



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

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

Hearing Date: October 7, 2021

To: Humboldt County Zoning Administrator

From: Cliff Johnson, Supervising Planner

Subject: **Aldebaran's Gaze, LLC, Special Permits**  
Record Number PLN-12961-SP  
Assessor's Parcel Number (APN) 223-091-003  
Garberville area

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Please contact Christopher Alberts, Planner, at (707)-268-3771 or by email at calberts@co.humboldt.ca.us, if you have any questions about the scheduled public hearing item.

**AGENDA ITEM TRANSMITTAL**

<b>Hearing Date</b> October 7, 2021	<b>Subject</b> Special Permits	<b>Contact</b> Christopher Alberts
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**Project Description:** A Special Permit for 10,000-square-feet of outdoor cannabis cultivation. Propagation is proposed in one 1,000-square-foot greenhouse. Water for irrigation will be sourced from a Point of Diversion (POD) from an onsite spring. The project is conditioned for the applicant to forbear from diverting from the spring annually from April 1 to October 31. Water storage onsite totals 111,500 gallons occurring in hard tanks and one (1) 20,000-gallon water bladder. The applicant anticipates 124,870 gallons of water will be required annually for irrigation. There will be two (2) cultivation cycles occurring annually. Processing such as drying, curing and trimming will occur onsite in an existing 658-square-foot drying shed and a 160-square-foot shipping container. The applicant anticipates three (3) employees will be required for operations annually. Power for the project will be provided by a 4kW Solar System with 38.4kWh battery bank with a Honda EU2000, Honda EU3000 and Honda EU7000 back-up generators. A Special Permit is also requested for the ongoing use and maintenance of the point of diversion within the Streamside Management Area.

**Project Location:** The project is located in the Garberville area, on the north and west side of Ross Road, approximately 1 mile from the intersection of Wade Road and Ross Road, on the property known as 48 Ross Road.

**Present Plan Land Use Designations:** Residential Agriculture (RA40) General Plan 2017, Density: 40 acres per dwelling unit as specified on map, Slope Stability: High Instability (3).

**Present Zoning:** Agriculture General (AE), Special Building Site combining zone specifying a minimum parcel size of 40 acres (B-6).

**Record Number:** PLN-12961-SP

**Assessor's Parcel Number:** 223-091-003

**Applicant**  
Aldebaran's Gaze, LLC  
Bryan Harpel  
PO Box 415  
Garberville, CA 95542

**Owners**  
Bryan Harpel  
PO Box 415  
Garberville, CA 95542

**Agent**  
Margro Advisors  
2306 Albee St  
Eureka, CA 95501

**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

**Recommended Zoning Administrator Action**

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

*Find that the Zoning Administrator has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO) as described by Section § 15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permits and adopt the Resolution approving the Aldebaran's Gaze, LLC Special Permits as recommended by staff subject to the recommended conditions.*

**Executive Summary:** Aldebaran's Gaze, LLC seeks a Special Permit for the continued operation of an existing 10,000 square foot outdoor cannabis operation in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The site is designated as Residential Agriculture (RA40) in the Humboldt County 2017 General Plan Update and zoned Agriculture General (AE), with Special Building Site combining zone (B-6(40)). Cultivation will take place in two areas near the center of the parcel. Propagation is proposed within three (3) structures: one (1) 280-square-foot structure; one (1) 120-square-foot structure; and one (1) 700-square-foot structure. Artificial lighting used for ancillary propagation nursery and processing will adhere to shielding and International Dark Sky Association standards as set forth in the CMMLUO. Processing such as drying, curing and trimming will occur onsite in an existing 658-square-foot drying shed and a 160-square-foot shipping container. The applicant anticipates three (3) employees will be required for operations annually. Power for the project will be provided by a 4kW Solar System with 38.4kWh battery bank with a Honda EU2000, Honda EU3000 and Honda EU7000 back-up generators. A Special Permit is also requested for the ongoing use and maintenance of the point of diversion within the Streamside Management Area.

**Water Resources**

Water for irrigation will be sourced from a Point of Diversion (POD) from an onsite spring. The project is conditioned for the applicant to forbear from diverting from the spring annually from April 1 to October 31. Water storage onsite totals 111,500 gallons occurring in hard tanks and one (1) 20,000-gallon water bladder. The applicant anticipates 124,870 gallons of water will be required annually for irrigation. The applicant has submitted a Streambed Alteration Agreement (Notification No. 1600-2017-0755-R1) for the use of the POD as a source of water for irrigation. The project is conditioned for the applicant to remove the 20,000-gallon bladder. The project is also conditioned for the applicant to implement an additional 33,370 gallons of water storage in order to have sufficient water storage during the forbearance period.

**Biological Resources**

The California Natural Diversity Database (CNDDDB) indicates there are no mapped rare or endangered species located on the parcel. The nearest mapped Northern Spotted Owl activity center is located approximately 6.37-miles southeast from the project site and the nearest NSO observation is mapped approximately 0.83 miles southwest from the project site. Marbled murrelet habitat is mapped 4.69 miles west from the project site. The project is unlikely to have a direct or indirect impact to any rare or endangered species because the energy source for the project will be sourced from PG&E; all artificial lighting used for ancillary propagation and processing will adhere to shielding and International Dark Sky Association standards as set forth in the CMMLUO.

## Access

The property is accessed via private driveway from Ross Road. The applicant submitted a self-certified Road Evaluation Report dated March 21, 2018. According to the Road Evaluation Report, the entire road segment is developed to the equivalent of a road category 4 standard. The applicant also submitted a Road Evaluation prepared by DTN Engineering & Consulting dated November 13, 2019. According to the evaluation, Ross Road is developed to an equivalent standard of a Category 4 Roadway. The Department of Public Works commented all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). Public Works also stated the applicant shall rock the encroachment of Ross Road where it meets Dyerville Loop Road for a minimum width of 20 feet and a length of 50 feet. The project is conditioned for the applicant to adhere to comments made by the Department of Public Works.

## Tribal Consultation

The project is located within the Bear River Band and Sinkyone tribal Aboriginal Territories. The project is located in the Bear River Band Rancheria and Sinkyone Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center, Bear River Band, and Sinkyone Tribe. The Bear River Band recommended the applicant to have a Cultural Resource Study prepared for the project site. The applicant submitted a Cultural Resource Survey prepared by William Rich and Associates dated August 2019. The survey concluded there were no historic-era artifacts, features, sites, buildings, structures or other resources identified in the survey area. The project has an ongoing condition to include inadvertent archaeological discovery language.

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 Zoning Administrator (See Attachment 2 for more information).

**RECOMMENDATION:** Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

**ALTERNATIVES:** Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.



- EVIDENCE:**
- a) Addendum Prepared for the proposed project.
  - b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
  - c) A Site Management Plan dated June 19, 2019 was prepared by the applicant to show compliance with the North Coast Regional Water Quality Control Board Order No. 2019-0023(WDID: 1B171380CHUM).
  - d) Final Streambed Alteration Agreement (Notification no. 1600-2017-0755-R1) prepared by the applicant dated January 28, 2019 for the use of the POD as a source of water for irrigation.
  - e) A Cultural Resources Investigation (CRI) prepared by William Rich and Associates dated August 2019 to show the project will not have an impact to historic cultural resources.
  - f) Slope Report prepared by DTN Engineering, Consulting, & Permitting dated November 13, 2019, to show slopes that cultivation is occurring on have no stability or environmental concerns.

**FINDINGS FOR SPECIAL 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 (RA40) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.

**4. FINDING** The proposed development is consistent with the purposes of the existing Agriculture Exclusive (AE) zone in which the site is located.

- EVIDENCE**
- a) The Agriculture Exclusive (AE) zone is intended to be applied to bottomland farms and lands that can be irrigated. Typical uses include dairy, row crops, orchards, specialty agriculture, and horticulture. The protection of this use from encroachment from incompatible uses is essential to the general welfare.
  - b) The Agriculture Exclusive (AE) is intended to provide standards and restrictions to agriculture-related recreation, general agriculture and intensive agriculture.
  - c) Accessory agricultural uses and general agriculture are principally permitted uses in AE zones.

- d) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis and up to 10,000 square feet of existing mixed-light cannabis on a parcel over 1 acres subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 10,000 square feet of outdoor cannabis cultivation on a 50.56-acre parcel is consistent with this and with the cultivation area verification prepared by the County.
- e) The applicant is requesting a Special Permit for the ongoing use maintenance of the point of diversion within the Streamside Management Area per Section 314-61.1.5 HCC.

