all applicable application, review for conformance with conditions and annual inspection fees.

24. 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.
25. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
26. 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

27. Pursuant to Business and Professions Code section 26051.5(a)(8), 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."
28. 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).
29. 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.
30. 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.

31. 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
  - i. On-site housing, if any
32. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation SP 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.
33. 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 reinspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request reinspection 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.
34. 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.
35. 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.
36. 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.

37. 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 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 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.

## **ATTACHMENT 1B**

### **RECOMMENDED CONDITIONS OF APPROVAL FOR LOT LINE ADJUSTMENT**

#### **APPROVAL OF THE LOT LINE ADJUSTMENT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE COMPLETION OF THE LOT LINE ADJUSTMENT:**

1. A Notice of Lot Line Adjustment shall be recorded for each resultant parcel. The following information must be submitted to the Planning Department for review prior to recordation:
  - a. A copy of the existing deeds and the deeds to be recorded for the adjusted parcels. If the property is not changing ownership, only the existing deeds are required.
  - b. A Title Report regarding ownership of parcels involved. (If the submitted title documents are more than 6 months old, updated documents must be submitted.)
  - c. A completed "Notice of Lot Line Adjustment and Conditional Certificate of Compliance" form. See Conditions of the Conditional Certificate below, Items
  - d. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. (Currently \$292 for DPW legal description review per legal description, \$120 Planning legal document review, \$15 notary)
2. When the parcels being adjusted are not held in common ownership, copies of the executed deeds (signed but not recorded) prepared by a qualified individual must be submitted for review by the Planning and Public Works Departments.
3. A map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$75) as required by the County Assessor shall be paid to the County Planning and Building Department, 3015 "H" Street, Eureka. The check shall be made payable to the "County of Humboldt". The fee is required to cover the Assessor's cost in updating the parcel boundaries.
4. The applicant shall comply with the provisions of Section 321-14 of the Humboldt County Code concerning reapportionment or payment of special assessments.
5. Applicant shall provide documentation from the County of Humboldt Tax Collector that all property taxes for the parcels involved in the Lot Line Adjustment have been paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the Notice of Lot Line Adjustment to satisfy this condition. Note: The purpose of this condition is to avoid possible title consequences in the event of a tax default and sale affecting the owner's real property interest. If property is acquired as a result of a Lot Line Adjustment and said property has delinquent taxes, the property cannot be combined for tax purposes. This means, that the owner will receive two or more tax bills, and penalties and interest will continue to accrue against the land which has delinquent taxes. If five or more years have elapsed since the taxes on the subject property were declared in default, such property will be sold by the County Tax Collector for non-payment of delinquent taxes unless the amount required to redeem the property is paid before sale. Property combined by lot line adjustment but "divided" by tax sale will require separate demonstration of subdivision compliance of all resultant parcels prior to the County's issuance of a building permit or other grant of authority to develop the subject properties.

6. The property owner(s) shall execute and file with the Planning Division the statement titled "Notice and Acknowledgment Regarding Agricultural Activities in Humboldt County" as required by Section 314-43.2 of the Humboldt County Code. Contact the Planning Division for a copy of the required document.

**Informational Notes:**

1. A Record of Survey as outlined in the Business and Professions Code of the State of California may be required pursuant to Section 8762 of the Land Surveyors Act which states in part, a Record of Survey shall be filed upon "...the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey..."
2. Approval of this Lot Line Adjustment does not guarantee that developable parcels will result. Final approval for any development will depend on demonstration of conformance with site suitability requirements in effect at the time development is proposed.
3. To reduce costs the applicant is encouraged to bring in written evidence of compliance with all of the items listed as conditions of approval in this Exhibit that are administered by the Planning Division as a package at least four (4) weeks before the desired date for recordation. Post application assistance by the Planner on Duty, or by the Assigned Planner, with prior appointment will be subject to a Special Services Fee for planning services billed at the County's current burdened hourly rate. There is no charge for the first post project approval meeting. Please contact the Planning Division at (707) 445-7541 for copies of all required forms and written instructions.
4. This permit shall expire and become null and void at the expiration of three (3) years after all appeal periods have lapsed (see "Effective Date"). This approval may be extended in accordance with the Humboldt County Code.
5. The October 15, 2008 document, "Project Review Input Basic to All Development Projects" is considered part of any input from the California Department of Forestry and Fire Protection (CDF) regarding this project. CDF suggests that the applicant have access to that document's input at the earliest contact possible. Handouts that describe that document are available from Community Development Services.
6. The Determination of Status for this Lot Line Adjustment application found that APNs 220-171-10, -11, -19, -131-03 and -072-04 were not created in compliance with provisions of the State Subdivision Map Act and local subdivision regulations. Pursuant to Section 66499.36 of the California Government Code, the County must issue a Notice of Intent to Record a Notice of Violation for these parcels, absent measures to remedy the identified violation. Acceptable remedies include: 1) adjustment to one or more separate legal parcels; 2) merger with a separate legal parcel under the same ownership; or 3) issuance of a Conditional Certificate of (Subdivision) Compliance by the County. Until this violation is remedied, the County is prohibited from issuing any development permits for subject APNs (C.G.C. Sec. 66499.34)



**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 220-171-017, 705 Eubanks Road, Briceland  
County of Humboldt**

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

**August 2021**

## 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. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance in order to implement the mitigation measures of the MND. 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 by establishing regulations for an existing 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 and 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." The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

The applicant is seeking a Conditional Use Permit for 43,560 square-feet of existing commercial cannabis cultivation. Light depravation techniques are utilized to achieve two harvests annually. The project will be supported by 3,320 square-feet of proposed propagation space. Irrigation water is sourced from an existing groundwater well located on the adjacent parcel under the same ownership (APN 220-072-006), a registered point of diversion from Eubank Creek, and a proposed 1.4 million-gallon rainwater catchment pond. Existing available hard tank water storage totals 205,000 gallons. Projected annual water usage totals 594,500 gallons. Processing such as drying and curing will occur onsite in a proposed 3,200 square-foot ag-exempt barn. Further processing will occur off site at a licensed third-party processing facility. Two full time employees will be required for the project and up to four seasonal employees may be utilized during the peak season. Energy for the project will be supplied by two generators until such time the 800 square-foot solar array can be installed on the proposed ag-exempt barn. The applicant is also seeking a Special Permit for the ongoing use and maintenance of the point of diversion located in the Streamside Management Area.

In addition, a Lot Line adjustment is proposed between a 120 -acre parcel and a 40-acre parcel to result in two 80 acre parcels. Both proposed parcels would comply with the underlying general plan designation of RA40 and the zoning of Unclassified, and documentation has been submitted showing that the parcels are suitable for their intended use.

The applicant has submitted a *Cultural Resource Investigation* prepared by Arsenault and Associates dated January 2020. A comprehensive field survey was conducted on January 21, 2020. No tribal cultural resources were identified in the assessment area. The project is not anticipated to impact any tribal cultural resources; however, a condition of approval will require the applicant to adhere to the inadvertent discovery protocol. The project was referred to the Bear River Band of Rohnerville Rancheria, Intertribal Sinkyone Wilderness Council, and the Northwest Information Center (NWIC). A response was received from the Bear River Band and NWIC, both of which recommended that a survey be completed. Upon completion, the *Cultural Resource Investigation* was forwarded to the Bear River Band and the Intertribal Sinkyone Wilderness Council. No response has been recorded.

The applicant submitted a *Biological Assessment* prepared by Jack Henry of Timberland Resource Consultants. The subject parcel is located in the Headwaters of the Mattole River and contains Class I and Class III watercourses. Eubank Creek is a fish bearing Class I perennial watercourse that flows through the southern portion of the subject parcel and has the potential to provide habitat for the red-bellied newt and the Yellow-legged frog which are Amphibian Species of Special Concern. The project is not anticipated to impact these species as all infrastructure adheres to the Streamside Management Area setbacks. As stated in the *Biological Assessment* the BAA may contain habitat suitable for Bird Species

of Special Concern and Mammal Species of Special Concern, however, the project is not anticipated to impact these species.

The project site is dominated by nonnative grass species and no sensitive natural communities or Plant Species of Special Concern were identified during the site visit. The biologist recommended that a Floristic Survey be submitted prior to the construction of any new development as the site may contain Pacific Gilia and maple-leaved checkerbloom. If any Plant Species of Special Concern are identified within the project area, the development of the site shall be altered in consultation with CDFW to avoid impacting the species. This recommendation has been included as a condition of approval for the project which must be completed before the proposed structures and pond can be constructed.

**Purpose** - Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (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 existing cannabis cultivation site is 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 (see Attachment 3 for a complete listing):

- *Cultivation and Operations Plan* prepared by Northpoint Consulting received 7/02/21.
- *Site Plan* prepared by Northpoint Consulting received 7/2/21.
- *Site Management Plan* prepared by Timberland Resource Consultants dated January 2020.

- *Cultural Resource Investigation Report* prepared by Arsenault & Associates dated January 2020.
- *Road Evaluation Report* for the Private Drive prepared by Northpoint Consulting, dated February 25, 2020.

### **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.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial project for which the MND was adopted. 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. The Lot Line Adjustment is similarly consistent with the County General Plan and Zoning Ordinance and all of the mitigation measures of the MND for the CMMLUO.
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. (Application form 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 Northpoint Consulting received 6/7/21)
4. A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel; and 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. (*Cultivation and Operations Plan* prepared by Northpoint Consulting received 7/02/21 **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. (*Right to Divert and Use Water* received 2/25/20- **Attached**)
6. Description of water source, storage, irrigation plan, and projected water usage. (Included in 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 demonstrating enrollment in Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. (*Site Management Plan* prepared by Timberland Resource Consultants dated January 2020- **Attached**)
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 Streambed Alteration Permit obtained from the California Department of Fish and Wildlife. (Notification No. 1600-2020-0097-R1 and 1600-2016-0209-R1)
9. 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. (Not applicable)

10. 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)
11. For indoor cultivation facilities, identify the source of electrical power and how it will meet with the energy requirements in Section 55.4.8.2.3, and plan for compliance with applicable building codes. (Not applicable)
12. Acknowledge 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)
13. Acknowledge 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)
14. *Timber Conversion Evaluation Report* prepared by Timberland Resource Consultants, dated February 12, 2020.
15. *RPF Revised Recommendations* prepared by Timberland Resource Consultants, dated August 18, 2021.
16. *Road Evaluation Report* for the Private Drive prepared by Northpoint Consulting, dated February 25, 2020. **(Attached)**
17. *Well Completion Report* received February 25, 2020. **(Attached)**
18. *Historic Cultivation Report* prepared by Timberland Resource Consultants dated June 26, 2017. **(Attached)**
19. *Cultural Resource Investigation Report* prepared by Arsenault & Associates dated January 2020. (On file- Confidential)
20. *Biological Assessment* prepared by Timberland Resource Consultants dated January 29, 2020. (On file- Confidential)

**EUBANK CREEK, LLC**  
**CULTIVATION AND OPERATIONS MANUAL**  
**HUMBOLDT COUNTY, CA**

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**APPLICATION # 12972**  
**APN:220-072-014**  
**220-171-017**

**PREPARED FOR:**



**Updated June 2021**

**Cultivation and Operations Manual  
For  
Eubank Creek, LLC  
APN 220-072-014  
220-171-017**

**Proposed Cannabis Cultivation Facilities**

Lead Agency:

***Humboldt County Planning Department***  
3015 H Street  
Eureka, CA 95501

Prepared By:

***NorthPoint Consulting Group, Inc.***  
1117 Samoa Blvd  
Arcata, California 95521

In Consultation with:

**Eubank Creek, LLC**

June 2021



## **TABLE OF CONTENTS**

1. PROJECT SUMMARY .....	1-1
1.1. Project Objective .....	1-1
1.2. Site Description.....	1-1
1.3. Land Use .....	1-1
1.4. State and Local Compliance.....	1-1
2. CULTIVATION AND PROCESSING .....	2-2
2.1. Nursery Propagation and Initial Transplant.....	2-2
2.2. Cultivation Plan and Schedule .....	2-2
2.3. Irrigation Plan and Schedule.....	2-3
2.4. Harvesting, Drying, and Trimming.....	2-3
2.5. Processing Facility.....	2-3
2.6. Employee Plan .....	2-3
2.7. Security Plan and Hours of Operation .....	2-4
3. ENVIRONMENT .....	3-4
3.1. Water Source and Projected Water Use .....	3-4
3.2. Water Storage.....	3-4
3.3. Site Drainage, Runoff, and Erosion Control .....	3-5
3.4. Watershed and Habitat Protection .....	3-5
3.5. Monitoring and Reporting .....	3-5
3.6. Electrical Use and Attenuation to Noise.....	3-6
3.7. Use and Storage of Regulated Products .....	3-6
3.8. Waste Management Plan .....	3-7
4. PRODUCT MANAGEMENT .....	4-7
4.1. Product Testing and Labeling .....	4-7
4.2. Product Inventory and Tracking .....	4-8
4.3. Transportation and Distribution.....	4-8

Appendix A: Site Plan

Appendix B: Cultivation Activities Schedule

Appendix C: References

## 1. PROJECT SUMMARY

### 1.1. PROJECT OBJECTIVE

Eubank Creek, LLC is proposing to permit existing cannabis cultivation activities with a Conditional Use Permit in accordance with the County of Humboldt's (County) Commercial Cannabis Marijuana Land Use Ordinance (1.0). The existing operation includes approximately 1.5 acres of outdoor cultivation grown in the understory of timber areas on APN: 220-171-017. The project proposes the reorganization, restoration, and cleanup of existing cultivation areas. A proposed 43,560 sq. ft of outdoor cultivation would be reorganized. The project proposal includes the development of facilities appurtenant to the cultivation, including greenhouses for cultivation, on-site nursery facilities, an exempt barn for drying and curing of cannabis, and appropriate water storage that includes existing hard tank storage and a proposed rain catchment pond. The proposed project includes a Lot Line Adjustment between 220-171-021 and 220-171-018 creating one legal parcel.

### 1.2. SITE DESCRIPTION

The Project is located along Eubanks Road, Whitethorn, CA 95589, (APN's: 220-171-017 and 220-072-014). The property is primarily characterized as grass lands on slopes less than 15% and forested areas on lands greater than 15% slopes.

### 1.3. LAND USE

The subject property has a General Plan designation of Agricultural Land (AL) as identified by the Humboldt County General Plan and is zoned Unclassified. Land uses surrounding the parcel are comprised of agriculture and timber. The surrounding parcels are zoned Unclassified (U).

### 1.4. STATE AND LOCAL COMPLIANCE

#### 1.4.1. STATE OF CALIFORNIA COMMERCIAL CANNABIS ACTIVITY LICENSE

Eubank Creek, LLC will comply with California Department of Food and Agricultural cannabis laws, licensing, and regulations.

#### 1.4.2. STATE WATER RESOURCES CONTROL BOARD

Water for irrigation purposes will be primarily sourced from a permitted well on APN: 220-072-006 and a proposed rain catchment pond. A Small Use Irrigation Registration (SIUR) has been obtained for the ability to divert surface water and store it for use during the forbearance period (SIUR Registration #H502097). Eubanks Creek, LLC will follow the strict regulations required within the SIUR on when to divert based on monitoring the State Water Resources Control Board "Online Cannabis Compliance Gage Mapping Tool." The tool allows Eubanks Creek, LLC to identify when the diversion is authorized or not authorized daily depending on the flows of the local stream gauge.

Eubanks Creek, LLC is enrolled with the State Water Resources Control Board for coverage as a Tier 1 Low Risk Site for Order WQ 2017-0023-DWQ (WDID:1\_12CC415590). A site management plan has been developed by Timberland Resources Consulting.

#### 1.4.3. HUMBOLDT COUNTY BUILDING DEPARTMENT

All necessary building permits will be obtained from the Humboldt County Building Department for all existing, proposed structures and supporting infrastructure upon approval of the CUP.

#### **1.4.4. CAL FIRE**

The subject property is located within a State Responsibility Area (SRA) for fire protection. Several improvements are proposed to meet SRA requirements, including designating a fire turn-around and pull-out area for emergency vehicles, and management of trees and vegetation around existing structures to maintain the required 100-foot defensible space. One (1) 2,500-gallon water tank is proposed to be installed with a riser to SRA specifications near the proposed ag structure. The existing and proposed structures on the property will meet the 30-foot SRA setback requirement from property lines.

#### **1.4.5. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

A Lake and Stream Alteration Agreement (1600-2016-0209-R1) has been executed with the Department of Fish and Wildlife in March of 2017 for the maintenance and use of the water encroachment for water diversion on-site. A second notification has been executed (1600-2020-0097-R1) to the department for the jurisdictional stream crossings on the parcel. The applicant intends to limit the use of all instream diversion in accordance with the LSAA agreement and Small Use Irrigation Registration. The main source of water for irrigation will be sourced from the well on parcel 220-072-006.

#### **1.4.6. CULTURAL RESOURCES**

If buried archaeological or historical resources are encountered during construction or cultivation activities, the applicant or contractor shall call all work in the immediate area to halt temporarily, and a qualified archaeologist is to be contacted to evaluate the materials. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, dietary bone, and human burials. If human burial is found during construction, state law requires that the County Coroner be contacted immediately. If the remains are found to be those of a Native American, the California Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains. The applicant is ultimately responsible for ensuring compliance with this condition.

## **2. CULTIVATION AND PROCESSING**

### **2.1. NURSERY PROPAGATION AND INITIAL TRANSPLANT**

The nursery is proposed in a 20'x40' area of the ag exempt barn, one (1) 14' X 100' and one (1) 14'x80' greenhouse for a proposed total of 3,320 sq. ft. Immature plants are propagated off site at a licensed facility. The immature plants are placed into the nursery in 5" pots, and once fully rooted they are transplanted directly into one (1) gallon to two (2) gallon plastic containers and placed in the nursery greenhouse. The juvenile plants are irrigated using hand watering methods. After 2-5 weeks the juvenile plants are then transplanted into a light deprivation greenhouse where they continue their 'vegetative' cycle. Nursery and propagation greenhouses will use LED or fluorescent lighting to keep the juvenile plants in the 'vegetative' cycle. Any propagation area with supplemental lighting will be properly maintained and shielded to avoid being visible between 30 minutes prior sunset and until 30 minutes after sunrise. The site will comply with International Dark Sky Association standards for Lighting Zone 0, and prevent light spillage which may impact local wildlife.