**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 AE (HCC 314-55.4.8.2.2).
- b) The subject parcel was created Parcel Map 819.
- c) The applicant submitted a self-certified Road Evaluation Report which states the entire road segment is developed to the equivalent of a road category 4 standard. The applicant also submitted an Engineered Road Evaluation Report indicating Ross Road is developed to an equivalent standard of a Category 4 Roadway.
- d) The slope of the land where cannabis will be cultivated is less than 15%.
- e) The cultivation of cannabis will not result in the net conversion of timberland.
- f) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 from any property line, more than 300 feet from any off-site residence, more than 600 feet from any school, church, public park or Tribal Cultural Resource.

**6. FINDING**

The cultivation of 10,000 square feet of outdoor 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 located on road that is developed to the equivalent of a road category 4 standard and will safely accommodate the amount of traffic generated by the proposed cannabis cultivation.
- b) The site is in a rural part of the County where the typical parcel size is over 40 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.
- c) Water for irrigation will be sourced from a Point of Diversion (POD) from

an onsite spring that will not be used during the forbearance period.

- d) Provisions have been made in the applicant's proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.

**7. FINDING**

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

**EVIDENCE**

- a) The parcel 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.

**8. FINDING**

The proposed project will not have an impact to sensitive habitat areas where policies are applied to protect fish and wildlife and facilitate the recovery of endangered species. (BR-G1, Threatened and Endangered Species, BR-G2, Sensitive and Critical Habitat, BR-G3, Benefits of Biological Resources).

**EVIDENCE**

- a) According to the California National Diversity Database there are no mapped rare or endangered species located on the parcel. The nearest Northern Spotted Owl (NSO) activity center is located approximately 6.37 miles south from the project site and the nearest NSO observation is located approximately 4.69 miles south from the project site. Marbled murrelet habitat is mapped on the adjacent parcels on the southside of the property.
- b) The applicant submitted a Site Management Plan (SMP) prepared by the applicant, dated June 19, 2019. The applicant is a Tier 1 Discharger and will include a monitoring element and will submit an annual report each year by March 31 that documents implementation and effectiveness of the management measures during the previous year.

## DECISION

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

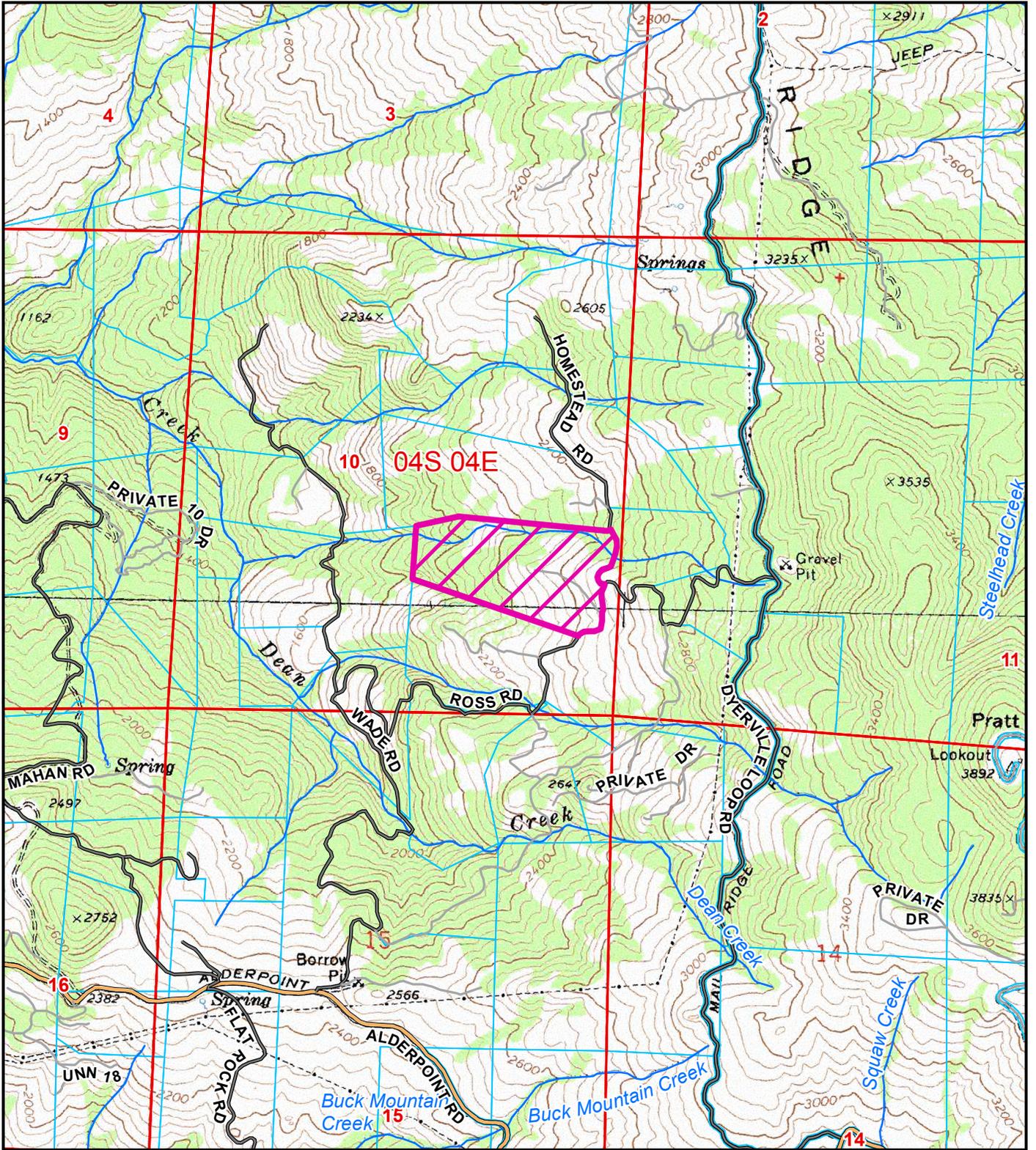
- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permits for Aldebaran's Gaze, LLC, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on October 7, 2021.

I, John Ford, Zoning Administrator 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 Zoning Administrator at a meeting held on the date noted above.

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John H. Ford, Zoning Administrator,  
Planning and Building Department

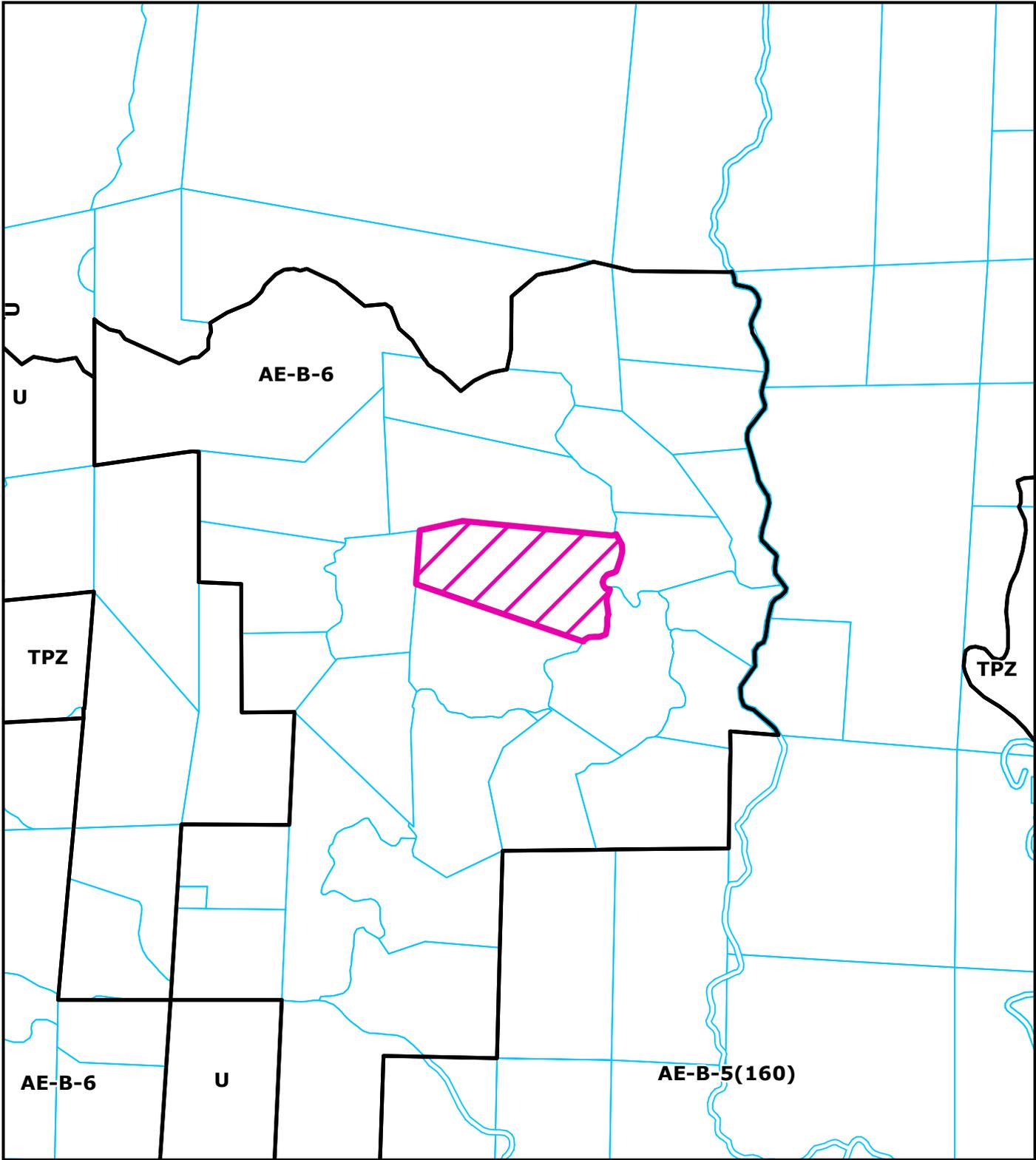


**TOPO MAP**  
**PROPOSED BRYAN HARPEL**  
**GARBERVILLE AREA**  
**SP-16-704**  
**APN: 223-091-003**  
**T04S R04E S10 HB&M (FORT SEWARD)**

Project Area =



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.



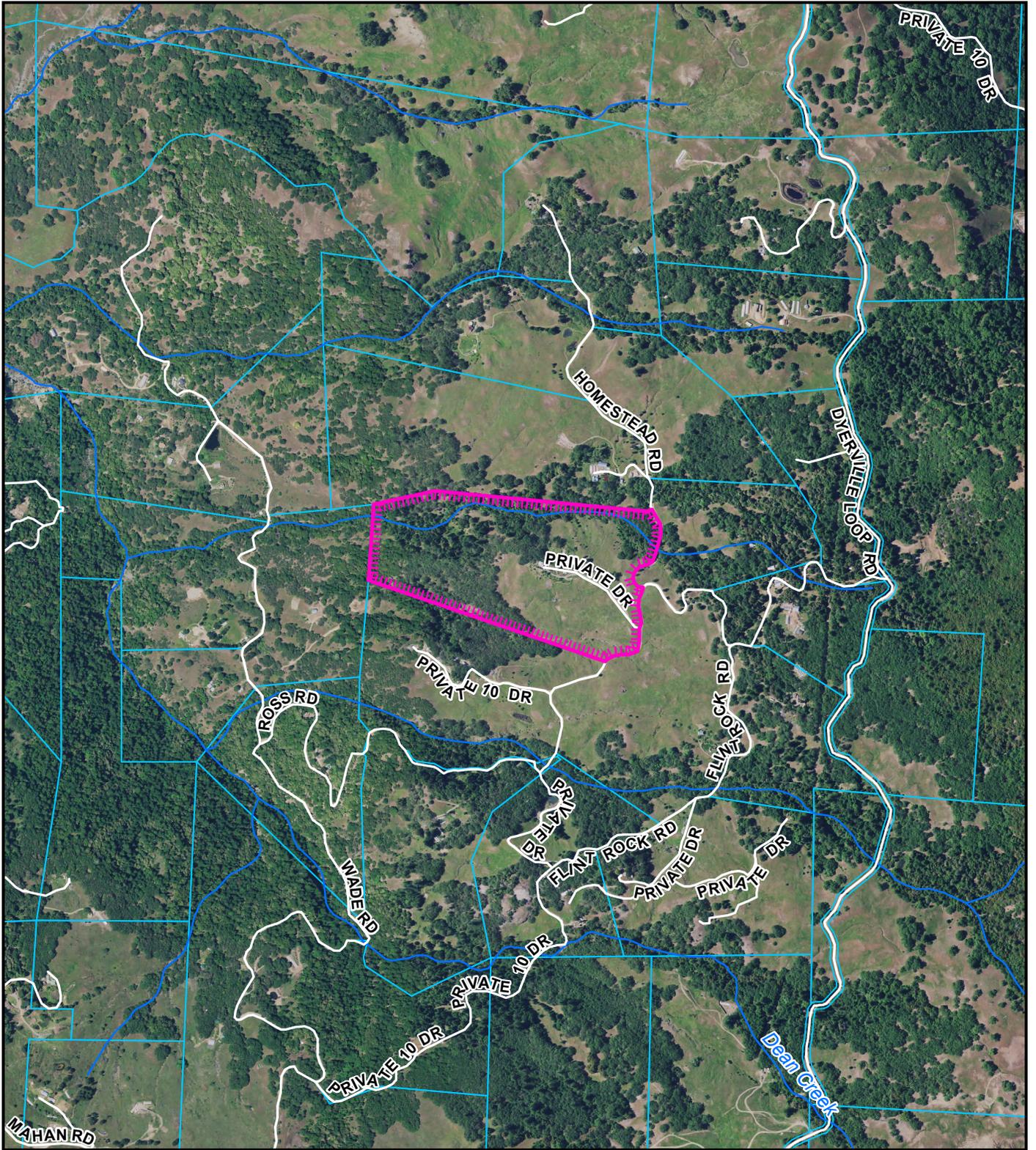
**ZONING MAP**  
**PROPOSED BRYAN HARPEL**  
**GARBERVILLE AREA**  
**SP-16-704**  
**APN: 223-091-003**  
**T04S R04E S10 HB&M (FORT SEWARD)**

Project Area = 



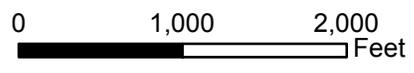
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**AERIAL MAP**  
**PROPOSED BRYAN HARPEL**  
**GARBERVILLE AREA**  
**SP-16-704**  
**APN: 223-091-003**  
**T04S R04E S10 HB&M (FORT SEWARD)**

Project Area = 



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.



## ATTACHMENT 1

### RECOMMENDED CONDITIONS OF APPROVAL

**APPROVAL OF THE SPECIAL PERMITS 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. 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.
5. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #6 through #15. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
6. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to, existing and proposed greenhouses, water tanks over 5,000 gallons existing and proposed structures associated with drying and storage or any activity with a nexus to cannabis, and any noise containment structures as necessary. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
7. The applicant shall ensure all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). Confirmation from the Department of Public Works that the work has been done will satisfy this requirement.

8. The applicant shall rock the encroachment of Ross Road for a minimum width of 20 feet and a length of 50 feet where it intersects Dyerville Loop Road. An encroachment permit shall be obtained from the Department of Public Works Land Use Division for work within the County right-of-way. Confirmation from the Department of Public Works that the work has been done will satisfy this requirement.
9. The applicant shall install water monitoring device on each source - surface diversion at spring and storage tanks applicable - to monitor water used for cannabis irrigation separate from domestic use.
10. The applicant shall contact the local fire service provider [Garberville Fire Protection District] and furnish written documentation from that agency of the available emergency response and fire suppression services and any recommended project mitigation measures. Mitigation measures shall be incorporated into the project, if applicable. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.
11. The applicant shall demonstrate that a properly functioning onsite wastewater treatment system serves the operation. This can be accomplished by either installing a new, permitted septic system; or by providing DEH with an assessment of the existing system performed by a qualified professional engineer, geologist, soil scientist, or REHS that certifies that the existing system complies with the State RWQCB definition of a Tier 0 system - not impairing groundwater or surface water resources. Confirmation from the Department of Environmental Health that the work has been done will satisfy this condition.
12. 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.
13. 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.
14. The applicant shall obtain a Right to Divert and Use Water from the State Water Resources Control Board for the existing diversion.
15. The applicant shall remove the 20,000-gallon bladder and add a minimum of 33,370 gallons of tank storage in order to have sufficient water storage during the forbearance period to meet project needs.

**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 propagation 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/>. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed.
3. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment, and noise levels have been repaired, inspected, and corrected as necessary.
4. The use of monofilament netting for all uses, including but not limited for erosion control, shall be prohibited. Geotextiles, fiber rolls, and other erosion control measure materials shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves to minimize the risk of ensnaring and strangling wildlife.
5. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
6. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
7. The use of anticoagulant rodenticide is prohibited.
8. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.
9. All components of 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.
10. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
11. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown

within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.

12. Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.
13. Compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
14. Confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
15. 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.
16. Comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from the California Department of Fish and Wildlife (CDFW).
17. Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire), if applicable.
18. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
19. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
20. Pay all applicable application, review for conformance with conditions and annual inspection fees.
21. 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.
22. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
23. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

#### Performance Standards for Cultivation and Processing Operations

24. Pursuant to 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.”

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

29. 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.
30. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a 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.
31. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
32. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.
33. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
  - a. Identifying information for the new owner(s) and management as required in an initial permit application;
  - b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
  - c. The specific date on which the transfer is to occur;
  - d. Acknowledgement of full responsibility for complying with the existing permit; and
  - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
34. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

#### **Informational Notes:**

1. Pursuant to Section 314-55.4.11 (a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years after the date of issuance of the provisional clearance

or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to Section 314-55.4.13 of the CMMLUO.