### **2.2. CULTIVATION PLAN AND SCHEDULE**

The outdoor cultivation occurs in four (4) 20'x144.5' greenhouses, four (4) 20'x120' greenhouses, eight (8) 20'x100' greenhouses, and four (4) 20'x80' greenhouses for a total cultivation area of 43,560

sq. ft. The greenhouses consist of heavy gauge steel tubing, covered with an opaque or clear tarp, weather dependent. Each greenhouse is open ventilated with roll up sides and does not use fans or electrical. Raised beds will run the length of each greenhouse. The monthly Cultivation Schedule in Appendix C details the cultivation activities associated with the outdoor light deprivation cultivation operation for a typical two cycle year.

### **2.3. IRRIGATION PLAN AND SCHEDULE**

Irrigation and fertigation of plants occurs using a combination of drip irrigation and top-feed hand watering methods. Eubank Creek, LLC maintains that irrigation and fertigation is more efficiently managed via drip and hand watering, allowing for daily inspection of each plant by the cultivator and tailored irrigation and nutrient application depending on the needs of each individual plant. The monthly Cultivation Schedule in Appendix B details the irrigation activities associated with all cultivation.

### **2.4. HARVESTING, DRYING, AND TRIMMING**

Drying and curing will occur in the proposed 40'x80' ag exempt building. Plants that are ready for harvest have their flowering branches removed and suspended in the drying room which is equipped with ventilation fans. The drying process takes approximately 3 weeks, at which time the flowers will be transported off site to a licensed processing facility to be trimmed and packaged. The waste product, or 'trim', is collected and sold to a licensed manufacturing facility.

### **2.5. PROCESSING FACILITY**

All cannabis processing outside of drying and curing will occur off site at a licensed facility.

### **2.6. EMPLOYEE PLAN**

Eubank Creek, LLC 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), and complies with all applicable federal, state and local laws and regulations governing California Agricultural Employers.

#### **2.6.1. JOB DESCRIPTIONS AND EMPLOYEE SUMMARY**

- *Full time Laborer:* Responsibilities include, but are not limited to: managing cultivation operations, inventory and tracking, personnel management, record keeping, budget, and liaison with State and County inspectors as needed. This is a part-time to full-time, seasonal position.
- *Seasonal Laborer:* Provides cultivation support including transplanting and harvesting. This is a part-time to full-time, seasonal position.

#### **2.6.2. STAFFING REQUIREMENTS**

Up to two (2) full-time seasonal labor positions are employed and 4 part-time seasonal laborers. The number of seasonal laborers varies based on the needs of the farm during the transplanting and harvest seasons. During the peak harvest and processing season, there are an estimated total of two (6) employees on site.

#### **2.6.3. EMPLOYEE TRAINING AND SAFETY**

On site cultivation, harvesting, and drying, is performed by employees trained on each aspect of the procedure including cultivation and harvesting techniques and use of pruning tools; proper application and storage of pesticides and fertilizer. All cultivation and processing staff are provided

with proper hand, eye, body and respiratory Personal Protective Equipment (PPE). Access to the onsite cultivation, drying and curing facilities are limited to authorized and trained staff.

All employees are trained on proper safety procedure including fire safety; use of rubber gloves and respirators; proper hand washing guidelines; and protocol in the event of an emergency. Contact information for the local fire department, CAL FIRE, Humboldt County Sheriff and Poison Control as well as the Agent in Charge will be posted at the employee restroom. Each employee is provided with a written copy of emergency procedures and contact information. The material safety data sheets (MSDS) are kept on site and accessible to employees.

#### **2.6.4. ON SITE HOUSING, TOILET AND HANDWASHING FACILITIES, AND DRINKING WATER**

All employees live off site and commute daily to the cultivation site. No new residential structures are proposed as a part of this project. A portable toilet will be onsite and serviced by the provider. Drinking water for employees will be provided from offsite in reusable 5-gallon containers.

### **2.7. SECURITY PLAN AND HOURS OF OPERATION**

#### **2.7.1. FACILITY SECURITY**

A gate controls access to the site. Restricted access signs will be posted conspicuously at the entrance. The cultivation area is limited access to Eubank Creek, LLC employees.

#### **2.7.2. HOURS OF OPERATION**

Activities associated with cultivation in the greenhouses (watering and transplanting) generally occur during daylight hours. All other activities such as processing (drying and harvesting) typically occur no earlier than 6am and extend no later than 8pm. Trimming and packaging will occur off site.

## **3. ENVIRONMENT**

### **3.1. WATER SOURCE AND PROJECTED WATER USE**

The primary water source for Eubank Creek, LLC is an existing ground water well on APN:220-072-006 and proposed 1.4-million-gallon rain catchment pond. The existing point of diversion associated with SIUR #H502097 will supplement the well in the winter months to fill the existing hard tank water storage on site. Eubank Creek, LLC estimates a total of 594,500 (13.64 gal per sq. ft.) gallons of water will be used in a typical year.

The table below outlines the estimated irrigation water usage for cultivation during a typical year. Variables such as weather conditions and specific cannabis strains will have a slight effect on water use.

Table 3.1: Estimated Annual Irrigation Water Usage (Gallons) for up to 43,560 SF of Canopy (2 Cycle)											
Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
0	0	4,500	15,000	55,000	70,000	100,000	115,000	115,000	85,000	35,000	0

Refer to section 2.3 for a summary of irrigation practices.

### **3.2. WATER STORAGE**

Eubank Creek has an existing 205,000 gallons of hard tank storage ((33)5,000-gallon tanks and (1) 40,000-gallon metal tank). The proposed 1.4-million-gallon rain catchment pond will allow for ample

additional water storage that accounts for cultivation use and storage, fire protection and evaporation.

### **3.3. SITE DRAINAGE, RUNOFF, AND EROSION CONTROL**

Eubank Creek, LLC is enrolled in the State Water Resources Control Board, General Waiver Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Cannabis General Order) for coverage as Tier (1), Low risk discharger. A Site Management Plan (SMP) has been developed. The drainage and erosion control measures described below will be referenced from SMP.

#### **3.3.1. SITE DRAINAGE AND RUNOFF**

The proposed greenhouses are located away from riparian zones. Fertilizers and pesticides will be stored in the proposed accessory structure with secondary containment to prevent contamination with runoff. Sites have been identified for storage/disposal of spoils and cultivation waste.

Moreover, the cultivation structures are located a greater than 200 feet from the nearest water course, providing a sufficient buffer to prevent sediment and nutrient delivery. To further prevent runoff to riparian areas, water conservation and containment measures will be implemented including the use of hand irrigation to prevent excessive water use, and the maintenance of a stable, vegetated buffer between the cultivation area and riparian zone.

#### **3.3.2. EROSION CONTROL**

Eubank Creek, LLC will utilize best management practices including but not limited to:

1. Maintenance of roads, including rocking and armoring.
2. Proper management of solid, liquid and cultivation waste (see section 3.8)
3. Cultivation facilities and spoil stockpiles will meet all required setbacks from riparian and wetland areas.
4. Irrigation and application of fertilizers will be applied at agronomic rates.
5. Regulated products will be safely stored with secondary containment (see section 3.7)

### **3.4. WATERSHED AND HABITAT PROTECTION**

Adherence to the Site Management Plan (SMP) ensures that the watershed and surrounding habitat are protected. The cultivation activities and associated structures are greater than 200 feet from the nearest watercourse, providing a suitable buffer between the cultivation operation and habitat. Additionally, site development and maintenance activities utilize BMP's in accordance with the NCRWQCB's recommendations. Any grading and earthwork activities will be conducted by a licensed contractor in accordance with approved grading permits and the SMP. Refer to the SMP for detailed descriptions of watershed and habitat protection measures.

### **3.5. MONITORING AND REPORTING**

Monitoring will be conducted to confirm the effectiveness of corrected measures listed in the Site Management Plan (SMP) and determine if the site meets all Standard Conditions. Inspections will include photographic documentation of any controllable sediment discharge sites as identified on the site map. Visual inspection will occur at those locations on the site where pollutants or wastes, if uncontained, could be transported into receiving waters, and those locations where runoff from roads or developed areas drains into or towards surface water. The inspection will also document the progress of any plan element subject to a time schedule, or in the process of being implemented. A monitoring plan is included in the WRPP with photo points identified on WRPP map.

Onsite monitoring shall occur:

- Before and after any significant alteration or upgrade to a given stream crossing, road segment, or other controllable sediment discharge site. Inspection should include photographic documentation, with photo records to be kept on site.
- Prior to October 15 and December 15 to evaluate site preparedness for storm events and stormwater runoff.
- Following any rainfall event with an intensity of 3 inches precipitation in 24 hours. Precipitation data can be obtained from the National Weather Service by entering the site zip code at <http://www.srh.noaa.gov/forecast>.

A Monitoring and Reporting Form (Order No. 2015-0023 Appendix C) will be submitted upon initial enrollment in the Order (NOI) and then annually by March 31 to the Regional Water Board. The annual report will include data from the monitoring reports.

### **3.6. ELECTRICAL USE AND ATTENUATION TO NOISE**

Existing on-site electricity is provided by two Hondo 3kw generator for running the irrigation systems. The generators will follow all guidelines set up by Humboldt County and the State of California. The noise level produced by the generator will not be greater than 50 dBa at either 100 feet from its location, the edge of the nearest forested habitat, or the nearest property line. The generator will have secondary containment along with any fuel storage. The proposed cultivation greenhouses are open ventilated and does not propose the use of electricity (no lights or fans).

The solar array will occur on the roof of the proposed ag-exempt barn. The array and battery storage will allow for Eubanks Creek, LLC to run low wattage string lights in the nursery areas during the propagation months, irrigation systems, and small oscillating fans and dehumidifiers in the ag exempt barn while drying and curing during harvesting.

### **3.7. USE AND STORAGE OF REGULATED PRODUCTS**

#### **3.7.1. BEST MANAGEMENT PRACTICES**

Best Management Practices (BMP's) are employed when storing, handling, mixing, application and disposal of all fertilizers, pesticides and fungicides. All nutrients, pesticides and fungicides are located in a locked garage, and contained within watertight, locked and labeled containers in accordance with manufactures instruction. Application rates will be tracked and reported with the end of the year monitoring report required in the Site Management Plan (SMP). Employees responsible for application are trained to handle, mix, apply or dispose of pesticides/fungicides with proper hand, eye body and respiratory protection in accordance with the manufacturer's recommendations. See the SMP for complete BMP specifications for the use of regulated products. Storage of the fertilizers and pesticides will be kept in the proposed ag building and seasonally kept in the <P> 10'x20' seasonal carports for storage for mixing for irrigation.

#### **3.7.2. FERTILIZERS**

Nutrients and biological inoculants used for cultivation include:

- GH Organics Bio Thrive Nitrogen:
- GH Organics Bio Thrive Bloom:
- GH Bio Bud Bloom Booster
- GH Armorsi Silica
- GH Bio Marine Base Supplement



- Bone Meal
- DR Earth Organic (2-3-3)
- Organic Bat Guano (0-3-7):
- Organic Bat Guano (7-1-1)

See Appendix B - *Regulated Products Resource List* for product details.

### **3.7.1. PESTICIDES AND FUNGICIDES**

Pesticides and fungicides used for cultivation include:

- Plant Therapy
- Organicide
- Einstein Oil
- Azamax
- Coco Wet
- SM90

See Appendix B - *Regulated Products Resource List* for product details.

### **3.7.2. FUEL**

Fuels and oils stored on site include:

- Gasoline— Eight (8) 5-gallons tank with secondary containment the ag exempt barn.

See Appendix B - *Regulated Products Resource List* for product details.

## **3.8. WASTE MANAGEMENT PLAN**

### **3.8.1. SOLID WASTE MANAGEMENT**

Trash and recycling containers will be located next to the proposed ag exempt structure. The containers will be situated on a gravel pad to prevent storm water contamination and leachate from entering or percolating to receiving waters. The trash containers is enclosed within a fenced area to prevent animal intrusion. Solid waste and recycling are hauled off-site to the Eel River Resource Recovery - Fortuna transfer station at least once every other week.

### **3.8.2. CULTIVATION WASTE AND SOIL MANAGEMENT**

Cultivation vegetative matter such as root balls, branches, and leaves are composted at a designated area. Spent potting soil is reused and remediated in the raised beds and cover during that rainy season with cover crop. Used pots for propagation will be collected and stored in the barn for the winter. All packaging from soil amendments and fertilizers will be collected and disposed at an appropriate facility.

### **3.8.3. WASTEWATER MANAGEMENT**

The water management plan aims to achieve an entirely closed-cycle irrigation and nutrient system. Hand watering methods minimize the over-irrigation of plants and subsequent runoff.

## **4. PRODUCT MANAGEMENT**

### **4.1. PRODUCT TESTING AND LABELING**

Samples are selected from individual harvested cannabis strains and are tested by a licensed third-party lab in accordance with State and local standards. The finished product is labeled with the



Eubanks Creek, LLC logo, and will include tracking ID's provided by the Statewide tracking systems (METRC).

#### **4.2. PRODUCT INVENTORY AND TRACKING**

The applicant will comply with the state of California's trace and trace system (METRC) The Lead Cultivator ensure all cannabis from clone to packaged product is tracked, accounted for and inventoried. Records are kept at each phase of the clones/seeds, planting, harvesting and processing operation for reporting and compliance with State and Local regulations. The information recorded for each harvest includes:

#### **4.3. TRANSPORTATION AND DISTRIBUTION**

Transportation will be handled by a third-party, contracted, licensed transporter/distributor in accordance with State and Local regulations. All merchantable product will be distributed through licensed cannabis dispensaries. Prior to moving packages from the on-site holding facility to another physical location, a transport manifest will be created by the distributor/transporter and will include:

- Product ID numbers and product weight
- Route to be travelled
- Origin and destination addresses
- Time of departure
- Time of arrival

The *Agent in Charge* is responsible for performing a physical inventory of all packages being transported, and ensuring that the physical inventory coincides with the transport manifest.

## **Appendix B: Cultivation Activities Schedule**

CULTIVATION ACTIVITIES SCHEDULE

EUBANK CREEK, LLC

Item	Description	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Drainage, Runoff, and Erosion Control	Winterization (storage of pots/greenhouse covers)												
	Temporary Erosion Control BMP's (straw, seeding, fiber rolls, etc.)												
	Road maintenance												
	Culvert and inboard ditch maintenance/inspection												
	Cover soil beds												
Irrigation Activities	Irrigation of juvenile plants/clones												
	Irrigation of flowering plants												
Pre-cultivation Activities	Receive and transplant offsite clones into 4" pots												
	Transplant Juvenile Plants into beds												
	Amend soil in greenhouses												
	Import new cultivation soil												
Outdoor Cultivation / Harvest Schedule	Outdoor Cultivation Cycle												
	Harvest activities												
Drying and Processing	Drying Activities												
	Trimming Activities (off-site)												
Staffing Presence	Agent in Charge												
	Seasonal Laborers												

## **Appendix C: References**

Bass, Ronald E., Kenneth M. Bogdan, and Terry Rivasplata. 2013. CEQA Desktop. Point Arena, CA; Solano Book Press. Page 44.

California Code of Regulations. Health and Safety Code Section 11357-11362.9.

<<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=11001-12000&file=11357-11362.9>> Date accessed: July 16, 2014.

California NORML. SB 420 Establishes Prop. 215 Guidelines, Voluntary Patient Identification Card System.

<<http://www.canorml.org/laws/sb420.html>> Date accessed: July 21, 2014.

County of Humboldt. *Medical Marijuana Land Use Ordinance (MMLUO) – Phase IV, Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use* (Staff Report to the Board of Supervisors). January 26, 2016. <<https://humboldt.legistar.com/Calendar.aspx>> Date accessed: March 28, 2016.

North Coast Regional Water Quality Control Board. 2016. *Cannabis Cultivation Waste Discharge Regulatory Program*. [http://www.waterboards.ca.gov/northcoast/water\\_issues/programs/cannabis/](http://www.waterboards.ca.gov/northcoast/water_issues/programs/cannabis/). Date accessed: March 28, 2016.

State Board of Equalization. Information on the Sales and Registration for Marijuana Sellers. June 2007.

<<http://www.boe.ca.gov/news/pdf/173.pdf>>

State of California. Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use. August 2008.

[http://www.ag.ca.gov/cms\\_attachments/press/pdfs/n1601\\_medicalmarijuanaguidelines.pdf](http://www.ag.ca.gov/cms_attachments/press/pdfs/n1601_medicalmarijuanaguidelines.pdf)

PRISM Gridded Climate Data. PRISM Climate Group, Oregon State University, <http://prism.oregonstate.edu>, created 4 Feb 2004.

<http://www.prism.oregonstate.edu>



STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

RIGHT TO DIVERT AND USE WATER

REGISTRATION H502097

CERTIFICATE H100215

Right Holder: *Fernando Olea*  
*PO Box 443*  
*Fortuna, CA 95540*

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from 07/26/2018. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated October 19, 2017.

The Deputy Director for Water Rights finds that this registration meets the requirements for registration of small irrigation use appropriation. (Wat. Code, § 1228 et seq.)

Right holder is hereby granted a right to divert and use water as follows:

1. Location of point(s) of diversion (**Coordinates in WGS 84**)

Name of Diversion	Source	Tributary To:	Thence	Latitude	Longitude	County	Assessor's Parcel Numbers (APN)
POD 1	Eubank Creek	Mattole River	Mattole River	40.083588	-123.980195	Humboldt	220-171-017
POD 2	Unnamed Stream	Eubank Creek	Mattole River			Humboldt	220-072-014
POD 3	Unnamed Stream	Eubank Creek	Mattole River			Humboldt	220-171-018

2. Purpose of Use and 3. Place of Use

2. Purpose of Use	3. Place of Use		
	County	Assessor's Parcel Numbers (APN)	Acres
Irrigation	Humboldt	22017118	2.81

Note: Assessor's Parcel Numbers provided are based on the user's entries in this portal on 08/16/2018.

The place of use is shown on the map filed on 08/16/2018 with the State Water Board.

4. Quantity and Season:

The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 1.64 **acre-feet per year** to be collected from 01/01 to 12/31 and as permitted in the diversion season specified in the current version of the State Water Board's Cannabis Policy, whichever is more restrictive. The total storage capacity shall not exceed 164,000-gallons. The rate of diversion to storage shall not exceed **42,000 gallons per day (gpd) or the diversion rate specified in the current version of the State Water Board's Cannabis Policy, whichever is more restrictive.**

5. No water shall be diverted or used under this right unless the water right holder is in compliance with all applicable conditions, including the numeric and narrative instream flow requirements, of the current version of the State Water Board's Cannabis Policy, except as follows:

Right holders enrolled under Regional Water Quality Control Board Order R1-2015-0023 or Order R5-2015-0113 shall comply at all times with requirements related to flow, diversion, storage, and similar requirements of Attachment A of the Cannabis Policy identified by the Division of Water Rights below in this condition. This condition remains in effect until July 1, 2019, or when the right holder enrolls under the statewide Cannabis General Order, whichever comes first, at which time right holders shall comply with all applicable conditions and requirements of Attachment A of the Cannabis Policy.

- Section 1 – Term Numbers 4, 15, 17, 24, 26, and 36.
- Section 2 – Term Numbers 23, 63, 64, 66, 69 – 78, 82 – 94, 96, and 98 – 103.
- Section 3 – All Instream Flow Requirements for Surface Water Diversions (Requirements 1 – 7) and the Gage Installation, Maintenance, and Operation Requirements.
- Section 4 – All requirements and conditions.

The current version of the State Water Board's *Cannabis Policy* is available online at:  
[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy.pdf](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy.pdf).

6. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies.
7. Diversion works shall be constructed and water applied to beneficial use with due diligence.
8. No water shall be diverted under this right unless right holder complies with all lawful conditions required by the California Department of Fish and Wildlife. (Wat. Code, § 1228.6, subd. (a)(2).)
9. No water shall be diverted under this right unless it is diverted in accordance with the information set forth in the completed registration form as to source, location of point of diversion, purpose of use, place of use, quantity, and season of diversion. This information is reproduced as conditions 1 through 4 of this certificate.
10. No water shall be diverted under this right unless right holder complies with all applicable state, city, county, and local laws, regulations, ordinances, permits, and license requirements including, but not limited to those for cannabis cultivation, grading, construction, and building.
11. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
12. The State Water Board reserves jurisdiction over this registration to change the season of diversion and rate of diversion based on later findings of the State Water Board concerning availability of water and the protection of beneficial uses. Any action to change the authorized season of diversion and rate of diversion will be taken only after notice to interested parties and opportunity for hearing.
13. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
- a. Entry upon property where water is being diverted, stored, or used under a right issued by the State Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;
  - b. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by the State Water Board;
  - c. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
  - d. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by the State Water Board, or as otherwise authorized by the Water Code.



required to otherwise compensate the holders of such rights for injury caused.

15. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.
16. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.
17. If storage or diversion of water under this right is by means of a dam, right holder shall allow sufficient water at all times to pass through a fishway or, in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that, during a period of low flow in the stream, upon approval of the California Department of Fish and Wildlife, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway. In the case of a reservoir, this provision shall not require the passage or release of water at a greater rate than the unimpaired natural inflow into the reservoir. (Fish & G. Code, § 5937.)
18. The facilities for diversion under this right shall include satisfactory means of measuring and bypassing sufficient water to satisfy downstream prior rights and any requirements of the California Department of Fish and Wildlife and the State Water Board's Cannabis Policy.
19. This right does not authorize any act which results in the taking of a threatened, endangered, or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C.A. section 1531 et seq.). If a "take" will result from any act authorized under this water right, the right holder shall obtain authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the state and Federal Endangered Species Acts for the project authorized under this right.
20. This right is subject to the submittal of an annual report of water use and satisfactory renewal, on forms to be furnished by the State Water Board, including payment of the then-current annual renewal fees. (Wat. Code, § 1228.5.)
21. This right shall be totally or partially forfeited for nonuse if the diversion is abandoned or if all or any part of the diversion is not beneficially used for a continuous period of five years.
22. This right is subject to enforcement, including but not limited to revocation, by the State Water Board if 1) the State Water Board finds that the right holder knowingly made any false statement, or knowingly concealed any material fact, in the right; 2) the right is not renewed as required by the conditions of this certificate; or 3) the State Water Board finds that the right holder is in violation of the conditions of this right. (Wat. Code, § 1228.4 et seq.)
23. The State Water Board intends to develop and implement a basin-wide program for real-time electronic monitoring and reporting of diversions, withdrawals, releases, and streamflow in a standardized format if and when resources become available. Such real-time reporting will be required upon a showing by the State Water Board that the program and the infrastructure are in place to accept real-time electronic reports. Implementation of the reporting requirements shall not necessitate amendment to this right.

STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

This certificate was issued automatically as a result of the registrant self-certifying submittal of a water right registration filing in substantial compliance with Water Code §1228.3.

Dated: 08/16/2018 12:17:13

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

RECEIVED

MAR 13 2017



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2016-0209-R1

CDFW - EUREKA

Unnamed Tributary to the Eubank Creek, Tributary to the Mattole River  
and the Pacific Ocean

Mr. Ben Wilke  
Wilke Water Diversion Project  
2 Encroachments

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Mr. Ben Wilke (Permittee).

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on May 17, 2016, that the Permittee intends to complete the project described herein.

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

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

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

**PROJECT LOCATION**

The project to be completed is located within the Eubank Creek watershed, approximately 4.6 miles west/southwest of the town of Briceland, County of Humboldt, and State of California. The project is located in Section 29, T4S, R2E, Humboldt Base and Meridian; in the Briceland U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel Numbers 220-171-17 and 220-171-18 at the points of diversion (POD); latitude 40.0836 N and longitude 123.9801 W at POD-1, and latitude 40.0879 N and longitude 123.9792 W at POD-2.

**PROJECT DESCRIPTION**

The project is limited to two encroachments for water diversion. A Class II spring is diverted by gravity to storage tanks for domestic use. A Class I stream is diverted



through a one inch poly pipe and pump for irrigation use. Work for the project includes use and maintenance of the water diversion infrastructure.

## PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), steelhead trout (*O. mykiss*), amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

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

### **Impacts to water quality:**

increased water temperature;  
reduced instream flow;

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

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

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

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

## MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

### **1. Administrative Measures**

The Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the

Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.

- 1.3 Adherence to Existing Authorizations. All water diversion facilities that the Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights.
- 1.4 Change of Conditions and Need to Cease Operations. If conditions arise, or change, in such a manner as to be considered deleterious by CDFW to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information becoming available that indicates that the bypass flows and diversion rates provided in this agreement are not providing adequate protection to keep aquatic life downstream in good condition or to avoid "take" or "incidental take" of federal or State listed species.
- 1.5 Notification of Conflicting Provisions. The Permittee shall notify CDFW if the Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact the Permittee to resolve any conflict.
- 1.6 Project Site Entry. The Permittee agrees to allow CDFW employees access to any property it owns and/or manages for the purpose of inspecting and/or monitoring the activities covered by this Agreement, provided CDFW: a) provides 24 hours advance notice; and b) allows the Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW enforcement personnel.

## **2. Avoidance and Minimization Measures**

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

- 2.1 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with the Permittee Notification received with fees paid in full on May 17, 2016, together with all maps, BMP's, photographs, drawings, and other supporting documents submitted with the Notification.
- 2.2 Maximum Diversion Rate: POD-1. The maximum instantaneous diversion rate from the water intake shall not exceed 2% of the total flow at any time.
- 2.3 Maximum Diversion Rate: POD-2. The maximum instantaneous diversion rate from the water intake shall not exceed 20% of the total flow at any time.
- 2.4 Bypass Flow. The Permittee shall pass sufficient flow at all times to keep all aquatic species including fish and other aquatic life in good condition below the point of diversion.



- 2.5 Seasonal Diversion Minimization. No more than 200 gallons in total shall be diverted from either POD during the season from May 15 to October 15 of any year beginning when this Agreement is signed. Water shall be diverted only if the Permittee can adhere to conditions 2.2, 2.3, and 2.4 of this Agreement
- 2.6 Measurement of Diverted Flow. The Permittee shall install a device acceptable to CDFW for measuring the quantity of water diverted to and from the storage system. This measurement shall begin as soon as this Agreement is signed by the Permittee. The Permittee shall record the quantity of water pumped to and from the system on a weekly basis. Alternatively, the Permittee can record the frequency of pumping and the time to fill storage.
- 2.7 Water Management Plan. The Permittee shall submit a Water Management Plan no later than May 15, 2017, that describes how forbearance will be achieved under this Agreement. The Water Management Plan shall include details on water storage, water conservation, or other relevant material to maintain irrigation needs in coordination with forbearance and bypass flow requirements. The Water Management Plan shall include a brief narrative describing water use on the property, photographs to support the narrative, and water use calculations to ensure compliance with this Agreement. The Water Management Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.
- 2.8 Intake Structure. No polluting materials (e.g., particle board, plastic sheeting, bentonite) shall be used to construct or screen, or cover the diversion intake structure.
- 2.9 Intake Screening. Screens shall be installed on intakes wherever water is diverted, and shall be in place whenever water is diverted. Openings in intakes shall not exceed 1/8 inch diameter (horizontal for slotted or square openings) or 3/32 inch for round openings. The Permittee shall regularly inspect, clean, and maintain screens in good condition.
- 2.10 Intake Shall Not Impede Aquatic Species Passage. The water diversion structures shall be designed, constructed, and maintained such that they do not constitute a barrier to upstream or downstream movement of aquatic life.
- 2.11 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.12 Water Storage Maintenance. Storage tanks shall have a float valve to shut off the diversion when tanks are full to prevent overflow from being diverted when not needed. The Permittee shall install any other measures necessary to prevent overflow of tanks resulting in more water being diverted than is used.
- 2.13 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 et seq. as

appropriate for the water diversion and water storage. The link to file a Statement of Water Use can be found at:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/diversion\\_use/docs/intl\\_stmnt\\_form.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/diversion_use/docs/intl_stmnt_form.pdf)

### 3. Reporting Measures

- 3.1 Measurement of Diverted Flow. Copies of the **water diversion records** shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501 **no later than December 31 of each year beginning in 2016**.
- 3.2 Water Management Plan. The Permittee **shall submit a Water Management Plan no later than May 15, 2017**, that describes how forbearance will be achieved under this Agreement. The Water Management Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.

### CONTACT INFORMATION

Written communication that the Permittee or CDFW submits to the other shall be delivered to the address below unless the Permittee or CDFW specifies otherwise.

To Permittee:

Mr. Ben Wilke  
P.O. Box 1020  
Garberville, California 95542  
707-223-1110

To CDFW:

Department of Fish and Wildlife  
Northern Region  
619 Second Street  
Eureka, California 95501  
Attn: Lake and Streambed Alteration Program  
Notification #1600-2016-0209-R1

### LIABILITY

The Permittee shall be solely liable for any violation of the Agreement, whether committed by the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.



This Agreement does not constitute CDFW's endorsement of, or require the Permittee to proceed with the project. The decision to proceed with the project is the Permittee's alone.

## **SUSPENSION AND REVOCATION**

CDFW may suspend or revoke in its entirety this Agreement if it determines that the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide the Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide the Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to the Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

## **ENFORCEMENT**

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against the Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

## **OTHER LEGAL OBLIGATIONS**

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

## **AMENDMENT**

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

The Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and the Permittee. To request an amendment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## **TRANSFER AND ASSIGNMENT**

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by the Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## **EXTENSIONS**

In accordance with FGC section 1605(b), the Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, the Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If the Permittee fails to submit a request to extend the Agreement prior to its expiration, the Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605(f)).



## EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after the Permittee signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at [http://www.wildlife.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html).

## TERM

This Agreement shall **expire five years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. The Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

## AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of the Permittee, the signatory hereby acknowledges that he or she is doing so on the Permittee's behalf and represents and warrants that he or she has the authority to legally bind the Permittee to the provisions herein.

## AUTHORIZATION

This Agreement authorizes only the project described herein. If the Permittee begins or completes a project different from the project the Agreement authorizes, the Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

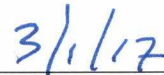
## CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

**FOR Mr. Ben Wilke**

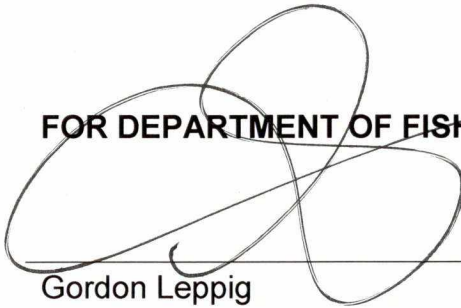


Ben Wilke



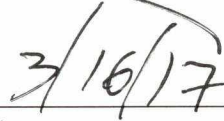
Date

**FOR DEPARTMENT OF FISH AND WILDLIFE**



Gordon Leppig

Senior Environmental Scientist Supervisor



Date

Prepared by: David Manthorne, Environmental Scientist, July 28, 2016



RECEIVED

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

JUN 1 2 2020

CDFW - EUREKA



**STREAMBED ALTERATION AGREEMENT**

NOTIFICATION No. 1600-2020-0097-R1

Unnamed Tributaries to Eubanks Creek, Tributary to the Mattole River  
and the Pacific Ocean

Fernando Olea  
Olea Stream Crossings Project  
9 Encroachments

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Fernando Olea (Permittee).

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on February 26, 2020, that the Permittee intends to complete the project described herein.

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

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

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

**PROJECT LOCATION**

The project to be completed is located within the Eubanks Creek and Mattole River watersheds, approximately 4.3 miles west/southwest of the town of Briceland, County of Humboldt, State of California. The project is located in Sections 20 and 29, T4S, R2E, Humboldt Base and Meridian; in the Briceland U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel Numbers 220-171-017, 220-072-014, 220-171-018, and 220-171-021; latitude 40.097 N and longitude 123.979 W.

**PROJECT DESCRIPTION**

The project is limited to nine encroachments. The nine proposed encroachments are to upgrade failing and undersized culverts. Work for these encroachments will include excavation, removal of the failing, undersized, or perched culverts, replacement with

new culverts, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion.

Table 1. Project Encroachments with Description

ID	Latitude/Longitude	Description
Crossing-1	40.0856, -123.9788	Armor outlet of existing 18" diameter ditch relief culvert
Crossing-2	40.0850, -123.9806	Replace existing 24" diameter culvert with minimum 42" diameter culvert at road/stream crossing
Crossing-4	40.0853, -123.9815	Replace existing 15" diameter culvert with minimum 18" diameter culvert at road/stream crossing
Crossing-5	40.0859, -123.9816	Replace existing 24" diameter culvert with a new minimum 24" diameter culvert at road/stream crossing or decommission crossing
Crossing-6	40.0855, -123.9828	Replace existing 15" diameter culvert with minimum 24" diameter culvert at road/stream crossing
Crossing-7	40.0864, -123.9842	Replace existing 12" diameter culvert with minimum 18" diameter culvert at road/stream crossing
Crossing-8	40.0885, -123.9800	Install rocked ford at road/stream crossing with no existing infrastructure
Crossing-9	40.0894, -123.9810	Replace existing 24" diameter culvert with a new minimum 24" diameter culvert at road/stream crossing
Crossing-10	40.0939, -123.9828	Replace existing 24" diameter culvert with minimum 42" diameter culvert or decommission the road at a road/stream crossing

## PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include Steelhead Trout (*O. mykiss*), Southern Torrent Salamander (*Rhyacotriton variegatus*), Pacific Giant Salamander (*Dicamptodon tenebrosus*), Foothill Yellow-legged Frog (*Rana boylei*), Coastal Tailed Frog (*Ascaphus truei*), amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

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

### Impacts to water quality:

temporary increase in fine sediment transport;

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

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

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

direct and/or incidental take;  
indirect impacts;  
impediment of up- or down-stream migration;  
water quality degradation; and



damage to aquatic habitat and function.

## **MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES**

### **1. Administrative Measures**

The Permittee shall meet each administrative requirement described below.

- 1.1 **Documentation at Project Site.** The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 **Providing Agreement to Persons at Project Site.** The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 **Adherence to Existing Authorizations.** All water diversion facilities that the Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights.
- 1.4 **Change of Conditions and Need to Cease Operations.** If conditions arise, or change, in such a manner as to be considered deleterious by CDFW to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken.
- 1.5 **Notification of Conflicting Provisions.** The Permittee shall notify CDFW if the Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact the Permittee to resolve any conflict.
- 1.6 **Project Site Entry.** The Permittee agrees to allow CDFW employees access to any property it owns and/or manages for the purpose of inspecting and/or monitoring the activities covered by this Agreement, provided CDFW: a) provides 24 hours advance notice; and b) allows the Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW enforcement personnel.
- 1.7 **CDFW Notification of Work Initiation and Completion.** The Permittee shall contact CDFW within the seven-day period preceding the beginning of work permitted by this Agreement. Information to be disclosed shall include Agreement number, and the anticipated start date. Subsequently, the Permittee shall notify CDFW no later than seven (7) days after the project is fully completed.

## **2. Avoidance and Minimization Measures**

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

- 2.1 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with the Permittee Notification received on February 26, 2020, together with all maps, BMP's, photographs, drawings, and other supporting documents submitted with the Notification.
- 2.2 Incidental Take. This Agreement does not allow for the take, or incidental take of any state or federal listed threatened or endangered listed species.

### **Project Timing**

- 2.3 Work Period. All work, not including diversion of water, shall be confined to the period **June 15 through October 1** of each year. Work within the active channel of a stream shall be restricted to periods of **dry weather**. Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Construction activities shall cease and all necessary erosion control measures shall be implemented prior to the onset of precipitation.
- 2.4 Work Completion. The proposed work shall be completed by no later than **October 1, 2021**. A notice of completed work, including photographs of each site, shall be submitted to CDFW within seven (7) days of project completion.
- 2.5 Extension of the Work Period. If weather conditions permit, and the Permittee wishes to extend the work period after October 1, a written request shall be made to CDFW at least 5-working days before the proposed work period variance. Written approval (letter or e-mail) for the proposed time extension must be received from CDFW prior to activities continuing past October 1.
- 2.6 Avoidance of Nesting Birds. Vegetation maintenance/removal as necessary within the scope of the project shall be confined to the period commencing August 16 and ending February 28, of any year in which this Agreement is valid, provided the work area is outside of the actively flowing stream. Work may continue during precipitation events provided stream flows have not risen into work areas and sediment delivery will not result.