2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"), except where the Compliance Agreement per Condition of Approval #6 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 2**

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

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

**APN 223-091-003; 48 Ross Road, Garberville, County of Humboldt**

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

**October 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 modified project involves a Special Permit (PLN-12961-SP) for 10,000 square feet of outdoor cannabis cultivation. Propagation is proposed within three (3) structures: one (1) 280-square-foot structure; one (1) 120-square-foot structure; and one (1) 700-square-foot structure. Artificial lighting used for ancillary propagation nursery and processing will adhere to shielding and International Dark Sky Association standards as set forth in the CMMLUO. Processing such as drying, curing and trimming will occur onsite in an existing 658-square-foot drying shed and a 160-square-foot shipping container. The applicant anticipates three (3) employees will be required for operations annually. Power for the project will be provided by a 4kW Solar System with 38.4kWh battery bank with a Honda EU2000, Honda EU3000 and Honda EU7000 back-up generators. A Special Permit is also requested for the ongoing use and maintenance of the point of diversion within the Streamside Management Area.

Water for irrigation will be sourced from a Point of Diversion (POD) from an onsite spring. The applicant will be forbearing from diverting from the spring annually from April 1 to October 31. Water storage onsite totals 111,500 gallons occurring in hard tanks and one (1) 20,000-gallon water bladder. The applicant anticipates 124,870 gallons of water will be required annually for irrigation. The applicant has submitted a Streambed Alteration Agreement (Notification No. 1600-2017-0755-R1) for the use of the POD as a source of water for irrigation.

The project is located within the Bear River Band and Sinkyone tribal Aboriginal Territories. The project is located in the Bear River Band Rancheria and Sinkyone Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center, Bear River Band, and Sinkyone Tribe. The Bear River Band recommended the applicant to have a Cultural Resource Study prepared for the project site. The applicant submitted a Cultural Resource Survey prepared by William Rich and Associates dated August 2019. The survey concluded there were no historic-era artifacts, features, sites, buildings, structures or other resources identified in the survey area. The project has an ongoing condition to include inadvertent archaeological discovery language.

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO which were intended to mitigate impacts of existing cultivation. These include ensuring supplemental lighting and security lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources as a result of light and noise.

**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 project 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:

- Cultivation and Operations Plan prepared by the Applicant dated November 13, 2019.
- Site Plan prepared by the Applicant dated November 13, 2019.
- Cultural Resources Investigation (CRI) prepared by William Rich and Associates dated August 2019.
- Site Management Plan (SMP) prepared by the Margro Advisors dated November 13, 2019.

### **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.
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. (Not applicable)
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. (Plot Plans prepared by the agent dated 11/13/2019 – **Attached** with project Maps)
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, outdoor), 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 the agent dated 11/13/2019- **Attached**)
5. Description of water source, storage, irrigation plan, and projected water usage. (Included in Cultivation Operations Plan (item 4. above)
6. 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. (NOI and reporting, Site Management Plan (SMP) prepared by the Agent – On file. Notice of Applicability: Waste Discharge Requirements Water Quality WDID 1B171380CHUM – on file)
7. 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. (**Attached**)
8. If the source of water is a well, a copy of the County well permit, if available. (Not applicable)
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. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits (DEH Form). (On-file)
15. Cultural Resource Inventory (CRI) Report prepared by prepared by William Rich and Associates dated August 2019. (On file)
16. Slope Report prepared by DTN Engineering, Consulting, & Permitting dated November 13, 2019. (**Attached**)

**Cultivation Plan for Bryan Harpel,  
Aldebaran's Gaze  
Parcel # 223-091-003**



The following plan describes the general operations for managing 10,000 sq ft outdoor cultivation site.

**1. Water Use**

The amount of water used for the cultivation of cannabis will vary throughout the year, from 100 to 900 gallons per day. Details of the grower's cultivation and water usage is outlined below.

Water used for cannabis cultivation is sourced from an onsite stream and stored to water tanks and bladders. The site relies on the tank capacity to store approximately 111,500 gallons, including bladders storing 20,000 gallons of total water for irrigation. Gravity directs water from the stream to an irrigation tank, then gravity flow directs to storage tanks and bladders. A sump pump and feeder tank distributes water to the cultivation site. All irrigation is dispersed through drip irrigation.

During the beginning of the grow season, clones are watered every 3-4 days. Once transplanted the plants are watered every other day progressing to daily watering depending on need. Drip irrigation to enclosed soil beds, along with surrounding vegetation is used to conserve water and prevent runoff.

The following provides an estimate of monthly irrigation use in gallons:

1.a. Water USE by month

Jan	Feb	Mar	Apr	May	June
0	0	340	1,230	13,500	13,500

July	Aug	Sept	Oct	Nov	Dec
27,900	27,900	27,000	13,500	0	0

**2. Watershed Protection**

To protect nearby watershed areas and nearby habitat the site is managed to meet standard conditions and follow best practices in accordance with guidelines provided by the State Water Resources Control Board (SWRCB). These practices address erosion control and drainage

features, spoils management, water storage and use, irrigation runoff, fertilizers and pesticides, and stream and wetland buffers when applicable.

The most active steps for this site include:

- Seeding and usage of vegetative ground cover
- Gravel for driveways and pathways for added sediment control
- Base enclosure of plant beds to prevent run-off
- Use of straw, straw waddles, or woodchips around and over bare areas to prevent sediment flow
- Outsloping and ditch-relief maintained to ensure proper capture and capacity of seasonal flow

These measures will ensure no sediment movement will occur on previously graded areas.

The parcel has one Class II watercourse running through it. The cannabis cultivation areas are over 100 feet from the waterway, as required in the SWRCB specifications.

The grower, designated as the "Discharger", is enrolled in the SWRCB Waiver of Waste Discharge as a Tier I Discharger. The cultivation site includes a Site Management Plan (SMP) for the property. A copy of the SMP is kept onsite for ongoing site management and regulatory inspections.

### **3. Power Source**

The site uses a newly installed 4kW Solar System with 38.4kWh battery bank, with two (2) Honda EU2000, EU3000, and EU7000 back-up generators, and has plans to implement hydroelectric power as well. Usage is on average 11.7kWh per day depending on the need for and duration of ventilation, and use of farming equipment. As the generators are all rated by the manufacturer under 60dB, they meet perimeter noise restrictions required by environmental regulations.

### **4. Site Structures**

There is one residential structure, along with two sheds one for storage and the other for drying. During the season there are up to 15 temporary greenhouses used for cultivation. In addition, there are two existing greenhouses, one planned greenhouse for propagation, along with five sheds for amendments, fuel, drying, solar, and tools. (See Site Map for details).

Greenhouse #2 includes a small relocation of prior grow plants from the nearby hillside area just west of the current location. Relocation was made to prevent environmental impacts due to potential irrigation runoff due to the slope of the hill. (See Cultivation Site Relocation Assessment for details).

**5. Materials Storage**

Currently there are only natural fertilizers utilized in the cultivation process and may include:

- Plant Therapy
- Earth Juice PH up
- Earth Juice PH down
- Cocoa Wet
- Bat and seabird guano
- Dr. Earth Bud and Bloom
- Liquid bone meal
- Molasses
- Eco Nutrients: Fish and Shrimp Hydrolysate
- Humboldt Ag: Compost Tea Blend

An onsite shed is used for the storage of amendments. Materials are kept in their original containers with product labels in place and legible. Appropriate Material Safety Data Sheets (MSDS) are kept onsite as a component of the cultivator’s SMP.

Fuels are kept off-ground with secondary containment or within an onsite shed along with a Spill Prevention, Countermeasures, and Cleanup (SPCC) kit. As a safety measure, kits provide a supply of clean-up materials in the event of accidents, and are kept within fuel storage areas.

**6. Waste Management**

Unusable plant waste is burned. Unusable soil, along with other solid waste is stored in containers with covers and transported to the Redway Transfer Station, on a weekly basis. Recyclables are taken monthly. Materials intended for reuse are stored in a clean and safe manner to be managed and reused as needed.

A Porta Potty is onsite to sufficiently manage human waste for upto 20 people, and prevent threats to local wildlife and water sources. The pre-existing septic system is currently in process for permitting and once the permits are obtained will be utilized.

Drinking water is made readily available from water sourced from the domestic water supply.