### **Vegetation Management**

- 2.7 Minimum Vegetation Removal. No native riparian vegetation shall be removed from the bank of the stream, except where authorized by CDFW. Permittee shall limit the disturbance or removal of native vegetation to the minimum necessary to achieve design guidelines and standards for the Authorized Activity. Permittee shall take precautions to avoid damage to vegetation outside the work area.

- 2.8 **Vegetation Management.** Permittee shall limit vegetation management (e.g., trimming, pruning, or limbing) and removal for the purpose of stream crossing or diversion infrastructure placement/maintenance to the use of hand tools. Vegetation management shall not include treatment with herbicides.

## **Stream Crossings**

- 2.9 **Stream Protection.** No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other deleterious material from project activities shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the stream. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.
- 2.10 **Equipment Maintenance.** Refueling of machinery or heavy equipment, or adding or draining oil, lubricants, coolants or hydraulic fluids shall not take place within stream bed, channel and bank. All such fluids and containers shall be disposed of properly off-site. Heavy equipment used or stored within stream bed, channel and bank shall use drip pans or other devices (e.g., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.
- 2.11 **Hazardous Spills.** Any material, which could be hazardous or toxic to aquatic life and enters a stream (i.e. a piece of equipment tipping-over in a stream and dumping oil, fuel or hydraulic fluid), the Permittee shall immediately notify the California Emergency Management Agency State Warning Center at 1-800-852-7550, and immediately initiate clean-up activities. CDFW shall be notified by the Permittee within 24 hours at 707-445-6493 and consulted regarding clean-up procedures.
- 2.12 **Dewatering.**
- 2.12.1 **Stream Diversion.** Only when work in a flowing stream is unavoidable (e.g., perennial streams), Permittee shall divert the stream flow around or through the work area during construction operations. Stream flow shall be diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.
- 2.12.2 **Maintain Aquatic Life.** When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, Permittee shall allow sufficient water at all times to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code §5937.
- 2.12.3 **Stranded Aquatic Life.** The Permittee shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets,

buckets and by hand. Captured aquatic life shall be released immediately in the closest suitable aquatic habitat adjacent to the work site. This condition does not allow for the take or disturbance of any State or federally listed species, or State listed species of special concern. The Department staff who prepared this agreement shall be contacted immediately if any of these species are detected.

**2.12.4 Coffer Dams.** Prior to the start of construction, Permittee shall divert the stream around or through the work area and the work area shall be isolated from the flowing stream. To isolate the work area, water tight coffer dams shall be constructed upstream and downstream of the work area and water diverted, through a suitably sized pipe, from upstream of the upstream coffer dam and discharge downstream of the downstream coffer dam. Cofferdams and the stream diversion system shall remain in place and functional throughout the construction period. Cofferdams or stream diversions that fail for any reason shall be repaired immediately.

**2.12.5 Minimize Turbidity, Siltation, and Pollution.** Permittee shall use only clean, non-erodible materials, such as rock or sandbags that do not contain soil or fine sediment, to construct any temporary stream flow bypass. Permittee shall divert stream flow around the work site in a manner that minimizes turbidity, siltation, and pollution, and does not result in erosion or scour downstream of the diversion.

**2.12.6 Remove any Materials upon Completion.** Permittee shall remove all materials used for the temporary stream flow bypass after the Authorized Activity is completed.

**2.12.7 Restore Normal Flows.** Permittee shall restore normal flows to the effected stream immediately upon completion of work at that location.

**2.13 Excavated Fill.** Excavated fill material shall be placed in upland locations where it cannot deliver to a watercourse. To minimize the potential for material to enter the watercourse during the winter period, all excavated and relocated fill material shall be tractor contoured (to drain water) and tractor compacted to effectively incorporate and stabilize loose material into existing road and/or landing features.

**2.14 Runoff from Steep Areas.** The Permittee shall make preparations so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential or contained behind erosion control structures. Erosion control structures such as straw bales and/or siltation control fencing shall be placed and maintained until the threat of erosion ceases. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.



## **2.15 Culvert Installation.**

- 2.15.1** The project is located in a moderate to very high Fire Hazard Severity Zone as designated by CAL FIRE. Culvert materials shall consist of corrugated metal pipe (CMP). Use of High Density Polyethylene (HDPE) pipe is not recommended.
- 2.15.2** Existing fill material in the crossing shall be excavated down vertically to the approximate original channel and outwards horizontally to the approximate crossing hinge points (transition between naturally occurring soil and remnant temporary crossing fill material) to remove any potential unstable debris and voids in the older fill prism.
- 2.15.3** Culvert shall be installed to grade (not perched or suspended), aligned with the natural stream channel, and extend lengthwise completely beyond the toe of fill. If culvert cannot be set to grade, it shall be oriented in the lower third of the fill face, and a downspout or energy dissipator (such as boulders, rip-rap, or rocks) shall be installed above or below the outfall as needed to effectively control stream bed, channel, or bank erosion (scouring, headcutting, or downcutting). The Permittee shall ensure basins are not constructed and channels are not be widened at culvert inlets.
- 2.15.4** Culvert bed shall be composed of either compacted rock-free soil or crushed gravel. Bedding beneath the culvert shall provide for even distribution of the load over the length of the pipe, and allow for natural settling and compaction to help the pipe settle into a straight profile. The crossing backfill materials shall be free of rocks, limbs, or other debris that could allow water to seep around the pipe, and shall be compacted.
- 2.15.5** Culvert inlet, outlet (including the outfall area), and fill faces shall be armored where stream flow, road runoff, or rainfall energy is likely to erode fill material and the outfall area.
- 2.15.6** Permanent culverts shall be sized to accommodate the estimated 100-year flood flow [i.e.  $\geq 1.0$  times the width of the bankfull channel width or the 100-year flood size, whichever is greater], including debris, culvert embedding, and sediment loads.

## **2.16 Crossing Maintenance**

- 2.16.1** The placement of armoring shall be confined to the work period when the stream is dry or at its lowest flow
- 2.16.2** No heavy equipment shall enter the wetted stream channel.

2.16.3 No fill material, other than clean rock, shall be placed in the stream channel.

2.16.4 Rock shall be sized to withstand washout from high stream flows, and extend above the ordinary high water level.

2.16.5 Rock armoring shall not constrict the natural stream channel width and shall be keyed into a footing trench with a depth sufficient to prevent instability.

**2.17 Fords, Armored Fill and Vented Crossings.**

2.17.1 Fords, armored and vented crossings are considered permanent watercourse encroachments and shall accommodate the 100-year flood flow plus associated sediment and debris.

2.17.2 Hydrologically-connected road approaches to fords, armored and vented crossings shall be rocked and maintained to avoid delivery of fine sediment to the watercourse below.

2.17.3 Fords, armored and vented crossings shall be maintained as necessary to avoid delivery of fine sediment to the watercourse below.

2.17.4 Fords, armored and vented crossings shall be sufficiently outsloped to minimize aggradation of suspended sediments at the crossing.

2.17.5 The lowest point of fords, armored and vented crossings shall be constructed within or directly over the original stream channel, to the extent feasible, in order to contain high flows up to twice bank-full and to avoid diversion potential.

2.17.6 Armor material shall be comprised of durable angular screened quarry rock of sufficient size and placement to minimize mobilization during a 100-year storm event. Wood may be used for armoring if sound, tight-grained, redwood is applied and sufficiently keyed into the fillslope to resist movement during a 100-year storm event.

2.17.7 If maximum fill heights exceed 15 feet or fills exceed 500 cubic yards of fill, rock sizing, armoring thickness, chute width and chute depth shall be calculated and sized using the nomograph provided in Figure 23 of Cafferata et al (2017).

2.17.8 Stream crossing spillway fill slopes shall be armored from roadbed to the natural channel in a manner sufficient to prevent significant scour or removal of armor during high flows. Scour is expected through road surface rock cap.

- 2.18 Road Approaches. The Permittee shall treat road approaches to new or re-constructed permanent crossings on *Class I and II watercourses* to minimize erosion and sediment delivery to the watercourse. Permittee shall ensure road approaches are hydrologically disconnected to the maximum extent feasible to prevent sediment from entering the crossing site, including when a Stream Crossing is being constructed or reconstructed. Road approaches shall be armored from the crossing for a minimum of 50 feet in both directions, or to the nearest effective water bar or point where road drainage does not drain to the crossing, with durable rock.
- 2.19 Project Inspection. The Project shall be inspected by Timberland Resource Consulting or a licensed engineer to ensure that the stream crossings were installed as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

### **Erosion Control and Pollution**

- 2.20 Erosion Control. Permittee shall use erosion control measures throughout all work phases where sediment runoff threatens to enter a stream, lake, or other Waters of the State.
- 2.21 Erosion Control. Permittee shall use erosion control measures throughout all work phases where sediment runoff threatens to enter a stream, lake, or other Waters of the State.
- 2.22 Seed and Mulch. Upon completion of construction operations and/or the onset of wet weather, Permittee shall stabilize exposed soil areas within the work area by applying mulch and seed. Permittee shall restore all exposed or disturbed areas and access points within the stream and riparian zone by applying local native and weed free erosion control grass seeds. Locally native wildflower and/or shrub seeds may also be included in the seed mix. Permittee shall mulch restored areas using at least two to four inches of weed-free clean straw or similar biodegradable mulch over the seeded area. Alternately, Permittee may cover seeding with jute netting, coconut fiber blanket, or similar non-synthetic monofilament netting erosion control blanket.
- 2.23 Erosion and Sediment Barriers. Permittee shall monitor and maintain all erosion and sediment barriers in good operating condition throughout the work period and the following rainy season, defined herein to mean October 15 through June 15. Maintenance includes, but is not limited to, removal of accumulated sediment and/or replacement of damaged sediment fencing, coir logs, coir rolls, and/or straw bale dikes. If the sediment barrier fails to retain sediment, Permittee shall employ corrective measures, and notify the department immediately.
- 2.24 Prohibition on Use of Monofilament Netting. To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that

contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.

- 2.25 **Site Maintenance.** Permittee shall be responsible for site maintenance including, but not limited to, re-establishing erosion control to minimize surface erosion and ensuring drainage structures and altered streambeds and banks remain sufficiently armored and/or stable.
- 2.26 **Cover Spoil Piles.** Permittee shall have readily available erosion control materials such as wattles, natural fiber mats, or plastic sheeting, to cover and contain exposed spoil piles and exposed areas in order to prevent sediment from moving into a stream or lake. Permittee shall apply and secure these materials prior to rain events to prevent loose soils from entering a stream, lake, or other Waters of the State.
- 2.27 **No Dumping.** Permittee shall not deposit, permit to pass into, or place where it can pass into a stream, lake, or other Waters of the State any material deleterious to fish and wildlife, or abandon, dispose of, or throw away within 150 feet of a stream, lake, or other Waters of the State any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.

### **3. Reporting Measures**

- 3.1 **Work Completion.** The proposed work shall be completed by no later than **October 1, 2021**. A notice of completed work (condition 2.4), with supplemental photos, shall be submitted to CDFW **within seven (7) days** of project completion.
- 3.2 **Project Inspection.** The Permittee shall submit the **Project Inspection Report** (condition 2.19) to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501

### **CONTACT INFORMATION**

Written communication that the Permittee or CDFW submits to the other shall be delivered to the address below unless the Permittee or CDFW specifies otherwise.

**To Permittee:**

Fernando Olea  
Eubanks Creek LLC  
P.O. Box 443  
Fortuna, California 95540  
707-498-3016  
[frnnd\\_olea@yahoo.com](mailto:frnnd_olea@yahoo.com)

To CDFW:

Department of Fish and Wildlife  
Northern Region  
619 Second Street  
Eureka, California 95501  
Attn: Lake and Streambed Alteration Program  
Notification #1600-2020-0097-R1

## **LIABILITY**

The Permittee shall be solely liable for any violation of the Agreement, whether committed by the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of or require the Permittee to proceed with the project. The decision to proceed with the project is the Permittee's alone.

## **SUSPENSION AND REVOCATION**

CDFW may suspend or revoke in its entirety this Agreement if it determines that the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

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## **AMENDMENT**

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

The Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and the Permittee. To request an amendment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## **TRANSFER AND ASSIGNMENT**

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by the Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).



## EXTENSIONS

In accordance with FGC section 1605(b), the Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, the Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If the Permittee fails to submit a request to extend the Agreement prior to its expiration, the Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605(f)).

## EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after the Permittee signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at [http://www.wildlife.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html).

## TERM

This Agreement shall **expire five years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. The Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

## AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of the Permittee, the signatory hereby acknowledges that he or she is doing so on the Permittee's behalf and represents and warrants that he or she has the authority to legally bind the Permittee to the provisions herein.

## AUTHORIZATION

This Agreement authorizes only the project described herein. If the Permittee begins or completes a project different from the project the Agreement authorizes, the Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

## CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

**FOR Fernando Olea**

  
\_\_\_\_\_  
Fernando Olea

6-10-20  
Date

**FOR DEPARTMENT OF FISH AND WILDLIFE**

  
\_\_\_\_\_  
Scott Bauer

Senior Environmental Scientist Supervisor

6/15/2020  
Date

Prepared by: David Manthorne, Senior Environmental Scientist Specialist, June 5, 2020



165 South Fortuna Boulevard, Fortuna, CA 95540

707-725-1897 • fax 707-725-0972

trc@timberlandresource.com



February 12, 2020

Eubank Creek, LLC  
Attention: Ben Wilke  
P.O. Box 464  
Garberville, CA 95542

County Applications: PLN-12972-CUP  
APN 220-171-017 & 220-072-014

The following is an evaluation of potential timberland conversion on cannabis cultivation sites and associated areas included in the Humboldt County Cannabis Application #12972. Please accept this letter as the RPF's written report required by Humboldt County Code, Ordinance No. 2559 (Commercial Medical Marijuana Land Use), Section 55.4.12.2.4 as cited below.

*"Where existing or proposed operations occupy sites created through prior unauthorized conversion of timberland, if the landowner has not completed a civil or criminal process and/or entered into a negotiated settlement with CALFIRE, the applicant shall secure the services of a registered professional forester (RPF) to evaluate site conditions and conversion history for the property and provide a written report to the Planning Division containing the RPF's recommendation as to remedial actions necessary to bring the conversion area into compliance with provisions of the Forest Practices Act. The Planning Division shall circulate the report to CAL-FIRE for review and comment."*

Timberland Resource Consultants (TRC) inspected and evaluated the cultivation site and associated areas contained within the application on February 4, 2020. The RPF exercised due diligence in reviewing all sites and available resources to fully assess potential timberland conversion and consequential impacts. This report evaluates the cultivation sites and associated areas for timber operations only. The scope of this report does not include: all other land alteration (such as grading, construction, and other permit-regulated activities), all property features and sites unrelated to cultivation activities, or any proposed, planned, or absent cultivation-related project sites. All findings are summarized in the report below.

## Project Location

APN: 220-171-017 & 220-072-014

Acreage: 86 acres

Legal Description: SE ¼ of SW ¼ of Section 20 & NE ¼ of NW ¼ of Section 29  
Township 4 South, Range 2 East,  
Humboldt Base & Meridian, Humboldt County

Located on USGS 7.5' Quadrangle: Briceland

Humboldt County Zoning: Unclassified

Site Address: 705 Eubanks Road, Whitethorn

Landowner/Timber Owner: Granite, LLC

The project is located in Humboldt County, in the Whitethorn area, approximately 1.5 miles west of the Ettersburg Road and Eubanks Road intersection. Access to the property is approximately 2.0-driving miles west on Eubanks Road from the intersection of Ettersburg Road.

## Parcel Description & Timber Harvest History

*Note: The property background has been summarized using personal accounts of the current landowner, digital orthographic quadrangle (DOQ) imagery, Humboldt County Web GIS, CAL FIRE Watershed Mapper v2, and Historic Aerials. To avoid speculation and maintain relevancy, the property background focuses mainly on the past 10-15 years.*

The property is dominated by Douglas-fir and hardwood encroachment into former natural grasslands, natural grasslands, and second growth tanoak and Douglas-fir stands. Review of historic aerial imagery (<https://www.historicaerials.com>) from 1948 and 1968 shows that the conifer timber stands were historically located within the small Class II watersheds draining westerly to the blue-line stream (unnamed fork of Eubank Creek) located near the property's western boundary. The ridgetop, where the proposed cannabis cultivation is located, has historically been a natural grassland; succumbing to conifer and hardwood encroachment. The balance of the property is a mélange of oak woodland and natural grassland. Present timber stand composition within the property consists of approximately 35% Douglas-fir and 65% tanoak, madrone, and live oak. Stand structure is uneven-aged with at least 3 or more ages classes consisting of: (1) scattered predominant open-grown Douglas-fir trees with large limbs; (2) pole-sized Douglas-fir and tanoak (intermediates), which are open-grown but at a higher density with smaller crowns; and (3) Douglas-fir regeneration (seedlings and saplings) colonizing the remaining forest openings. This "all-aged" stand varies from 0 to 70+ years in age. The RPF observed no old growth stumps within or nearby the cannabis cultivation site, which confirms that the timber stands located within and nearby the conversion areas did not regenerate from a timber harvest. Timber stands regenerated from harvesting in the late 1950's-early 1960's most often consist of dense even-aged tanoak that is 50-60 years in age. There are no commercial harvests recorded by Cal Fire (Watershed Mapper v2 [http://egis.fire.ca.gov/watershed\\_mapper/](http://egis.fire.ca.gov/watershed_mapper/)).

## Project Description

One cultivation site and a water storage site were inspected during the field assessment within APN 220-171-017 and 220-072-014. The following table lists the inspected sites and their acreages; see detailed site descriptions below.

Cultivation Site/Associated Area	Total Acreage	Converted?	Converted Acreage
Cultivation Site	2.60	Yes	1.34
Water Storage Site	0.22	Yes	0.02
Tree Removal Area	0.66	Yes	0.66
Total:	3.48		2.02

### Cultivation Site

The cultivation site is the developed and graded area proposed to be used for cannabis cultivation as detailed in the Applicant's Site Plan. The site consists of three graded terraces on slopes between 5-10%.

Review of historic aerial imagery from 1968 and 1993 reveals that this site was formerly natural grassland with conifer and hardwood encroachment occurring along the southern and western periphery. The site was initially developed between 2014 and 2016, and expanded between 2016-2018 to its present size and configuration. Development of the site resulted in the removal of open-grown conifer and hardwood trees clearly visible on pre-2014 imagery, and also likely removed smaller Douglas-fir encroachment, which are not distinguishable from aerial photo interpretation. Proposed cannabis cultivation at this site will impede the use of this space for future timber growth and harvesting, and would result in timberland conversion.