**7. Cultivation Activities**

<b>Jan-Feb</b>	<input type="checkbox"/> Submit SWRCB enrollment report and fee <input type="checkbox"/> Install and repair any infrastructure <input type="checkbox"/> Perform initial site inspection
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<b>Mar-Apr</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Verify proper amendments storage and record inventory</li> <li><input type="checkbox"/> Acquire clones and begin nursery</li> <li><input type="checkbox"/> Begin tilling soil and amendments to prepare for planting</li> <li><input type="checkbox"/> Plant clones to initial pots (Crop #1)</li> <li><input type="checkbox"/> Begin daily plant inspections</li> <li><input type="checkbox"/> Check water meters and record monthly usage</li> </ul>
<b>May-Jun</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Transfer plants to soil beds in cultivation area</li> <li><input type="checkbox"/> Add nutrients as needed</li> <li><input type="checkbox"/> Install bamboo support and ties to plants for stability</li> <li><input type="checkbox"/> Plant clones to initial pots (Crop #2)</li> </ul>
<b>Jul-Aug</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Harvest plants (Crop #1)</li> <li><input type="checkbox"/> Machine Trim</li> <li><input type="checkbox"/> Dry crop</li> <li><input type="checkbox"/> Process off-site</li> <li><input type="checkbox"/> Package and store</li> <li><input type="checkbox"/> Remove and compost plant waste following harvest</li> <li><input type="checkbox"/> Transfer plants to final beds in cultivation area (Crop #2)</li> <li><input type="checkbox"/> Install bamboo support and ties to plants for stability</li> </ul>
<b>Sep-Oct</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Harvest plants (Crop #2)</li> <li><input type="checkbox"/> Machine Trim</li> <li><input type="checkbox"/> Dry crop</li> <li><input type="checkbox"/> Process off-site</li> <li><input type="checkbox"/> Package and store</li> <li><input type="checkbox"/> Remove and compost plant waste following harvest</li> </ul>

**8. Soil Management**

Amendment items are purchased, applied, stored and inventoried. Once tilling is completed and soil has been prepared, planting begins.

Cultivation soil is a living soil and reused, not discarded. Following the harvest, soil is piled and covered for tilling in the next season.

**9. Cultivation Cycles**

The site produces two outdoor crop cycles. In May and August, clones are planted to soil beds until harvested in August and October. Timing will vary depending on environmental factors including weather and plant types.

## 10. Plant Management

During the cultivation cycle plants are inspected daily. Irrigation is monitored and adjusted based on impact of various factors, mainly heat and precipitation. During the vegetative state plants are watered and periodically upgraded to larger pots until ready for final planting. Plants are then transplanted to final soil beds where they are trellised with bamboo supports for stability.

## 11. Processing Practices

Plants are harvested in the field and machine trimmed, and then taken to a shed for final drying. If additional processing is needed it will be taken off-site to a proper facility. The final cannabis product will then be packaged and stored in a secure location.

## 12. Staffing

The site is a family farm currently only utilizing 1-3 individuals part-time as needed to support farm operations. No lodging for part-time staff will be provided onsite. Processing will be done off-site as needed. A third-party licensed contractor or temporary employment agency services may be utilized on a temporary basis to support operations.

This minimal employee need/use will result only in a minor traffic increase to possibly one car with two trips per day minimizing impacts to the road due to farm activities.

## 13. Security Measures

A number of security measures have been established on the site. They include:

- Road access is restricted by locked gates. Gates are of heavy steel construction with a steel combination lock.
- A guard dog provides onsite protection against human intruders and invasive wildlife.
- Surveillance cameras monitor the site
- A 24/7 onsite presence provides additional monitoring

## 14. Health and Safety

When employees are hired this site will be operated as an "agricultural employer" as defined by 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 comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers. At the first establishment of 20 or more employees, the firm will sign and enact a Labor Peace Agreement and allow upon written request, all bona fide labor organizations access at reasonable times to areas in which the farm's employees work, for the purpose of meeting with

employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment.

An Injury and Illness Prevention Program (IIPP) Plan will be posted. It includes safety protocols including emergency contact list, action plan and fire prevention plan, use of personal protective equipment, proper equipment and materials handling, heat illness prevention, employee accident reporting policies and logs, communication of hazards and Material Safety Data Sheets (MSDS) for amendments and chemicals used onsite, and employee training logs.

Posted and available documentation for employees (if applicable) will include:

- *Injury and Illness Prevention Program (IIPP) Plan* - T8 CCR Section 3203 of the General Industry Safety Orders
- *Agricultural Occupations Notice* - Industrial Welfare Commission Order No. 14-2001
- *Professional, Technical, Clerical, Mechanical, and Similar Occupations Notice* - Industrial Welfare Commission Order No. 4-2001
- *Safety and Health Protection on the Job* - Labor Code section 6328
- *California Minimum Wage* - MW-2017 General Minimum Wage Order
- *Healthy Workplaces/Healthy Families Act of 2014 Paid Sick Leave* - Division of Labor Standards
- *Payday Notice* - Labor Code section 207
- *Emergency Numbers* - Title 8 Section 1512 (e), California Code of Regulations
- *Access to Medical and Exposure Records and General Industry Safety Order 3204*
- *Injuries Caused by Work* - Title 8, California Code of Regulations, Division of Workers' Compensation section 9881
- *Whistleblower Protections* - Labor Code Section 1102.8(a)
- *No smoking signage* - Labor Code section 6404.5(c)(1)
- *Farm Labor Contractor Statement of Pay Rates* - California Labor Code Section 1695(7)
- *Insurance and Paid Leave Notice to Employees* - DE 1857A
- *Equal Employment Opportunity is the Law* - EEOC-P/E1 and Americans with Disabilities Act
- *Human Trafficking Public Notice* - Civil Code § 52.6

## 15. International Dark Sky Standards

Any greenhouse or propagation area with supplemental lighting will be properly maintained to avoid being visible from any neighboring property between sunset and sunrise. The site will comply with International Dark Sky Association standards for Lighting Zone 0, and prevent light spillage which may impact local wildlife. Any and all complaints received in writing regarding light spillage will be corrected within 10 business days from the date of receipt.

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

RECEIVED

AUG 01 2018

CDFW - EUREKA



**STREAMBED ALTERATION AGREEMENT**

NOTIFICATION No. 1600-2017-0755-R1

Unnamed Tributary to Dean Creek, Tributary to the South Fork Eel  
River Creek, Tributary to the Eel River and the Pacific Ocean

Bryan Harpel  
Harpel Water Diversion, Micro-hydroelectric, and Stream Crossings  
Project  
6 Encroachments



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

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on November 13, 2017, 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 Eel River watershed, approximately eight miles east of the town of Garberville, County of Humboldt, State of California. The project is located in Section 10, T4S, R4E, Humboldt Base and Meridian; in the Harris U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel Number 223-091-003 latitude 40.1263 N and longitude -123.7120 W at the point of diversion (POD).

**PROJECT DESCRIPTION**

The project is limited to six encroachments (Table 1). One encroachment is for water diversion from an Unnamed Tributary to Dean Creek. Water is diverted for domestic use and irrigation. Work for the water diversion will include use and maintenance of the

water diversion infrastructure. One encroachment is for the removal of an unpermitted micro-hydroelectric facility. Work for this encroachment will include removal of facility infrastructure, restoration of the impacted stream reach, and erosion control measures as necessary to minimize sediment delivery to the stream. Two other proposed encroachments are to upgrade failing and undersized culverts. Work for these encroachments will include excavation, removal of the failing culverts, replacement with new properly sized culverts, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. Two other proposed encroachments include rock armoring culvert outlets. Work for these encroachments will include rock armoring as necessary to minimize erosion.

Table 1. Project Encroachments with Description

ID	Latitude/Longitude	Description
Crossing-1 (POD Culvert)	40.1265, -123.7100	Replace undersized (short) 48" diameter by ~20' long culvert with a minimum 48" diameter by ~30' long culvert
Crossing-2 (Culvert #3)	40.1250, -123.7105	Rock armor culvert outlet
Crossing-3 (Culvert #4)	40.0149, -123.7105	Replace undersized 12" diameter culvert with minimum 18" diameter culvert
Crossing-4 (Culvert #5)	40.1248, -123.7107	Rock armor culvert outlet
POD-1	40.1267, -123.7105	Use and maintenance of water diversion infrastructure.
Micro-hydroelectric	40.1267, -123.7105	Remove facility and restore channel/banks to natural condition

## PROJECT IMPACTS

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

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

### Impacts to water quality:

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

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

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

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

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

### **1. Administrative Measures**

The Permittee shall meet each administrative requirement described below.

- 1.1 **Documentation at Project Site.** The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 **Providing Agreement to Persons at Project Site.** The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 **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.

- 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 November 13, 2017 with revisions received on March 20, 2018, May 10, 2018, and July 10, 2018 together with all maps, BMP's, photographs, drawings,, 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 for Culverts 2, 3, and 4 shall be completed by no later than **October 1, 2020** and proposed work for Culvert 1 and Micro-hydroelectric shall be completed by no later than **October 1, 2022**. 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.

## Vegetation Management

- 2.6 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.
- 2.7 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.