### Water Storage Site

The Water Storage Site is the developed and graded area used for water storage as detailed in the Applicant's Site Plan. The site consists of two small graded terraces on slopes between 5-10%.

Review of historic aerial imagery from 1968 and 1993 reveals that this site was formerly natural grassland with a minor amount of conifer and/or hardwood encroachment. The site was initially developed between 2014 and 2016, and expanded between 2016-2018 to its present size and configuration.



## Project Description (Cont.)

Development of the site resulted in the removal conifer and hardwood trees clearly visible on pre-2014 imagery, and also likely removed smaller Douglas-fir encroachment, which are not distinguishable from aerial photo interpretation. Use of this site for cannabis cultivation water storage will impede the use of this space for future timber growth and harvesting, and would result in timberland conversion.

### Tree Removal Area

The tree removal areas are grassy pastures, which formerly contained scattered California black oak, live oak, madrone, and Douglas-fir encroachment located outside of the cultivation site and water storage site. The RPF identified and mapped approximately 47 stumps within these un-graded areas consisting of 16 hardwood trees and 31 Douglas-fir trees. These trees were harvested between 2016 and 2018. The areas where the trees have been removed are maintained as defensible space in the form of natural grassland, which is seasonally mowed and weed-eated. Stump-sprouting hardwood coppice growth also appears to be mowed and weed-eated. In the absence of mowing and weed-eating, conifer and hardwood encroachment would undoubtedly occur similar to pre-harvest conditions. However, it is assumed that the landowner/Applicant will continue to mow and weed-eat this area in association with cannabis cultivation for defensible space resulting in timberland conversion.

### Timberland Conversion Summary

TRC observed 2.02 acres of timberland conversion for cultivation-related purposes.

## Limitations and Considerations for Timberland Conversion Activities

### Watercourses and Water Resources

14CCR 1104.1(a)(2)(F): "No timber operations are allowed within a watercourse and lake protection zone unless specifically approved by local permit (e.g., county, city)."

No conversion areas exist within a Class I or II Watercourse and Lake Protection Zone (WLPZ). There are no Class I, II, or III watercourses within a minimum distance of 150 feet from the conversion and tree removal areas.

### Slash, Woody Debris, and Refuse Treatment

14 CCR 914.5(b): "Non-biodegradable refuse, litter, trash, and debris resulting from timber operations, and other activity in connection with the operations shall be disposed of concurrently with the conduct of timber operations."

14CCR 1104.1(a)(2)(D) – Treatment of Slash and Woody Debris

- 1) Unless otherwise required, slash greater than one inch in diameter and greater than two feet long, and woody debris, except pine, shall receive full treatment no later than April 1 of the year following its creation, or within one year from the date of acceptance of the conversion exemption by the Director, whichever comes first.
- 2) All pine slash three inches and greater in diameter and longer than four feet must receive initial treatment if it is still on the parcel, within 7 days of its creation.
- 3) All pine woody debris longer than four feet must receive an initial treatment prior to full treatment.
- 4) Initial treatment shall include limbing woody debris and cutting slash and woody debris into lengths of less than four feet, and leaving the pieces exposed to solar radiation to aid in rapid drying.
- 5) Full treatment of all pine slash and woody debris must be completed by March 1 of the year following its creation, or within one year from the date of acceptance of the conversion exemption by the Director, whichever comes first.
- 6) Full slash and woody debris treatment may include any of the following:
  - a) Burying;
  - b) Chipping and spreading;
  - c) Piling and burning; or
  - d) Removing slash and woody debris from the site for treatment in compliance with (a)-(b). Slash and woody debris may not be burned by open outdoor fires except under permit from the appropriate

## Limitations and Considerations for Timberland Conversion Activities (Cont.)

- e) *fire protection agency, if required, the local air pollution control district or air quality management district. The burning must occur on the property where the slash and woody debris originated.*
- 7) *Slash and woody debris, except for pine, which is cut up for firewood shall be cut to lengths 24 inches or less and set aside for drying by April 1 of the year following its creation. Pine slash and woody debris which is cut up for firewood shall be cut to lengths 24 inches or less and set aside for drying within seven days of its creation.*
- 8) *Any treatment which involves burning of slash or woody debris shall comply with all state and local fire and air quality rules.*

Two small log decks, which included a minor amount of slash was observed. These logs and slash require treatment as described above.

### Biological Resources and Forest Stand Health

*14 CCR 1104.1 (2)(H): "No sites of rare, threatened or endangered plants or animals shall be disturbed, threatened or damaged and no timber operations shall occur within the buffer zone of a sensitive species as defined in 14 CCR 895.1"*

The query of the CNDDDB Database on February 12, 2020 revealed one observation of sensitive, rare, threatened, or endangered species or species of special concern within a 0.7-mile radius biological assessment area (BAA) surrounding the cultivation/conversion site. A red-bellied newt is documented within Eubank Creek approximately 1,500 east of the cultivation site. The red-bellied newt is a non-listed State species of special concern. The status of this species would not have required consultation with CDFW in association with a Cal Fire conversion exemption. No sensitive, rare, threatened, or endangered species or species of special concern were observed during the TRC field assessment of the project area, though potential habitat exists on the property. The query of the CNDDDB NSO Database revealed no known Northern Spotted Owl (NSO) Activity Centers within a 0.7-mile radius biological assessment area (BAA) surrounding the conversion sites.

The conversion areas did not include late successional stands, late seral stage forests, or old growth trees. The conversion area did not include any trees that existed before 1800 A.D. and are greater than sixty (60) inches in diameter at stump height for Sierra or Coastal Redwoods, and forty-eight (48) inches in diameter at stump height for all other tree species.

No major forest health issues were observed during the field assessment. The property is located within Humboldt County, a Zone of Infestation (ZOI) for Sudden Oak Death (SOD) but the RPF observed no symptoms, signs, and evidence of oak mortality within the property.

### Cultural Resources

*14 CCR 1104.1 (2)(I): "No timber operations are allowed on significant historical or archeological sites."*

No archeological sites were observed during the TRC field assessment. The RPF conducted pre-field research for the project's geographic location and closely surveyed the converted sites and surrounding undisturbed areas for presence or evidence of prehistoric or historic sites. The archaeological survey was conducted by Chris Carroll, a certified archaeological surveyor with current CALFIRE Archeological Training (Archeological Training Course #575). The survey consisted of examining boot scrapes, rodent disturbances, natural and manmade areas of exposed soils, and road and cultivation site surfaces. Per 14 CCR 1104.2(2)(I), all required Native American tribes and organizations have been notified of the project location and are encouraged to respond with any information regarding archaeological sites, cultural sites, and/or tribal cultural resources within or adjacent to the project area.

The cultivation site and conversion areas were surveyed by a professional archeologist with no archaeological sites, cultural sites, and/or tribal cultural resources. See *A Cultural Resources Investigation for the EB 120 Commercial Cannabis Cultivation, Humboldt County, California. Mark Arsenault, M.A., RPA (41855166)*



## Recommendations

In summary, a total of 2.02 acres of unauthorized timberland conversion has occurred within APN 220-171-017 and 220-072-014. This total does not exceed the three-acre conversion exemption maximum. The conversion activities conducted on the property do not comply with the California Forest Practice Act and the California Forest Practice Rules. The RPF recommends that the slash and logs decks are chipped and/or burned. Logs may alternatively be processed into firewood.

Sincerely,



Chris Carroll, RPF #2628  
Timberland Resource Consultants

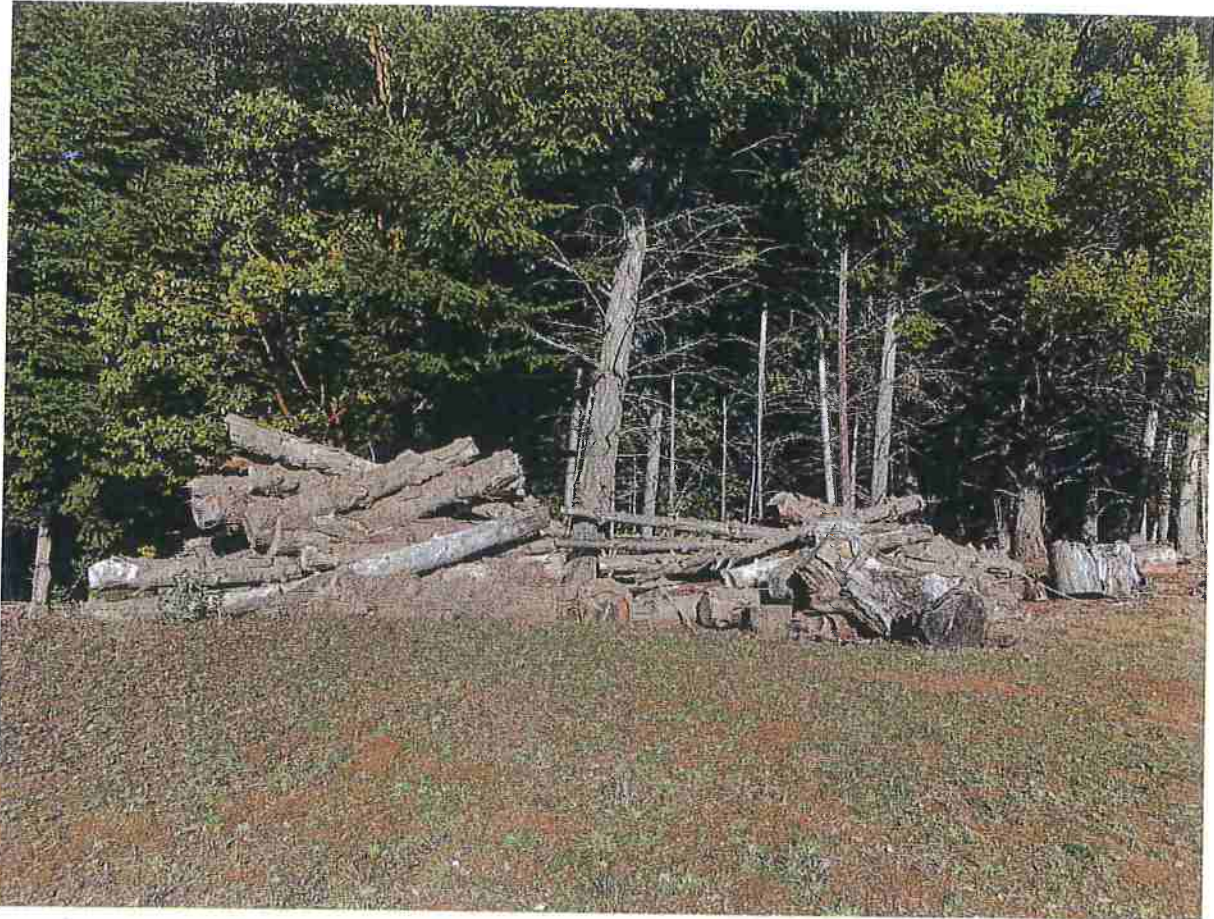
## Pictures



**Picture 1:** Eastern-most log deck and slash pile that requires treatment. Photo date 2-4-2020.

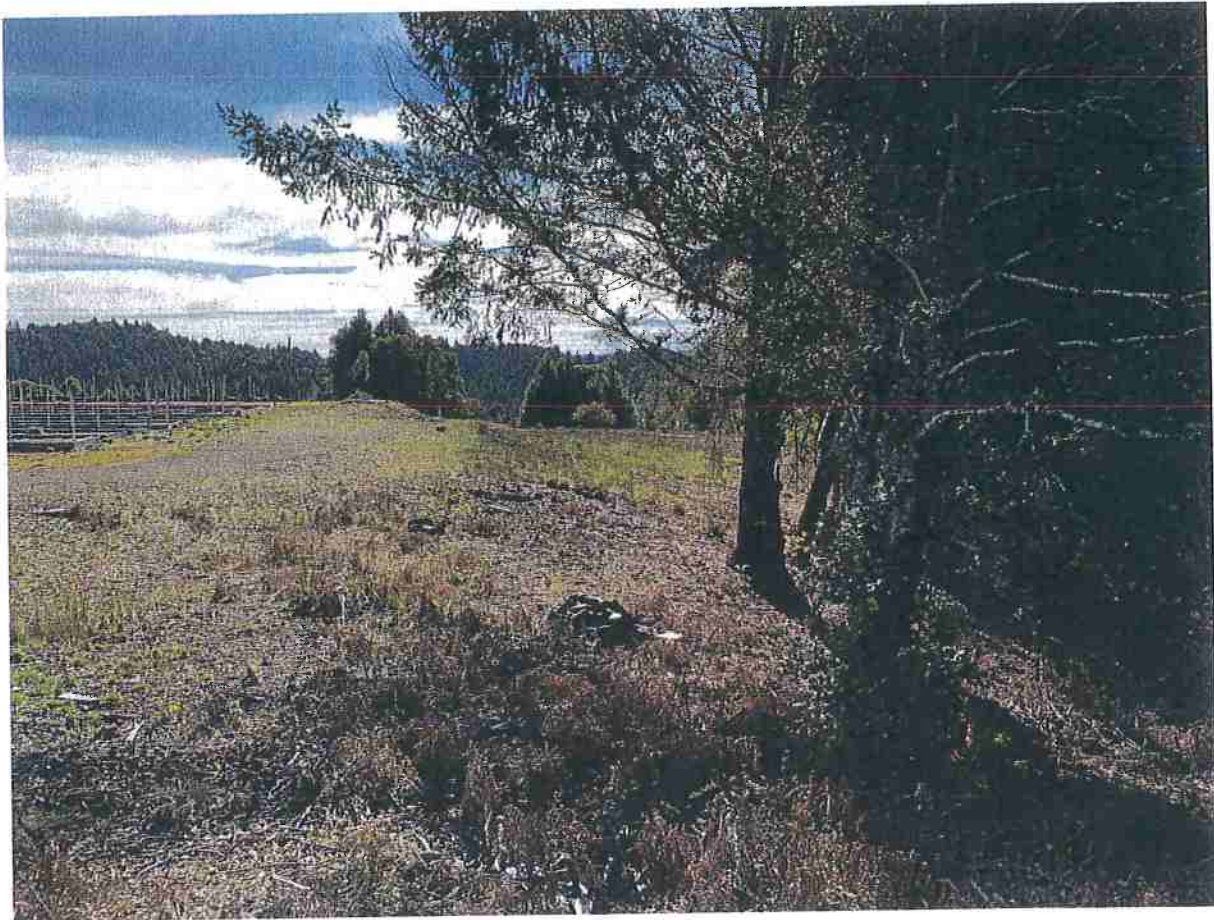


## Pictures



**Picture 2:** Western-most log deck that requires treatment. Photo date 2-4-2020.

## Pictures



**Picture 3:** Tree Removal Site located photo-right of the cultivation site. Note coppice sprouting hardwood stumps in center of photo. The Douglas-fir and live oak tree in foreground are typical of the trees removed from this area. Photo date 2-4-2020.



## Pictures



**Picture 4:** Cultivation Site and Water Storage Site. Photo date 2-4-2020.

## Pictures



**Picture 5:** Cultivation Site and Water Storage Site. Photo date 2-4-2020.



## Pictures




**Picture 6:** Cultivation Site and Water Storage Site. Photo date 2-4-2020.

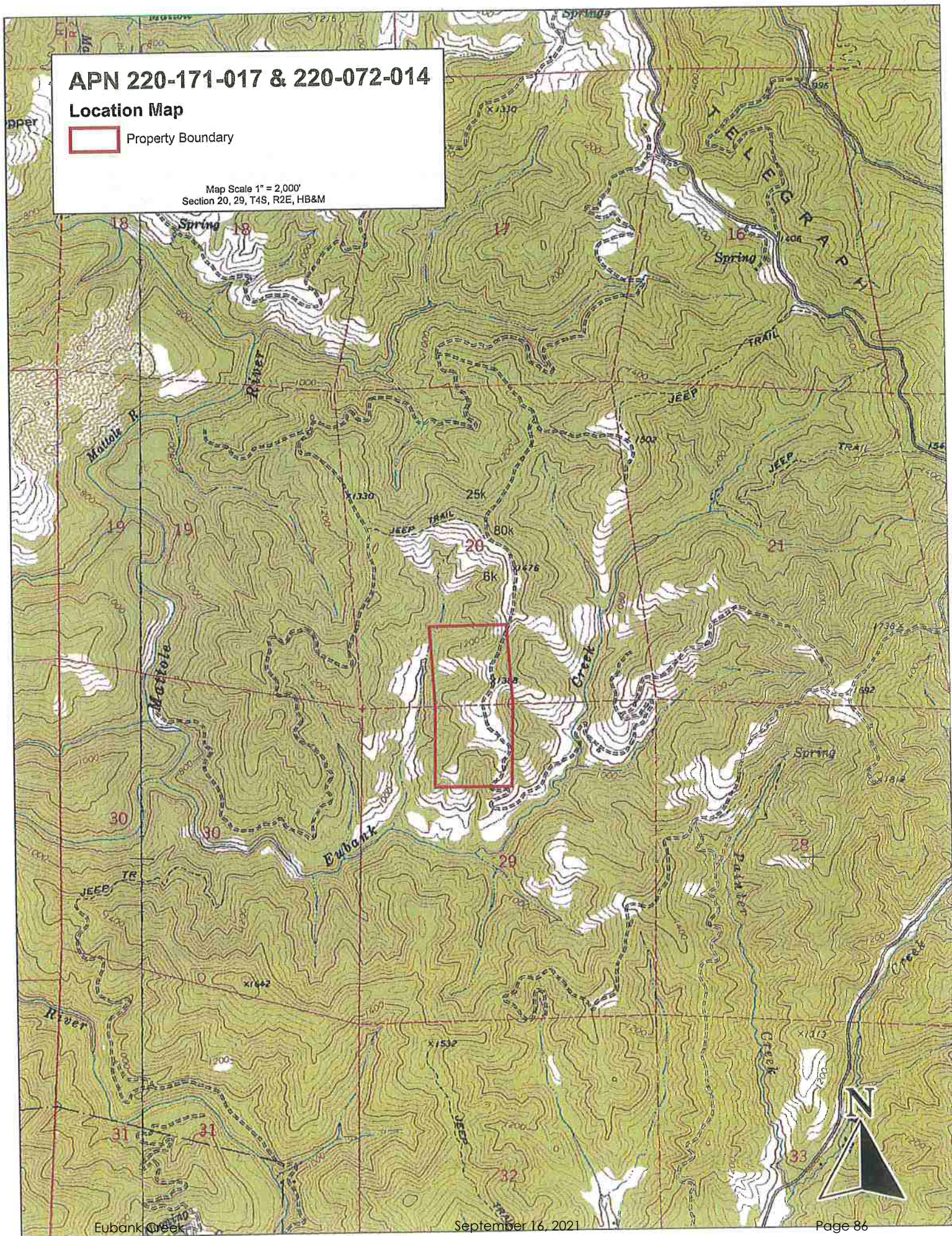


# APN 220-171-017 & 220-072-014

## Location Map

 Property Boundary

Map Scale 1" = 2,000'  
Section 20, 29, T4S, R2E, HB&M





**RE: Eubanks Creek, LLC application 12972, APN: 220-171-017**

Johnson, Cliff &lt;CJohnson@co.humboldt.ca.us&gt;

Wed 8/18/2021 10:01 AM

**To:** Chris Carroll <carroll@timberlandresource.com>; Strickland, Abigail <astrickland@co.humboldt.ca.us>**Cc:** Ben Wilke <benflying707@gmail.com>; Meyers, Tim@CALFIRE <Tim.Meyers@fire.ca.gov>; Peter Hill <peter@northpointeureka.com>

Hi Chris,

If Cal-Fire is in agreement that no conversion of timberland occurred, then I think your approach is valid.

Cliff

---

**From:** Chris Carroll <carroll@timberlandresource.com>**Sent:** Wednesday, August 18, 2021 9:51 AM**To:** Strickland, Abigail <astrickland@co.humboldt.ca.us>**Cc:** Ben Wilke <benflying707@gmail.com>; Meyers, Tim@CALFIRE <Tim.Meyers@fire.ca.gov>; Peter Hill <peter@northpointeureka.com>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>**Subject:** Re: Eubanks Creek, LLC application 12972, APN: 220-171-017

Abbie,

My opinion has definitely changed on whether 'timberland conversion' occurred in the first place. Based upon a much closer inspection of the property; the trees were not located on "Timberland" per PRC 4526 but rather grassland.

I think perhaps Cal Fire could opine on this and if they agree I should revise the original report stating no timberland conversion occurred. If they disagree with my assessment then we will find an area to restock. Does that sound reasonable?

Chris

Sent from my iPhone

On Aug 18, 2021, at 9:16 AM, Strickland, Abigail <[astrickland@co.humboldt.ca.us](mailto:astrickland@co.humboldt.ca.us)> wrote:

Thank you Chris,

I have never received a recommendation to remove additional trees, so I asked Cliff to weigh in. The CMMLUO did not consider the conversion of timberland for cannabis cultivation, therefore, we cannot approve projects that have resulted in the net loss of timberland. I need to make the finding that the project did not result in the net loss of timberland, and it appears that a restocking plan is the only way for me to do so. If a restocking plan is not feasible, then the applicant may reduce his square footage and modify his project to avoid cultivating/developing in the conversion areas.

Thank you,

&lt;Outlook-

Abbie Strickland

bfrweklp.png&gt;

Planner - Cannabis Services Division  
[Planning and Building Department](#)  
 (707) 445-7541  
 3015 H Street | Eureka, CA 95501  
[Email: astrickland@co.humboldt.ca.us](mailto:astrickland@co.humboldt.ca.us)

**From:** Ben Wilke <[benflying707@gmail.com](mailto:benflying707@gmail.com)>

**Sent:** Tuesday, August 17, 2021 5:39 PM

**To:** [carroll@timberlandresource.com](mailto:carroll@timberlandresource.com) <[carroll@timberlandresource.com](mailto:carroll@timberlandresource.com)>

**Cc:** Meyers, Tim@CALFIRE <[Tim.Meyers@fire.ca.gov](mailto:Tim.Meyers@fire.ca.gov)>; Peter Hill <[Peter@northpointeureka.com](mailto:Peter@northpointeureka.com)>; Strickland, Abigail <[astrickland@co.humboldt.ca.us](mailto:astrickland@co.humboldt.ca.us)>

**Subject:** Re: Eubanks Creek, LLC application 12972, APN: 220-171-017

Thanks Chris, this looks great!!

Ben

On Tue, Aug 17, 2021 at 8:03 AM <[carroll@timberlandresource.com](mailto:carroll@timberlandresource.com)> wrote:

Re: Timberland Conversion

The trees removed in association with the development of the cannabis cultivation site were conifer and hardwoods located along the periphery of a natural grassland. The property is composed of two stand types: (1) natural grasslands experiencing hardwood and conifer encroachment, and (2) dense stands of young-growth hardwoods (primarily tanoak and madrone) with scattered larger hardwoods with burn scars, basal cavities, and iterations resulting from past fire. These larger hardwoods also exhibit "open-grown" characteristics such as full billowing crowns, thick trunks, and branches extending down to the base of the trunks. The RPF observed no Douglas-fir old growth stumps.

It's my opinion that prior to our current era of fire suppression, the subject property was formerly natural grassland with scattered larger hardwood trees, which were able to survive periodic wildfire. See attached 1998 DOQ.

The removal of the trees in association with the development of the cannabis cultivation site is not a timberland productivity issue in my opinion because this was never a productive Douglas-fir Forest within recent history.

Compensatory mitigation should be the restoration of the natural grasslands located directly west of the cultivation site. Restoration would consist of the removal of small conifer and hardwood encroachment and retention of the larger residual hardwoods valuable to wildlife. No less than 2.02 acres of grassland shall be treated, which equates to the amount of tree removal that occurred as described in the Timberland Conversion Evaluation. The RPF shall mark or otherwise identify trees to be removed and retained prior to restoration activities.

Chris Carroll  
 TRC

August 25, 2021

Humboldt County Department of Environmental Health  
100 H St.  
Suite 100  
Eureka, CA 95501

Subject: Eubanks Creek, LLC Well Permit and Log Amendment  
**APN:220-072-014 and APN: 220-072-006**

This memo is intended to update and clarify the location of well permit # 17/18 0137, permit date 7-25-17. The attached Well Completion Report has mistakenly the listed location on parcel 220-072-014. There is not a well located on the -014 parcel. The location of the existing well is located on 220-072-006. The coordinate for the existing well is 40.096894, -123.977466. Please see the revised site plan.

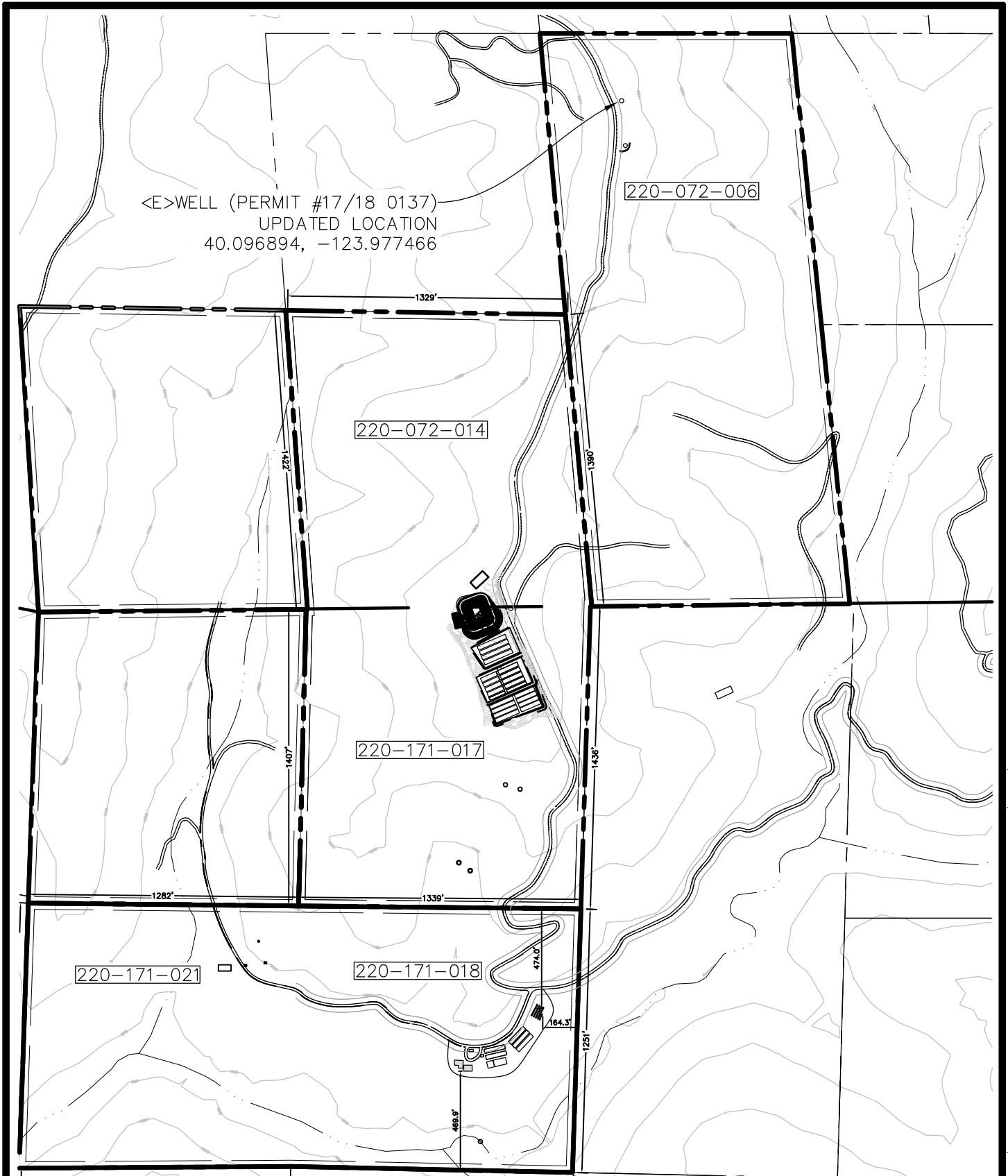


Bushnell Enterprises  
George Bushnell  
Well Drilling Contractor

9-2-21







DATE	REVISIONS	DRAWN BY



**NORTHPOINT**  
 CONSULTING GROUP, INC.  
 1117 Samoa Blvd., Arcata, CA 95521

EUBANKS CREEK, LLC	
220-072-006, 220-072-014	
WELL PERMIT ADMENDMENT	
PROJ. MGR: <u>POW</u>	SHEET <b>1</b> OF <b>1</b>
DRAWN BY: <u>PRH</u>	
DATE: <u>1/13/2020</u>	
SCALE: <u>NOT TO SCALE</u>	<b>18-034</b>

Dwg Name: P:\18-034 - Granite, LLC - Eubank- Ben Wilke\CAD\GRAWTCA01-LLA\_recover.dwg Updated By: Chong Cheng 17:00

File Original with DWR

State of California  
**Well Completion Report**

Refer to Instruction Pamphlet  
No. XXXXXXX

Click to Get a New Log Number

Page \_\_\_\_\_ of \_\_\_\_\_  
Owner's Well Number 2  
Date Work Began 9-1-17 Date Work Ended 9-1-17  
Local Permit Agency HUMB  
Permit Number 17/18 0135 Permit Date 7-25-17

Geologic Log		
Orientation	<input type="radio"/> Vertical	<input type="radio"/> Horizontal
	<input type="radio"/> Angle	Specify _____
Drilling Method	Drilling Fluid _____	
Depth from Surface	Description	
Feet to Feet	Describe material, grain size, color, etc	
0 20	Top Soil	
20 40	CLAY	
40 80	Franciscan Shale	
80 120	Shale	
120 160	Solid Blue Sandstone	

RECEIVED  
SEP 11 2017  
HUMBOLDT CO. DIVISION  
OF ENVIRONMENTAL HEALTH

**Well Owner**  
Name \_\_\_\_\_  
Mailing \_\_\_\_\_  
City \_\_\_\_\_

**Well Location**  
Address \_\_\_\_\_  
City Whitethorne County Humb  
Latitude \_\_\_\_\_ N Longitude \_\_\_\_\_ W  
Datum \_\_\_\_\_ Dec. Lat. \_\_\_\_\_ Dec. Long. \_\_\_\_\_  
APN Book \_\_\_\_\_ Page \_\_\_\_\_ Parcel 220-171-021  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_

**Location Sketch**  
(Sketch must be drawn by hand after form is printed.)  
North  
West  
East  
South

**Activity**  
☐ New Well  
☐ Modification/Repair  
☐ Deepen  
☐ Other \_\_\_\_\_  
☐ Destroy  
Describe procedures and materials under "GEOLOGIC LOG"

**Planned Uses**  
☐ Water Supply  
☐ Domestic ☐ Public  
☐ Irrigation ☐ Industrial  
☐ Cathodic Protection  
☐ Dewatering  
☐ Heat Exchange  
☐ Injection  
☐ Monitoring  
☐ Remediation  
☐ Sparging  
☐ Test Well  
☐ Vapor Extraction  
☐ Other \_\_\_\_\_

Illustrate or describe distance of well from roads, buildings, fences, rivers, etc. and attach a map. Use additional paper if necessary. Please be accurate and complete.

**Water Level and Yield of Completed Well**  
Depth to first water 120 (Feet below surface)  
Depth to Static \_\_\_\_\_  
Water Level 115 (Feet) Date Measured 9-1-17  
Estimated Yield \* 15 (GPM) Test Type Air Lift  
Test Length 1 (Hours) Total Drawdown \_\_\_\_\_ (Feet)  
\*May not be representative of a well's long term yield.

Casings								Annular Material		
Depth from Surface	Borehole Diameter	Type	Material	Wall Thickness	Outside Diameter	Screen Type	Slot Size if Any	Depth from Surface	Fill	Description
Feet to Feet	(Inches)			(Inches)	(Inches)		(Inches)	Feet to Feet		
0 120	7.440		PVC	160	5	PIPE		0 20		Bentonite
120 160	7.161					perf	.036	20 160		3/8 pea

**Attachments**  
☐ Geologic Log  
☐ Well Construction Diagram  
☐ Geophysical Log(s)  
☐ Soil/Water Chemical Analyses  
☐ Other \_\_\_\_\_  
Attach additional information, if it exists.

**Certification Statement**  
I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief  
Name Bushnell Enterprises  
Person, Firm or Corporation  
649 Bearhawk Rd Gardenville CA 95542  
Address City State Zip  
Signed [Signature] Date Signed \_\_\_\_\_  
C-57 Licensed Water Well Contractor C-57 License Number 403708

JUL 25 2017

HUMBOLDT CO. DIVISION  
OF ENVIRONMENTAL HEALTH

Environmental Health  
100 H Street, Suite 100, Eureka, CA 95501  
phone: (707) 445-6215 fax: (707) 441-5699

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)

17/18-0135

Instructions:

1. Complete pages 1 and 2 of the application and submit the required fee with the Well Permit application, including Well Driller's signature and property owner's signature.
2. Work on the well shall not be started prior to approval of the Well Permit 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. DEH shall be notified by the Well Driller a minimum of 24 hours prior to sealing the annular space.

Site Address	Whitethorn, CA 95589	APN	220-171-021
City/State/Zip	CA		
Directions to Site	See plot plan directions		
Applicant	Bushnell ENTERPRISES	Contact	George
Mailing Address	649 Bearcreek rd	Work Phone	(707) 923-2104
City/State/Zip	Garberville, CA 95542	Cell Phone	(707) 498-3437
Property Owner	West River Lane, LLC	Home Phone	(707) 923-3724
Mailing Address	PO Box 1020	Work Phone	(707) 223-1110
City/State/Zip	Garberville, CA 95542	Cell Phone	(707) 223-1110
I hereby grant 'right-of-entry' for inspection purposes		<u>Ben Willis</u>	
Drilling Contractor	George Bushnell	C-57 License #	403708
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 15 days after completion of work, I will furnish DEH a report of the work performed.			
Well Driller Signature: <u>George Bushnell</u>			
Would driller like a copy of approved application?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> U.S. Mail address: <u>649 Bearcreek rd Garb, CA. 95542</u>			
<input type="checkbox"/> Email address: _____			
Type of Application:	Construction:	Intended Use:	
<input checked="" type="checkbox"/> Construction	Estimated Depth (ft.) <u>200</u>	<input checked="" type="checkbox"/> Domestic - private	
<input type="checkbox"/> Destruction	Diameter (in.) <u>9"</u>	<input type="checkbox"/> Community Supply	
<input type="checkbox"/> Repair/Modification	Depth of Seal (ft.) <u>20'</u>	<input type="checkbox"/> Irrigation	
	Sealing Material <u>Bentonite</u>	<input type="checkbox"/> Other _____	

**DISTRIBUTE**



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

June 26, 2017

Ben Wilke  
Eubank Creek, LLC  
P.O. Box 1020  
Garberville, CA 95542

**RE: APN 220-171-17/18 & 220-072-14  
PERMIT APPLICATION NO. 12972/CUP16-940**

Chris Carroll of Timberland Resource Consultants performed a site evaluation of historic cannabis cultivation activity on June 26, 2017.

The entire property reveals evidence of scattered historic cannabis cultivation as observed by TRC foresters during recent NTMP layout activities. Three distinct gardens were discovered as depicted on the attached map as described.

Site 1 is approximately 1.4 acres in size located in a second growth tanoak and madrone stand with an understory of whitethorn, blue blossom and poison oak. The site occupies an east-facing slope and is bordered by a Class II watercourse to the east. Evidence of past cultivation is typical of a mid-1990 era "shade garden" consisting of scattered 10-15 gallon pots, poly pipe, electronic timers, and 2,500 gallon plastic tank. The entire site was fenced in with chicken wire and was serviced by a nearby spring, which is currently permitted through CDFW. The site boundary as shown on the attached map was mapped using a Trimble Yuma GPS device.

Site 2 is approximately 0.10 acres in size located in a forest opening surrounded by second growth tanoak and madrone. The site occupies a west-facing slope and is bordered by a Class III watercourse to the northwest. Evidence of past cultivation is typical of a mid-1990 era "shade garden" consisting of scattered 10-15 gallon pots and poly pipe. Portions of this garden were planted directly in the ground. The entire site was fenced in with chicken wire. The site boundary as shown on the attached map was mapped using a Trimble Yuma GPS device.