## Water Diversion

- 2.8 Maximum Diversion Rate. The maximum instantaneous diversion rate from the water intake shall not exceed **five (5) gallons per minute (gpm)** at any time.
- 2.9 Bypass Flow. The Permittee shall pass **80% of the flow** at all times to keep all aquatic species including fish and other aquatic life in good condition below the point of diversion.
- 2.10 Seasonal Diversion Minimization. No more than **150 gallons per day** shall be diverted during the low flow season from **May 15 to October 31** of each year. Water shall be diverted only if the Permittee can adhere to conditions 2.9 and 2.10 of this Agreement.
- 2.11 Measurement of Diverted Flow. Permittee shall install and maintain an adequate measuring device for measuring the instantaneous and cumulative rate of diversion. This measurement shall begin as soon as this Agreement is signed by the Permittee. The device shall be installed within the flow of diverted water. The Permittee shall maintain records of diversion, and provide information including, but not limited to the following:
- 2.11.1 The date and time diversion occurred.
- 2.11.2 The amount of water used per day for cannabis cultivation separated out from the amount of water used for other irrigation purposes and other uses of water (e.g., domestic use or fire protection).
- 2.11.3 Permittee shall make available for review at the request of the department the diversion records required by the State Water Resources Control Board (Board) in Attachment A to the Board's Cannabis Cultivation Policy (October 17, 2017), No. 84, pages 40-41 (see Cal. Code Regs., tit. 23, § 2925).

2.12 Water Management Plan. The Permittee shall submit a Water Management Plan no later than **sixty days** from the time this Agreement is made final that describes how compliance will be achieved under this Agreement. The Water Management Plan shall include details on water storage, water conservation, or other relevant material to maintain water needs in coordination with forbearance and bypass flow requirements. The Water Management Plan shall include a brief narrative describing water use on the property, photographs to support the narrative, and water use calculations to ensure compliance with this Agreement. The Water Management Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.

### **Water Diversion Facility**

2.13 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.

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

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

2.15.1 The water intake screens shall be securely attached (e.g., threaded or clamped) to the intake line and have a minimum wetted area of 0.25 square feet and a minimum open area of 27%.

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

2.15.3 The water intake screen may be constructed of any rigid material, perforated, woven, or slotted. Stainless steel or other corrosion-resistant material is recommended to reduce clogging due to corrosion. Care should be taken not to use materials deemed deleterious to aquatic species.

2.15.4 The water intake screen shall be placed in fast moving water with the long axis of the screen parallel to the streamflow. The water intake shall not be placed in pool habitat.

2.16 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.

- 2.17 Exclusionary Devices. Permittee shall keep the diversion structures (e.g. cistern) covered at all times to prevent the entrance and entrapment of amphibians and other wildlife.

### **Diversion to Storage**

- 2.18 Water Storage. All water storage facilities (WSFs) (e.g., reservoirs, storage tanks, mix tanks, and bladders tanks) must be located outside the active 100-year floodplain and outside the top of bank of a stream. Covers/lids shall be securely affixed to water tanks at all times to prevent potential entry by wildlife. Permittee shall cease all water diversion at the point of diversion when WSFs are filled to capacity.
- 2.19 Water Storage Maintenance. WSFs shall have a float valve to shut off the diversion when tanks are full to prevent overflow. The Permittee shall install any other measures necessary to prevent exorbitant use or waste of water. Water shall not leak, overflow, or overtop WSFs at any time. Permittee shall regularly inspect all WSFs and infrastructure used to divert water to storage and use and repair any leaks.
- 2.20 Limitations on Impoundment and Use of Diverted Water. The Permittee shall impound and use water in accordance with a valid water right, including any limitations on when water may be impounded and used, the purpose for which it may be impounded and used, and the location(s) where water may be impounded and used.
- 2.21 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.22 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 et seq. as appropriate for the water diversion and water storage. The application for this registration is found at:  
[http://www.swrcb.ca.gov/waterrights/publications\\_forms/forms/docs/sdu\\_registration.pdf](http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/sdu_registration.pdf).

### **Micro-hydroelectric Power Diversion Facility**

- 2.23 Facility Removal. Existing micro-hydroelectric infrastructure, including concrete, shall be removed from the bed bank and channel of the stream. Permittee shall adhere to conditions 2.28 through 2.31 when conducting project work. The impacted channel shall be set to grade and properly contoured to align with the downstream and upstream reaches adjacent to the project site. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.

- 2.24 **Stream Restoration Plan**. The Permittee shall submit a Stream Restoration Plan (SRP) to CDFW prior to conducting remediation activities for the existing unpermitted micro-hydroelectric facility. The SRP shall detail the dimensions and slopes of the stream channel to be remediated. The SRP shall describe any material utilized to restore the channel to a natural condition. The SRP shall include a revegetation plan for remediation of the impacted channel reach.
- 2.25 **Revegetation Plan**. The Permittee shall submit a revegetation plan with the SRP to CDFW for review and approval prior to implementation of riparian habitat restoration activities. The Revegetation Plan shall, at a minimum, include the following:
- 2.25.1 The identification of the area and vegetation types that will be restored.
  - 2.25.2 A planting design and palette appropriate to the vegetation type, cover, stratum, and level of biodiversity (i.e., species richness and composition). Use of a reference site is recommended.
  - 2.25.3 Use regionally appropriate native plants for a riparian vegetation type. The derivation of plant material such as containers, plugs, cuttings, divisions, or seeds from coastal areas (30 miles from the coast) of Humboldt, Del Norte and Mendocino Counties. All native seed material shall be from the North Coast ecoregion (Humboldt, Mendocino, Sonoma or Del Norte Counties), if practical. If quantities are not able to be satisfied from these collection sites, propagules may be obtained from other counties in Northern California with pending approval from a restoration ecologist or botanist.
  - 2.25.4 Cuttings of willows, cottonwoods conducted when dormant. Collection of cuttings within an area dispersed to maintain genetic and sexual diversity, and to avoid adversely impact existing riparian vegetation. Cuttings hydrated between harvesting and planting (e.g., soak cuttings in water several days to a week to stimulate rooting prior to planting). Cuttings planted to depth of 75 percent of their length with buds pointing up and bottom of cutting in moist soil or water.
  - 2.25.5 Planting conducted after the first seasonal rains have saturated soils beyond the first several inches (November/December) and before April.
  - 2.25.6 No application of fertilizer on plants or chemical controls on weeds.
  - 2.25.7 Measurable success criteria based on plant survival, density, or cover.
  - 2.25.8 Monitoring conducted for a minimum of five years to determine whether the revegetation goals and objectives have been met. Remedial measures if revegetation goals and objectives are not met.

2.25.9 Annual status reports on the revegetation efforts shall be submitted to CDFW in the by **October 31 of each year** following initial planting for the length of the monitoring period.

### **Stream Crossings**

- 2.26 **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.
- 2.27 **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.
- 2.28 **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.
- 2.29 **Dewatering.**
- 2.29.1 **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.
- 2.29.2 **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.
- 2.29.3 **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.

**2.29.4 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.

**2.29.5 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.

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

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

**2.30 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.

**2.31 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.

**2.32 Culvert Installation.**

**2.32.1** The project is located in a moderate to very high Fire Hazard Severity Zone

as designated by CAL FIRE. CDFW recommends corrugated metal pipe (CMP) for use in culvert installation and/or replacement.

2.32.2 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.

2.32.3 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.

2.32.4 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.

2.32.5 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.

2.32.6 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.

### 2.33 Crossing Maintenance

2.33.1 The placement of armoring shall be confined to the work period when the stream is dry or at its lowest flow

2.33.2 No heavy equipment shall enter the wetted stream channel.

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

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

2.33.5 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.

2.34 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, compacted grindings, pavement, or chip-seal.

2.35 Foothill Yellow-legged Frog Avoidance

2.35.1 No crossing construction/reconstruction shall occur if water is present, unless a visual encounter survey is conducted for all life-stages of FYLF by a qualified individual (knowledgeable of all life stages of FYLF and similar species) within the project area no more than two weeks prior to operations.

2.35.2 Visual encounter surveys shall consist of walking the entire survey reach and visually scanning in the water and on the banks. Any frog species encountered shall be recorded and submitted to the Department along with the work completion report. Observation reports shall be recorded on a CNDDDB report form found at:  
<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

2.35.3 Permittee shall install exclusion fencing to deter frog entry into project area during project implementation. Fencing shall be installed using the following guidelines:

2.35.3.1 Fencing shall be installed directly upstream and downstream of the project area, perpendicular to the direction of flow, within the bankfull channel, and fitted with wings, a minimum of ten feet in length, angled 45 degrees away from the project area.

2.35.3.2 The bottom edge of fencing should be securely in contact with the ground to prevent individuals from passing underneath.

2.35.3.3 When surface flow is present, fencing material spanning the channel shall not impede natural flow of water but shall prohibit passage of juvenile frogs (e.g., netting with no greater than 0.25 inch opening size).

2.35.3.4 Wing fencing shall be made of material FYLF cannot climb

2.36 Project Inspection. The Project shall be inspected by 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**

2.37 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.

2.38 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.

2.39 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.

2.40 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.

2.41 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.

2.42 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.

- 2.43 **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.
- 2.44 **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 for Culvert 2, 3 and 4 shall be completed by no later than **October 1, 2020** and work for Culvert 1 and micro-hydroelectric by **October 1, 2022**. 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 **Measurement of Diverted Flow.** Copies of the **Water Diversion Records** (condition 2.11) shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501 no later than **December 31** of each year beginning in **2018**.
- 3.3 **Water Management Plan.** The Permittee shall submit a **Water Management Plan** (condition 2.12) within **60 days** from the effective date of this agreement. The Water Management Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.
- 3.4 **Project Inspection.** The Permittee shall submit the **Project Inspection Report** (condition 2.36) to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501
- 3.5 **Stream Restoration Plan.** The Permittee shall submit a **Stream Restoration Plan** (condition 2.24) by **May 31, 2019**. The Stream Restoration Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501. Revegetation Plan.
- 3.6 **Revegetation Plan.** The permittee submit a **Revegetation Plan** (condition 2.26) to CDFW by **May 31, 2019**, for review and approval prior to implementation of riparian habitat restoration activities (condition 2.25). The Revegetation 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:

Bryan Harpel  
48 Ross Road  
Garberville, California 95542  
707-407-5038  
Harpelharp@gmail.com

### To CDFW:

Department of Fish and Wildlife  
Northern Region  
619 Second Street  
Eureka, California 95501  
Attn: Lake and Streambed Alteration Program  
Notification #1600-2017-0755-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.

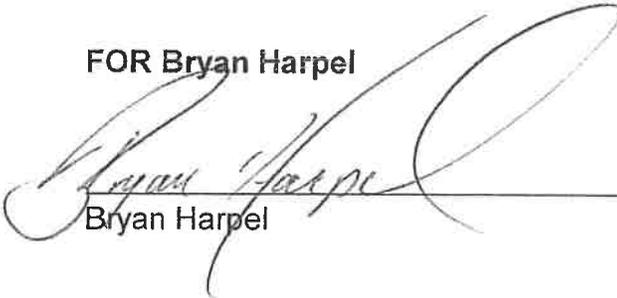
## AUTHORIZATION

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 Fish and Game Code 1602.

## CONCURRENCE

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

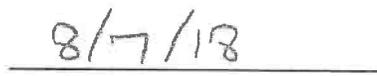
FOR Bryan Harpel

  
\_\_\_\_\_  
Bryan Harpel

  
\_\_\_\_\_  
Date

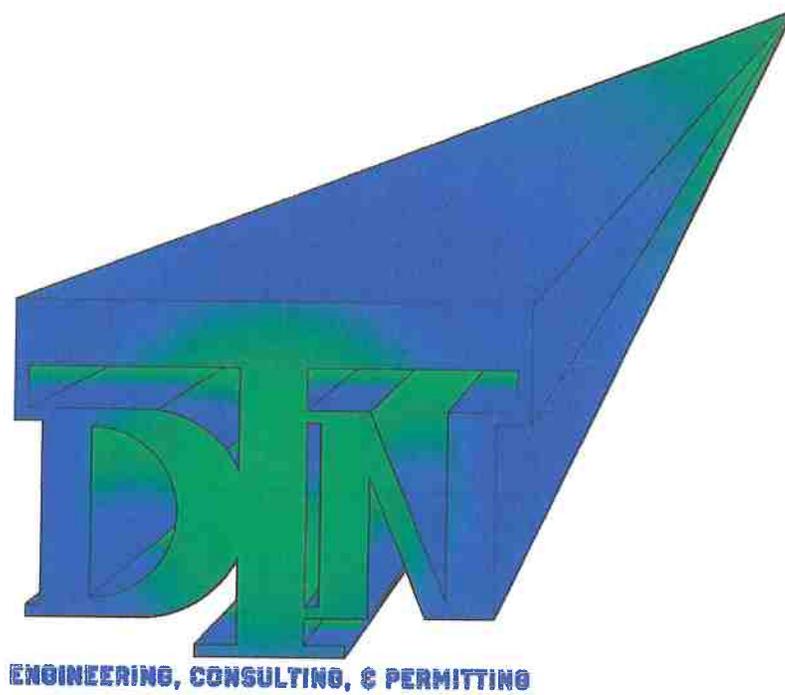
FOR DEPARTMENT OF FISH AND WILDLIFE

  
\_\_\_\_\_  
Scott Bauer  
Senior Environmental Scientist Supervisor

  
\_\_\_\_\_  
Date

Prepared by: Kalyn Bocast, Environmental Scientist, July 20, 2018, revised July 25, 2018.

Bryan Harpel  
Slope Report on Cultivation Area  
For  
APN 223-091-003  
889 Ross Rd  
Garberville CA



## **1. Introduction**

The applicant is currently cultivating on a slope that Humboldt County Planning requests to be evaluated for compliance with the current Commercial Medical Marijuana Land Use Ordinance (CMMLUO).

## **2. Overview**

Parcel number 223-091-003 (Exhibit A) contains 50 acres of land along Homestead Rd in the Eel River watershed (40.1262, Longitude -123.7140) and is Zoned AE (Agriculture Exclusive). This parcel contains multiple cannabis cultivation sites and a single small residence on a dedicated flat.

## **3. Site Conditions**

An aerial drone survey was performed on June 18, 2019. The existing site conditions consist of cultivation occurring on existing graded flats with slopes that range from 13.8% to 18.7% (Exhibit C) in the area of question presented by Humboldt County as a concern. There are greenhouses on the northern side of the property not of concern to Humboldt County and the slope range from 36% to 39.6% at this location.

The geologic setting for this property is that of Highly Unstable terrain (Exhibit B) and there are some historic landslides on the property, but not in proximity to any graded flats that cultivation is occurring on.

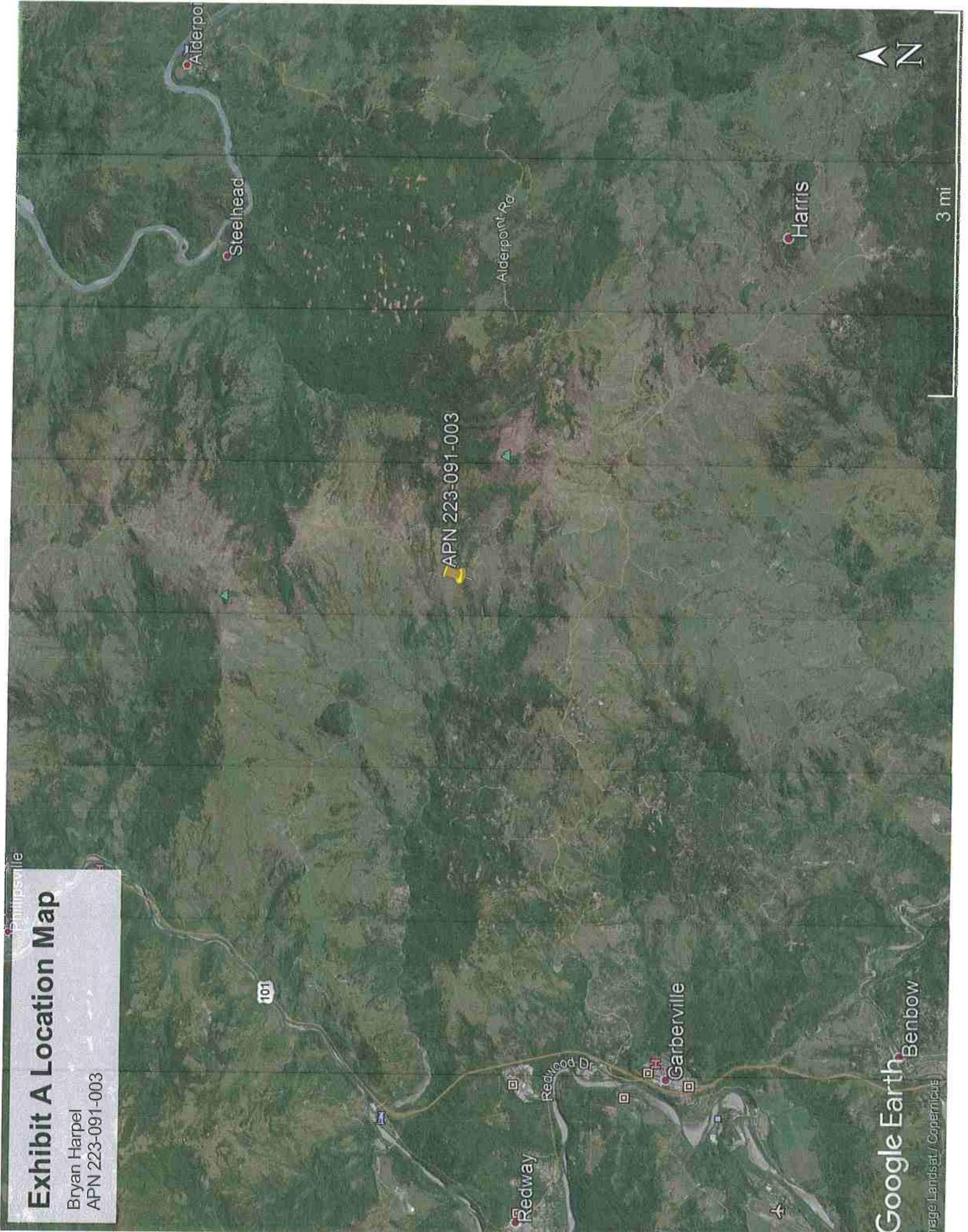
## **4. Conclusion**

It is the opinion of this Civil Engineer that the slopes that cultivation is occurring on is within Humboldt County compliance and there are no stability or environmental concerns with this cultivation.