Site 3 is approximately 0.27 acres in size located in a second growth tanoak/Douglas-fir stand on a gentle knoll upslope of Eubanks Creek. The site is bordered by a Class II watercourse to the west. Evidence of past cultivation is typical of a mid-1990 era "shade garden" consisting of scattered 10-15 gallon pots and poly pipe. The entire site was fenced in with chicken wire. The site boundary as shown on the attached map was mapped using a Trimble Yuma GPS device.



There is obvious physical evidence to conclude cannabis was cultivated within the property boundary in the location depicted on the attached map. Geo-referenced photographs (Lat-Long NAD 83) have been included with this assessment to support findings.

Sincerely,



Chris Carroll, RPF #2628  
Timberland Resource Consultants

## Pictures



Picture 1: Site 1. 40.08777475°; -123.9794715°. This tank is located downslope of the permitted CDFW diversion. Photo date 6-26-2017.

## Pictures



Picture 2: Site 1. 40.08749612°; -123.9808580°. Photo date 6-26-2017.



## Pictures



Picture 3: Site 1. 40.08726950°; -123.9807723°. Photo date 6-26-2017.



## Pictures



Picture 4: Site 2. 40.08716214°; -123.9800784°. Photo date 6-26-2017.

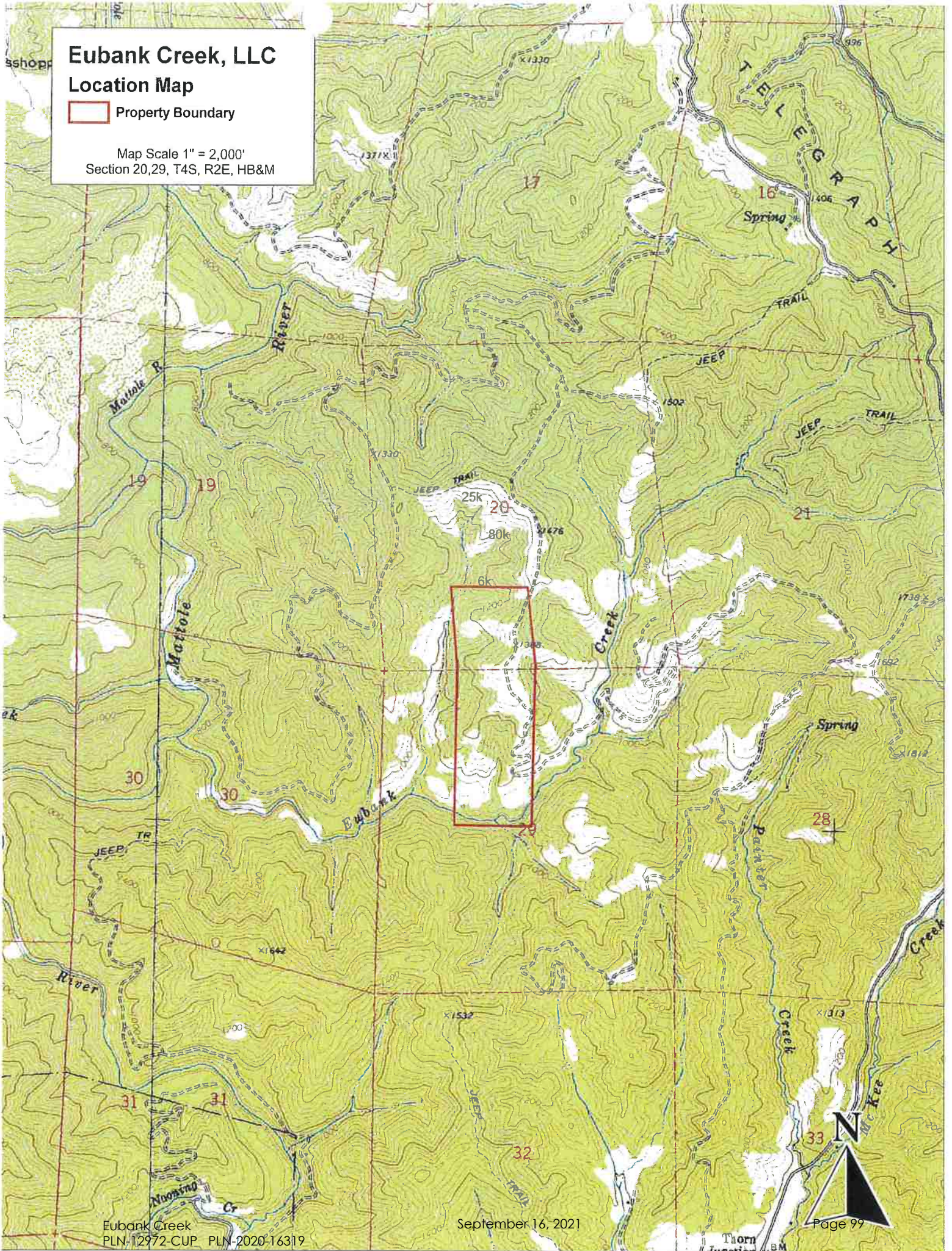


# Eubank Creek, LLC

## Location Map

 Property Boundary

Map Scale 1" = 2,000'  
Section 20,29, T4S, R2E, HB&M



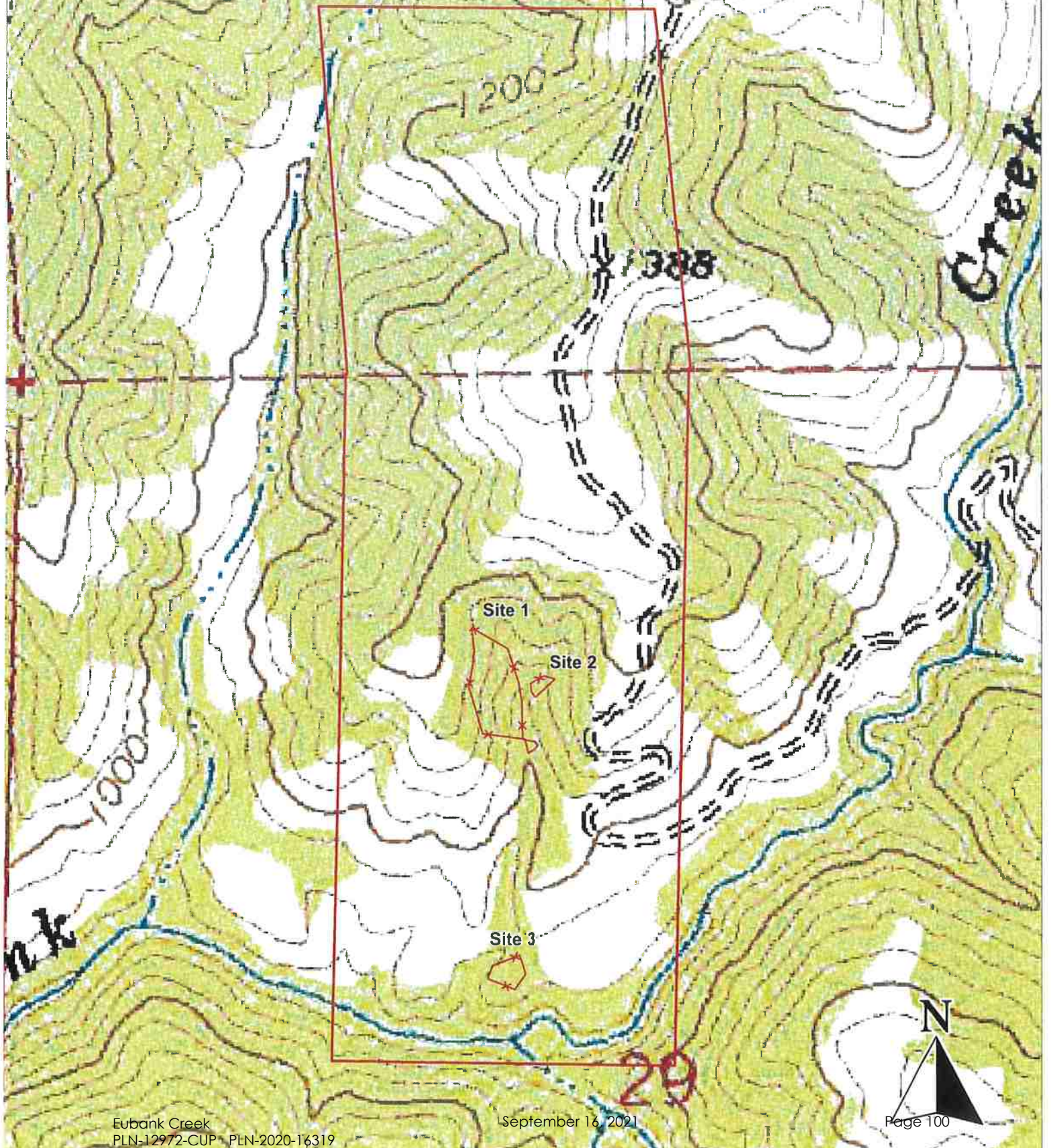


# Eubank Creek, LLC

 Property Boundary

 Historic Cultivation Site

Map Scale 1" = 500'  
Section 20, 29, T4S, R2E, HB&M





## ATTACHMENT 4

### REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

The project was referred to the following referral agencies for review and comment. Those agencies that provided written comments are checked off.

Referral Agency	Response	Recommendation	Location
Building Inspection Division		No response	
Division Environmental Health	✓	Conditional Approval	<b>Attached</b>
Public Works, Land Use Division	✓	Conditional Approval	<b>Attached</b>
CalFIRE	✓	Comments	<b>Attached</b>
California Department of Fish & Wildlife		No response	
Cal Trans District 1		No response	
Northwest Information Center	✓	Further Study	On file and confidential
Humboldt County Sheriff		No response	
Humboldt County Agricultural Commissioner		No response	
Humboldt County District Attorney		No response	
Intertribal Sinkyone Wilderness Council			
Bear River Band of Rohnerville Rancheria	✓	Survey Requested	On file- confidential
North Coast Regional Water Quality Control Board		No response	
CA Division of Water Rights		No response	
Southern Humboldt Joint Unified School District		No response	
Telegraph Ridge Fire Protection District	✓	Additional Information Requested	





HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT  
CURRENT PLANNING DIVISION  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7541

DEH received  
8-25-17

**PROJECT REFERRAL TO:** Health and Human Services Environmental Health Division

**Project Referred To The Following Agencies:**

17/18-0441

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, California Department of Transportation District #1, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, Intertribal Sinkyone Wilderness Council, California Water Resources Control Board, Division of Water Rights, Southern Humboldt Joint Unified School District, Humboldt County Sheriff, Telegraph Ridge Fire Protection District

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**Applicant Name** Eubank Creek, LLC **Key Parcel Number** 220-171-017-000

**Application (APPS#)** 12972 **Assigned Planner** Cannabis Planner (CPOD) (707) 445-7541 **Case Number(s)** CUP16-940

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Please review the above project and provide comments with any recommended conditions of approval. To help us log your response accurately, please include a copy of this form with your correspondence.

Questions concerning this project may be directed to the assigned planner for this project between 8:30am and 5:30pm Monday through Friday.

County Zoning Ordinance allows up to 15 calendar days for a response. If no response or extension request is received by the response date, processing will proceed as proposed.

☐ If this box is checked, please return large format maps with your response.

**Return Response No Later Than**

Planning Commission Clerk  
County of Humboldt Planning and Building Department  
3015 H Street  
Eureka, CA 95501  
**E-mail:** PlanningClerk@co.humboldt.ca.us **Fax:** (707) 268-3792

---

**We have reviewed the above application and recommend the following:**

Conditional Approval

**Comments:**

DEH recommends approval with the following conditions:

(1) Prior to reissuance of annual permit **provide an invoice, or equivalent documentation to DEH** to confirm the continual use of portable toilets or provide an approved means of sewage disposal to serve the needs of the cultivation staff.

\*This review and recommendation is for the Land Use aspects of the planning project and does not include or imply compliance with all DEH programs. Although DEH recommends the approval of the Planning project, Solid Waste and HazMat Program requirements need to be addressed directly with staff from those programs.



**Response Date:** 4/27/2018 **Recommendation By:** Joey Whittlesey

Eubank Creek  
PLN-12972-CUP PLN-2020-16319

September 16, 2021

Page 102

2746



HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT  
CURRENT PLANNING DIVISION  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7541



RECEIVED

8/24/2017

AUG 28 2017

**PROJECT REFERRAL TO: Public Works Land Use Division**

HUMBOLDT CO. PUBLIC WORKS  
LAND USE DIVISION

**Project Referred To The Following Agencies:**

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, California Department of Transportation District #1, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, Intertribal Sinkyone Wilderness Council, California Water Resources Control Board, Division of Water Rights, Southern Humboldt Joint Unified School District, Humboldt County Sheriff, Telegraph Ridge Fire Protection District

**Applicant Name** Eubank Creek, LLC **Key Parcel Number** 220-171-017-000

**Application (APPS#)** 12972 **Assigned Planner** () - **Case Number(s)** CUP16-940

Please review the above project and provide comments with any recommended conditions of approval. To help us log your response accurately, please include a copy of this form with your correspondence.

Questions concerning this project may be directed to the assigned planner for this project between 8:30am and 5:30pm Monday through Friday.

County Zoning Ordinance allows up to 15 calendar days for a response. If no response or extension request is received by the response date, processing will proceed as proposed.

☐ If this box is checked, please return large format maps with your response.

**Return Response No Later Than 9/8/2017**

Planning Commission Clerk  
County of Humboldt Planning and Building Department  
3015 H Street  
Eureka, CA 95501  
**E-mail:** PlanningClerk@co.humboldt.ca.us **Fax:** (707) 268-3792

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

☐ Recommend Approval. The Department has no comment at this time.

☒ Recommend Conditional Approval. Suggested Conditions Attached.

☐ Applicant needs to submit additional information. List of items attached.

☐ Recommend Denial. Attach reasons for recommended denial.

☐ Other Comments: \_\_\_\_\_

DATE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_



DEPARTMENT OF PUBLIC WORKS  
**COUNTY OF HUMBOLDT**  
MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579  
AREA CODE 707

ARCATA-EUREKA AIRPORT TERMINAL  
McKINLEYVILLE  
FAX 839-3596

PUBLIC WORKS BUILDING  
SECOND & L ST., EUREKA  
FAX 445-7409

CLARK COMPLEX  
HARRIS & H ST., EUREKA  
FAX 445-7388

AVIATION

839-5401

ADMINISTRATION  
BUSINESS  
ENGINEERING  
FACILITY MAINTENANCE

445-7491  
445-7652  
445-7377  
445-7493

NATURAL RESOURCES  
NATURAL RESOURCES PLANNING  
PARKS  
ROADS & EQUIPMENT MAINTENANCE

445-7741  
267-9540  
445-7651  
445-7421

LAND USE 445-7205

**LAND USE DIVISION INTEROFFICE MEMORANDUM**

TO: Michelle Nielsen, Senior Planner, Planning & Building Department

FROM: Kenneth M. Freed, Assistant Engineer *KM*

DATE: 2-13-18

RE:

Applicant Name	EUBANK CREEK, LLC
APN	220-171-017
APPS#	12972

The Department has reviewed the above project and has the following comments:

- ☒ The Department's recommended conditions of approval are attached as **Exhibit "A"**.
- ☐ Additional information identified on **Exhibit "B"** is required before the Department can review the project. **Please re-refer the project to the Department when all of the requested information has been provided.**
- ☐ Additional review is required by Planning & Building staff for the items on **Exhibit "C"**. **No re-refer is required.**
- ☒ *Road Evaluation Reports(s)* are required; See **Exhibit "D"**. **No re-refer is required.**

\*Note: Exhibits are attached as necessary.

Additional comments/notes:

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// END //

Public Works Recommended Conditions of Approval

(All checked boxes apply)

APPS # 12972

☐ 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.

☐ COUNTY ROADS- DRIVEWAY (PART 1):  
The submitted site plan is unclear and/or shows improvements that are inconsistent with County Code and/or Department of Public Works policies. The applicant is advised that these discrepancies will be addressed at the time that the applicant applies to the Department of Public Works for an Encroachment Permit. If the applicant wishes to resolve these issues prior to approval of the Planning & Building permit for this project, the applicant should contact the Department to discuss how to modify the site plan for conformance with County Code and or Department of Public Works policies. Notes:

☐ COUNTY ROADS- DRIVEWAY (PART 2):  
Any existing or proposed driveways that 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.
- If the County road has a gravel surface at the location of the driveway, the driveway apron shall be rocked for a minimum width of 18 feet and a length of 50 feet.
- If the County road is an urban road, frontage improvements (curb, gutter, and sidewalk) shall also be constructed to the satisfaction of the Department. Any existing curb, gutter or sidewalk that is damaged shall be replaced.

The exact location and quantity of driveways shall be approved by the Department at the time the applicant applies to the Department of Public Works for an Encroachment Permit.

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.

☐ COUNTY ROADS- DRIVEWAY (PART 3):  
The existing driveway will require substantial modification in order to comply with County Code. The applicant may wish to consider relocating the driveway apron if a more suitable location is available.

☐ COUNTY ROADS-PARKING LOT- STORM WATER RUNOFF:  
Surfaced parking lots shall have an oil-water filtration system prior to discharge into any County maintained facility.

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.

☒ 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 approval for a business license.

☒ COUNTY ROADS- PRIVATE ROAD INTERSECTION:  
Any existing or proposed non-county maintained access roads that 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.

- If the County road has a paved surface at the location of the access road, the access road shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.
- If the County road has a gravel surface at the location of the access road, the access road shall be rocked for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.

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.

☐ COUNTY ROADS- ROAD EVALUATION REPORT(S):  
All recommendations in the Road Evaluation Report(s) for County maintained road(s) shall be constructed/implemented to the satisfaction of the Public Works Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. 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.