# Exhibit A

# Exhibit A Location Map

Bryan Harpel  
APN 223-091-003



# Exhibit B




  
 0 650 1,300 2,600 Feet
   
 0 0.125 0.25 0.5 Miles
   
 1 in = 1,461 ft
   
 RF = 1:17,530

Sources: NRCS  
 Humboldt County GIS  
 Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community  
 Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
 FRAP, FEMA, USGS

**Highways and Roads**  
 Principal Arterials  
 Minor Arterials  
 Major Collectors  
 Minor Collectors  
 Local Roads

Private or Unclassified  
 Major River or Stream  
**Blue Line Streams**  
 Perennial 1-3  
 Perennial >4

Intermittent  
 Subsurface  
 City Boundary  
 Counties  
 Parcels  
 Parcels (no APN labels)


  
**ArcGIS Web Map**  
 Humboldt County Planning and Building Department  
 Web AppBuilder 2.0 for ArcGIS  
 Printed: August 2, 2019

Map Disclaimer:  
 While every effort has been made to assure the accuracy of this information, it should be understood that it does not have the force & effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence.

# Exhibit C



5  
 PLN 22981-SP Aldebaran's Gaze

**PROPOSED GRADING**

NO.	HISTORY / REVISIONS	BY	CHK	DATE
1		DTN	DTN	

October 7, 2021



**DTN**  
 DTN  
 ENGINEERING  
 & CONSULTING  
 INC.  
 dtncorlett@dtngroup.com 58

## 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.

<b>Referral Agency</b>	<b>Response</b>	<b>Recommendation</b>	<b>Location</b>
Building Inspection Division	✓	Conditional Approval	On file with planning
Division Environmental Health	✓	Conditional Approval	<b>Attached</b>
Public Works, Land Use Division	✓	Conditional Approval	<b>Attached</b>
CalFIRE	✓	Approved	<b>Attached</b>
California Department of Fish & Wildlife		No response	
Bear River Band	✓	Conditional Approval	On file with planning
Northwest Information Center	✓	Conditional Approval	On file with planning
Sheriff		No response	
County Counsel		No response	
North Coast Regional Water Quality Control Board		No response	
State Water Resources Control Board – Division of Water Rights		No response	
District Attorney		No response	
Ag Commissioner		No response	



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

DEH received  
 9-12-17

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

17/18-0659

**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, Regional Water Quality Control Board, North Coast Unified Air Quality Management District, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, California Division of Water Resources, Intertribal Sinkiyone Wilderness Council, Sheriff's Department

**Applicant Name** Bryan Harpel **Key Parcel Number** 223-091-003-000

**Application (APPS#)** 12961 **Assigned Planner** Cannabis Planner (CPOD) (707) 445-7541 **Case Number(s)** SP16-704

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. **No processing can be approved** until an acceptable site suitability report can establish potential for onsite waste treatment system (OWTS) adequate to support proposed staffing.
2. The approval of an unpermitted OWTS as shown on the provided Site Map as serving a residence is **dependent upon demonstration of site suitability** from a Qualified Professional.
3. **An invoice, or equivalent documentation, is provided to DEH** to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of annual permit.

\*Please provide a copy of the written Approved Compliance Agreement to DEH per HCC §313-55.4.11

\*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.

LEDAA





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 839-3599

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

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

AVIATION 839-5401

ADMINISTRATION 445-7491  
BUSINESS 445-7652  
ENGINEERING 445-7377  
FACILITY MAINTENANCE 445-7493

NATURAL RESOURCES 445-7741  
NATURAL RESOURCES PLANNING 267-9540  
PARKS 445-7651  
ROADS & EQUIPMENT MAINTENANCE 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 *KMF*

DATE: 03-07-2018

RE:

Applicant Name	Bryan Harpel
APN	223-091-003
APPS#	12961

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:

*Applicant has submitted a road evaluation report (dated 10/3/17) that states that the access roads used for this project are equivalent of a road cat 4 standard.*

// END //

# Exhibit "A"

## Public Works Recommended Conditions of Approval

(All checked boxes apply)

APPS # 12961

**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 //

**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: September 21, 2017

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

**Attention:** Cannabis Planner (CPOD)  
**Applicant:** Harpel, Bryan  
**APN:** 223-091-003-000  
**Area:** Garberville  
**Case Numbers:** SP16-704

**Humboldt County Application #:** 12961  
**Type of Application:** Special Permit  
**Date Received:** 9/13/2017  
**Due Date:** 9/26/2017

**Project Description:** A Special Permit for an existing outdoor cultivation operation totaling 10,000 square feet (SF) in size. Irrigation is provided from an on-site stream and stored in water tanks and bladders, with a total storage capacity of 63,800 gallons. Gravity is used to direct water from the stream to an irrigation tank, then gravity flows directly to storage tanks and bladders. Harvested cannabis will be processed on-site. If additional processing is needed, it will be taken off-site to a proper facility. The site uses Honda EU2000 and EU3000 generators.

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 PROJECTS

### **Local Responsibility Areas:**

CAL FIRE is the primary command and control dispatch center for many local agency fire districts and departments. Potential life hazard threats associated with a project must be identified and documented for the protection of the public and first responders. Projects which include timber harvesting or conversion of timberland are subject to the Forest Practices Act and Rules, regardless of wildland fire responsibility area.

### **State Responsibility Areas:**

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

Conversion of timberland to a non-timber producing use is subject to permit from CAL FIRE. Commercial timber harvesting operations to facilitate cannabis cultivation and processing are subject to permitting and regulation under the Forest Practice Act and Rules. Please refer to the RESOURCE MANAGEMENT comments.

### **General Recommendations:**

The following recommendations are made by CAL FIRE with the understanding that most areas of Humboldt County do not have a paid fire department providing fire prevention services.

1. Cannabis growing operations shall have easily accessible safety data sheets (SDS) for all chemicals and hazardous materials on site. Commercial operations must have a current Hazardous Materials Business Plan on file with Humboldt County Environmental Health, where applicable.
2. California Health and Safety Code (HSC 11362.769.) Requires that 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.
3. Cannabis growing and extraction shall be in accordance with Chapter N101.1 of the International Fire Code, the International Building Code, and the International Mechanical Code. Hazardous materials shall comply with Chapter 50. Compressed gases shall comply with Chapter 53. Cryogenic fluids shall comply with Chapter 55. Flammable and combustible liquids shall comply with Chapter 57. 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 and processing of cannabis is generally an agricultural operation. However, manufacture of marijuana extracts and concentrates are commercial or industrial activities, and may be subject to the county's SRA Fire Safe Ordinance. Any new residential units associated with cannabis cultivation and processing may also be subject to the SRA Fire Safe Ordinance. All materials hazardous and non-hazardous associated with the extraction process shall be utilized in conformance of the law and fire safe codes.



**From:** [Lake, M. Isaac@CALFIRE](mailto:Lake.M.Isaac@CALFIRE)  
**To:** [Planning Clerk; HUU.CEOA@CALFIRE](mailto:Planning.Clerk:HUU.CEOA@CALFIRE)  
**Subject:** APN: 223-091-003-000 Harpel, Bryan  
**Date:** Saturday, October 07, 2017 5:08:04 PM

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No additional comments from B-1211

*M. Isaac Lake*

Battalion Chief

**CAL FIRE**

**HUMBOLDT-DEL NORTE UNIT**

Battalion 1

Alderpoint~Garberville~Thorn

Cell (707) 499-2249

Office (707) 923-3446

Schedule Thrs, Fri, Sat

[MLake@fire.ca.gov](mailto:MLake@fire.ca.gov)