// END //



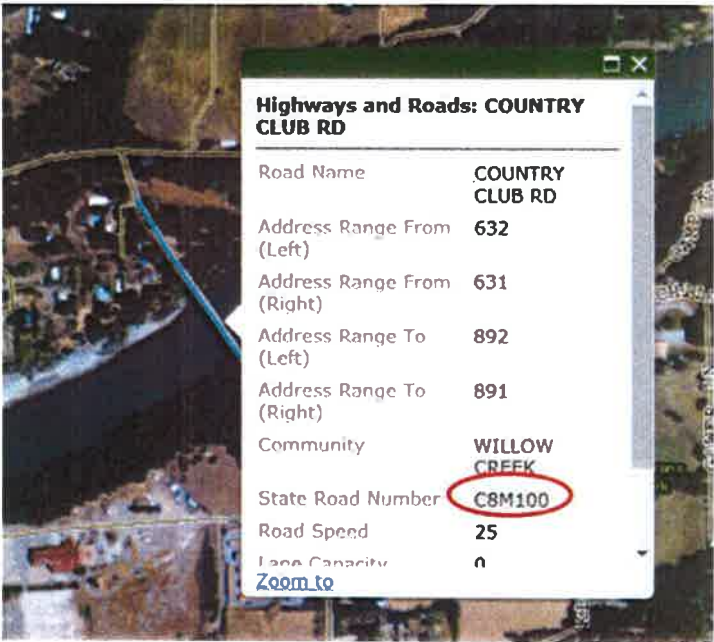
Road Evaluation Reports

1. **ROADS – Road Evaluation Reports.** **Planning and Building Department staff shall request that the applicant provide Road Evaluation Reports for the project.** The particular roads that require a *Road Evaluation Report* is to be determined by following the guidance shown below.

The Department has developed a *Road Evaluation Report* form so that an applicant can address the adequacy of the various roads used by their project. Most projects will require that a *Road Evaluation Report* form be completed.

When viewing the project site on google earth, if the County maintained road (or other publicly maintained road) has a centerline stripe, the road is adequate. If there is no centerline stripe, then the roads leading from the nearest publicly maintained road with a paved centerline stripe (or a known category 4 road) must be evaluated. A separate *Road Evaluation Report* form is needed for each road. This applies to all roads regardless if they are publicly or privately maintained. The Department has prepared a "approved list" of known County maintained roads that are category 4 (or are equivalent to category 4) standards for cannabis projects. The Department has also prepared a list of roads that are known to not meet road category 4 of equivalent. Both of these lists will be updated as the County information regarding the County maintained roads becomes available.

The *Road Evaluation Report* form needs to be provided to applicants to complete. It is important that Planning and Building Department staff provide the applicant with a map that has the roads to be evaluated highlighted. This will most likely include a combination of County maintained roads and non-County maintained roads. This will give the applicant clear direction on which roads need to be evaluated.



Above: screenshot from the WebGIS showing County Road Number circled in RED.

A County maintained road will have a 5 or 6 character identifier. The general format is ABCDDD where:

- A** is an optional identifier for the functionality of the road (A=Arterial, C=Collector, F=Federal Aid)
- B** is a grid identifier number for the X-axis of a "battleship" style grid that was drawn on a county map to divide the county into a series of squares.
- C** is a grid identifier letter for the Y-axis for the grid.
- DDD** is a three digit road identification number within a particular grid. Each grid can have up to 999 roads in them

Examples:

<b>ABCDDD</b>	
A 3 M 0 2 0	Murray Road
F 6 B 1 6 5	Alderpoint Road
6 C 0 4 0	Thomas Road

Exhibit "D"

Road Evaluation Reports

The Department is working towards identifying which County maintained roads meet (or are equivalent to) Road Category 4 standards for cannabis projects. Two lists are being prepared: the first list with the green heading shows which roads (or portions thereof) meet or are equivalent to Road Category 4 standard (AKA "Approved List"); and the second list with the red heading shows which roads (or portions thereof) that do not meet or are not equivalent to Road Category 4 standards. These lists will be updated as information becomes available. This list will be updated frequently. Make sure you are using the most up to date list.

On occasion there may be more than one road that has the same name; in these instances check the road number to ensure that you are referencing the correct road. Until such time as the GIS roads layer has been proofed by the Department, the GIS is not to be used for this task. Use the paper road maps to check road numbers.

If the subject property takes direct access from a road on the "approved list", no further road evaluation needs to be done.

"APPROVED LIST"		
List of County Maintained Roads that meet (or are equivalent to) Road Category 4 standards for Cannabis Projects		
Road Name	Road Number	Range meeting (or equivalent to) Road Category 4 standard
Alderpoint Road	F6B165	All
Benbow Drive	6B180	Oakcrest Dr to State Hwy 101
Blue Slide Road	F2G100	All [Grizzley Bluff Rd to City limits of Rio Dell]
Brannon Mountain Road	7M100	State Hwy 96 to Creekside Lane
Briceland Thorne Road	F5A010	All
Cathey Road	6D050	State Park to P.M. 0.87 [End of County maintained]
Fickle Hill Road	C5J040	Arcata city limits at PM to PM [end of centerline stripe]
Fieldbrook Road	C4L760	All
Freshwater Road	F6F060	All
Friday Ridge Road	8L100	State Hwy 299 to PM 3.37[End of County maintained] then becomes USFS Road
Greenwood Heights Drive	C4K160	All
Grizzley Bluff Road	F2G100	All [City limits of Ferndale to Blue Slide Rd]
Jacoby Creek Road	C4K230	Old Arcata Road to P.M. 2.50
Jacoby Creek Road	4K230	From P.M. 2.5 to P.M. 2.69
Kneeland Road	F6F060	Freshwater Road to Mountain View Road
Maple Creek Road	5L100	All
Mattole Road	F3D010	All
Mattole Road	F3C010	All
McCann Road	6D090	Dyerville Loop Road to P.M. 1.0
McCellan Mtn Road	7F010	State Hwy 36 to P.M. 3.57[End of County maintained]
Murray Road	C3M020	All
Old Three Creeks	6L250	State Hwy 299 to P.M. 2.8 [End of County maintained]
Panther Gap Road	4D010	Mattole Road to P.M. 1.83[End of County maintained] continues as a non- County maintained road
Patterson Road	C3M130	All
Salmon Creek Road	6C030	Hwy 101 to P.M. 5.39 [End of County maintained]
Shelter Cove Road	C4A010	All
Sprowel Creek Road	C6B095	PM 0.0 to PM 2.11
Sprowel Creek Road	6B095	PM 2.11 to PM 4.00
Thomas Road	6C040	Salmon Creek Road to P.M. 4.03 [End of County maintained] continues as a non- County maintained rd
Titlow Hill Road	7K100	Hwy 299 to PM 4.7[End of County maintained] then becomes USFS Road
West End Road	5L010	PM 0.0 at Arcata City Limits to Warren Creek Road
Wilder Ridge Road	C5B010	All

Exhibit "D"

Road Evaluation Reports

List of County Maintained Roads that do not meet (or are not equivalent to) Road Category 4 standards for Cannabis Projects		
Road Name	Road Number	Range not meeting (or not equivalent to) Road Category 4 standard
Benbow Drive	6B180	Oakcrest Dr to end
Brannon Mountain Road	7M100	Creekside Lane to PM 5.0 [End of County maintained] then becomes USFS Road
Essex Lane	C4L780	P.M. 0.2 to P.M. 0.9 [End of County maintained]
McCann Road	6D090	PM,1.0 to P.M.2.6 [End of County maintained]
Warren Creek Road	5L740	PM 0.0 to PM 0.95 [End of County maintained]
Sprowel Creek Road	6B095	PM 4.00 to PM 7.22 [End of County maintained]

// END //



**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

Humboldt – Del Norte Unit

118 Fortuna Blvd.  
Fortuna, CA 95540  
Website: [www.fire.ca.gov](http://www.fire.ca.gov)  
(707) 726-1272



Ref: 7100 Planning  
Date: August 29, 2017



John Ford, Director  
Humboldt County Planning and Building Department – Planning Division  
3015 H Street  
Eureka, CA 95501

**Attention:** Cannabis Planner (CPOD)  
**Applicant:** Eubank Creek, LLC  
**APN:** 220-171-017-000  
**Area:** Briceland  
**Case Numbers:** CUP16-940

**Humboldt County Application #:** 12972  
**Type of Application:** Conditional Use Permit  
**Date Received:** 8/25/2017  
**Due Date:** 9/7/2017

**Project Description:** A Conditional Use Permit for 11,000 square feet of mixed-light and 43,560 square feet of outdoor cultivation site. Water for irrigation will be provided by springs and a well, off-set with a rainwater catchment from a proposed pond. Storage for water will be in an installed one (1) million gallon rainwater catchment pond. Processing will occur with a licensed off-site processing facility and/or sell bulk cannabis to a medical cannabis manufacturer. Transportation will be handled by a third-party, contracted, licensed transporter/distributor. Generators will be used and will be off-set with a solar array in the future.

Mr. Ford,

The California Department of Forestry and Fire Protection (CALFIRE) provides these standard project review comments on the above noted project for the following subject matter:

- Fire Safe
- Resource Management
- Cannabis

The following pages address these concerns directly.

If CALFIRE staff develops additional comment on this project, it will be forwarded in an additional response letter.

By: Planning Battalion  
CALFIRE Humboldt – Del Norte Unit

For **Hugh Scanlon**, Unit Chief



## **FIRE SAFE**

### **General:**

CALFIRE has responsibility for enforcement of Fire Safe Standards as required by Public Resources Code (PRC) 4290 and 4291. However CALFIRE is not the lead agency in planning development and project permitting. CALFIRE provides input as a contributing agency, generally limited to plan review, and is not the approving agency for these projects.

### **Local Responsibility Areas:**

Should this project include Local Responsibility Area (LRA) lands, CALFIRE has no direct fire safe input on those parcels. However, in those areas with LRA parcels adjacent to State Responsibility Area (SRA) land, CALFIRE recommends that local standards be applied that are consistent with those CALFIRE makes for SRA lands.

### **State Responsibility Areas:**

Should this project include State Responsibility Area (SRA) lands, the following are CALFIRE's Fire Safe minimum input and recommendation for any and all development.

1. In Humboldt County, developments must meet minimum fire safe standards by constructing the project in conformance with County Fire Safe Ordinance 1952, which the California Board of Forestry and Fire Protection has accepted as functionally equivalent to PRC 4290. The County Fire Safe Ordinance provides specific standards for roads providing ingress and egress, signing of streets and buildings, minimum water supply requirements, and setback distances for maintaining defensible space.
2. New buildings located in any Fire Hazard Severity Zone within State Responsibility Areas shall comply with the 2007 California Building Code (CBC) Section 701A.3.2. This requires roofing assemblies, attic and eave ventilation, exterior siding, decking and deck enclosure, windows and exterior doors, and exposed under floor areas that are approved "ignition resistive" in design.
3. All development, especially commercial or industrial development, should be designed to comply with the most current versions of the following standards:
  - a) California Fire Code (CFC) — for overall design standards
  - b) Public Utilities Commission (PUC) General Order 103 — for design of water systems
  - c) National Fire Protection Association Standards (NFPA) for fire flow minimums and other design questions not specifically covered by CFC and PUC
  - d) Housing and Community Development Codes and Standards —for mobile home parks and recreational camps
4. For Department of Real Estate reporting purposes, fire protection coverage in SRA is generally described as follows:

During the declared fire season (usually June through October) CALFIRE responds to all types of fires and emergencies in SRA.

During the remainder of the year (winter period), CALFIRE responds to emergency requests with the closest available fire engine, if a response can reasonably be expected to arrive in time to be effective. A fire engine is usually available somewhere in the Unit, but may have an extended response time.

There are many hazards confronting fire protection agencies in most subdivisions on SRA lands. Steep terrain and heavy wildland fuels contribute to fire intensity and spread. The distances from fire stations and road grades encountered usually create an excessive response time for effective structure fire suppression purposes.

Subdivisions increase fire risks from additional people and increase probable dollar losses in the event of fire due to added structures and improvements.
5. If the project expects to produce densities consistent with a major subdivision, the impacts on all infrastructures should be mitigated. Local government more appropriately provides the responsibility for high-density area protection and services. Annexation or inclusion into Local Responsibility Area should be studied as well.

6. CALFIRE does not support development in areas where there is no local agency fire service for structure fires and emergency medical response. Fire services should be extended into service gap areas as a condition of development. New development can adversely impact existing fire services. Careful consideration must be given where development may overload the local fire service's ability to respond.

## RESOURCE MANAGEMENT

CALFIRE has enforcement responsibility for requirements of the Z'berg—Nejedly Forest Practice Act of 1973. CALFIRE is also the lead agency for those parts of projects involving the scope of the Forest Practice Act. The following basic input will cover the majority of projects. Each project will be reviewed with additional input sent at a later date, if needed.

The following comments reflect the basic Resource Management policies of the Board of Forestry and Fire Protection and CALFIRE on CEQA review requests. These policies apply to both Local and State Responsibility Areas.

1. If this project reduces the amount of timberland, by policy, the Board of Forestry and CALFIRE cannot support any project that will reduce the timberland base of California. "Timberland" means land which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees regardless of current zoning (PRC 4526). However, if the zoning and intended use are consistent with the county's general plan; and if no land other than timberland can be identified to site the project; then CALFIRE may choose not to oppose the project.
2. If any commercial timber operations are involved with a project, the timber operations cannot be conducted without a CAL FIRE permit. Commercial timber operations include the cutting or removal of trees offered for sale, barter, exchange, or trade or the conversion of timberlands to land uses other than the growing of timber (PRC 4527). Contact your nearest CAL FIRE Resource Management office for guidance on obtaining the necessary permits.
3. If any timberlands are being converted to a non-timber growing use by this project, the conversion operations cannot be conducted without a CAL FIRE permit (PRC 4621). Conversion of timberland takes place when trees are removed and the land use changes, even without the sale, barter, exchange, or trade of the trees. Contact your nearest CAL FIRE Resource Management office for guidance on obtaining the necessary permits.
4. If timberland is in the viewshed of a project, the current and future owners should be overtly notified that changes will occur to their views due to timber management activities. Further, no project should be allowed to negatively affect access to timberland for timber management purposes; neither on the project parcel(s) nor any other timberland parcels.
5. If timber harvesting has occurred and post-harvest restocking and prescribed erosion control maintenance obligations have not been met on a parcel, future owners should be overtly notified (14 CCR 1042). The current owner of a parcel is responsible for restocking requirements and maintenance of roads whether or not they were involved in the actual harvest plan.
6. If the project involves the development of parcels zoned as Timber Production Zone (TPZ), CALFIRE cannot support the project. Dividing TPZ land into parcels of less than 160 acres requires a Joint Timber Management plan prepared by a Registered Professional Forester (RPF), recorded as a deed restriction for a minimum of 10-years on all affected parcels, and approved by a four – fifths vote of the full board (Govt. Code 51119.5). TPZ may be rezoned using a "Ten Year Phase Out," which precludes the need for a Timberland Conversion Permit. CALFIRE opposes immediate rezoning of TPZ land.

## Cannabis

### **General:**

CALFIRE has responsibility for enforcement of Fire Safe Standards as required by Public Resources Code (PRC) 4290 and 4291. CALFIRE is not the lead agency in planning development and project permitting. However, CALFIRE provides comment as an emergency response expert agency, generally limited to plan review, and is not the approving agency for these projects.

### **Local Responsibility Areas:**

Should this project include Local Responsibility Area (LRA) lands, CALFIRE has no direct fire safe input on those parcels. However, in those areas with LRA parcels adjacent to State Responsibility Area (SRA) land, CALFIRE recommends that local standards be applied that are consistent with those CALFIRE makes for SRA lands. Also CAL FIRE is the primary command and control dispatch, for most local agency fire districts and departments.

### **State Responsibility Areas:**

Should this project include State Responsibility Area (SRA) lands, the following are CALFIRE's minimum input.

1. Agricultural cannabis growing operations medicinal or commercial shall have an easily accessible material safety data sheet (MSDS) or safety data sheet (SDS) for all chemicals and hazardous materials on site. Posted (NFPA 704) Placard clearly visible to emergency responders
2. California code of regulations Health and Safety (CCR 11362.769.) Indoor and outdoor medical marijuana cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical marijuana cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.
3. International Fire Code (N101.1 Scope) Marijuana growing and extraction shall be in accordance with this chapter, of the International Building Code, and the International Mechanical Code. Cryogenic fluids shall comply with Chapter 55. Compressed gases shall comply with Chapter 53. Flammable and combustible liquids shall comply with Chapter 57. Hazardous materials shall comply with Chapter 50. LP-gas shall comply with Chapter 61 and the International Fuel Gas Code. All applicable California State Fire Marshal standards and regulations for the designated occupancy must be met.
4. Growing marijuana and the extracting of oils  
Extraction of marijuana oils; All materials hazardous and non-hazardous associated with the extraction process shall be utilized in conformance of the law and fire safe codes.





HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT  
CURRENT PLANNING DIVISION  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 443-7541



8/24/2017

**PROJECT REFERRAL TO: Telegraph Ridge Fire Protection District**

**Project Referred To The Following Agencies:**

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, California Department of Transportation District #1, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, Intertribal Sinkyone Wilderness Council, California Water Resources Control Board, Division of Water Rights, Southern Humboldt Joint Unified School District, Humboldt County Sheriff, Telegraph Ridge Fire Protection District

**Applicant Name** Eubank Creek, LLC **Key Parcel Number** 220-171-017-000

**Application (APPS#)** 12972 **Assigned Planner** () - **Case Number(s)** CUP16-940

Please review the above project and provide comments with any recommended conditions of approval. To help us log your response accurately, please include a copy of this form with your correspondence.

Questions concerning this project may be directed to the assigned planner for this project between 8:30am and 5:30pm Monday through Friday.

County Zoning Ordinance allows up to 15 calendar days for a response. If no response or extension request is received by the response date, processing will proceed as proposed.

☐ If this box is checked, please return large format maps with your response.

**Return Response No Later Than 9/8/2017**

Planning Commission Clerk  
County of Humboldt Planning and Building Department  
3015 H Street  
Eureka, CA 95501  
E-mail: PlanningClerk@co.humboldt.ca.us Fax: (707) 268-3792

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

☐ Recommend Approval. The Department has no comment at this time.

☒ Recommend Conditional Approval. Suggested Conditions Attached.

☒ Applicant needs to submit additional information. List of items attached.

☐ Recommend Denial. Attach reasons for recommended denial.

☒ Other Comments: Provide contact information: personal name, phone number, email. Recommended: Fire Safety Operation Education Training for Employees. Fire Standpipe.

DATE: 9/18/17

PRINT NAME: Laurel Radloff