



# COUNTY OF HUMBOLDT

## Legislation Text

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File #: 22-691, Version: 1

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Departmental

**SUBJECT:**

Allocation of 2021-2022 water quality improvement grant program funds from the Commercial Cannabis Land Use Ordinance (CCLUO) Mitigation and Remediation Fund (Case # PLN-2021-17061).

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Receive and consider the staff report and grant applications received (Attachment 2), open the public hearing, and accept public comment; and
2. Close the public hearing; and
3. Approve the attached supplemental budget for budget unit 1100-282, Advanced Planning, for \$374,068.62 (Attachment 3)
4. Approve the slate of grant applications from the Mitigation and Remediation Fund Awards by approving the attached Resolution \_\_\_\_ (Attachment 1); and
5. Authorize the Director of the Planning and Building Department to execute the grant agreements after review and approval by County Counsel and Risk Management.

**SOURCE OF FUNDING:**

The Board authorized creation of the “CCLUO Mitigation and Remediation Fund” with \$1,100,000 from the General Fund the first year, and up to that same amount for the next three years with funding from fines and penalties of cannabis civil enforcement actions, potentially augmented by other grants and/or funding from other sources (File 19-1675, December 10, 2019).

In both fiscal years 2020-21 and 2021-22, an additional \$200,000 was allocated per the agreement, totaling an additional \$400,000. On August 17, 2021, the Board authorized the Auditor Controller’s Office transfer of \$1,000,000 from General Fund Contingencies to the CCLUO Mitigation and Remediation Fund, and \$500,000 from General Fund Contingencies to Public Works for high-priority projects that reduce sediment delivery in the Redwood Creek and Sprowel Creek. (See Attachment 3 Supplemental budget.)

## DISCUSSION:

This item involves disbursing up to \$1,000,000 in grants to competitive applications using funds set aside to help cannabis farmers improve water quality in targeted watersheds. It implements an October 2019 settlement agreement between Friends of the Eel River (FOER) and Humboldt County for adoption of the Commercial Cannabis Land Use Ordinance (CCLUO) - Case # CV180495. In this first round of grants, and consultation with the California Department of Fish and Wildlife (CDFW), Regional Water Quality Control Board (RWQCB) and FOER, two of the ten applications received are recommended for funding: Cobb Road Improvements (\$108,395), and Samuels Ranch Road (\$30,000). The remaining funds (\$861,605) will be available for the next round of applications which will be accepted later this year.

### Background

On August 17, 2021, the Board adopted Resolution 21-86 approving the Commercial Cannabis Land Use Ordinance (CCLUO) Mitigation and Remediation Fund Grant Program, a 4-year water quality improvement program that seeks to improve water quality in targeted watersheds impacted by cannabis cultivation. As mentioned above the Board set aside \$1,100,000 the first year and an additional \$200,000 in both fiscal years 2020-21 and 2021-22 totaling an additional \$400,000.

The Board already allocated \$500,000 of Program funds in July, 2021 to Public Works to oversee high priority road improvement projects that most reduce sediment delivery. Public Works confirmed some roadway improvements have been completed, and per the Board's direction, Public Works is scheduled to report on those fund expenditures by the end of 2022.

The remaining \$1,000,000 of Round 1 funds are available for the Board's disbursement. As detailed in the Program Guidelines, grants will be awarded for sediment reduction projects on roads serving cannabis cultivation sites. At least eighty percent (80%) of funds are to be used for physical road improvements. Properties in the abatement process are not eligible for funding.

The Program Guidelines approved by the Board prioritizes grants to cannabis cultivators and road maintenance associations based upon water quality benefits according to the following criteria:

- 1) Highest priority will be given to projects with one or more stream crossings and corrective grading within and close to a stream channel.
- 2) Improvements to roads in priority sub watersheds identified in Resolution 18-43 (Resolution Establishing a Cap on the Number of Commercial Cannabis Cultivation Permits and Acres)
- 3) Roads serving cultivation sites approved under the 2016 Commercial Medical Marijuana Land Use Ordinance when the improvements will bring the road into compliance with the standards of the 2018 Commercial Cannabis Land Use Ordinance.
- 4) Locations in highly erodible soils, steep slopes, proximity to watercourses, and the presence of impacted fisheries.

A notice of funding availability was published the first week of October 2021 and a total of ten applications for grants were received by the October 31<sup>st</sup> deadline (Attachment 2). The applications were evaluated for completeness and for their water quality benefits using objective criteria and all

applications were referred internally to the County Departments of Building and Planning Code Enforcement, Cannabis, and Current Planning Divisions, and the Public Works Roads Division. The applications were also referred to the California Department of Fish & Wildlife (CDFW), and the North Coast Regional Water Quality Control Board (RWQCB) for comment.

County staff held two meetings in February, 2022 with representatives of CDFW and RWQCB to review the applications and staff’s initial assessments. Comments from the agencies are combined with the applications in Attachment 2.

Recommendations were developed for review by the Board of Supervisors in March. It was pointed out that the recommendations by staff were not in alignment with the recommendations by CDFW and the RWQCB. An additional meeting was held with CDFW and the RWQCB to further discuss their ideas and concerns. That meeting occurred on April 7<sup>th</sup>, and the recommendations discussed at that meeting are presented in this staff report.

**Staff Recommendations**

To maximize benefits to water quality, the program should fund applications that meet all the program guidelines and have the following additional characteristics:

- the projects have not yet been implemented so watersheds will benefit from the project,
- to avoid incentivizing unpermitted development, the projects involved must be in compliance with state permitting requirements, and
- to promote accountability and consistency, the submitted cost estimate for the proposed work must be consistent with that provided to CDFW and the RWQCB for the same work.

Two applications in the existing batch meet all these criteria and are recommended for full funding for a total of \$138,395 as shown in the table below. The remaining balance in the fund (\$861,605) will be available for grant funding in Round 2 of the program starting later this year.

<i>Grant Application</i>	<i>Project Description and staff notes</i>	<i>Requested Funding</i>	<i>Recommended Funding</i>
<b>Applications Recommended for Funding</b>			
Cobb Road Improvements	Reinforces & replaces eleven (11) culvert replacements, fifteen (15) rolling dips, surface drainage upgrades & inside ditch cross-drains. <i>Recommend full funding. Parcel #208-341-004 has an open code enforcement case, full funding would allow the Road Association to implement improvements to the shared roadway. Funding won't remedy the violation, nor would the road improvements result in a benefit directly/indirectly to private property.</i>	\$108,395	\$108,395

Samuels Ranch Road	Spread road base in areas of Samuels Ranch Loop Road where road is bare & needs to be re-rocked. <i>Recommend full funding.</i>	\$30,000	\$30,000
<b>Applications Not Recommended for Funding</b>			
Moriah Miranda	Remediation activities to address grading, reforestation, road improvements, replace and upgrade failing culverts. <i>Recommend no funding because the work is already completed.</i>	\$692,640	\$0
Armstrong Road Improvement	Reinforces & replaces thirteen (13) culverts, as required by Code Enforcement action. <i>Recommend no funding because they are out of compliance with work completion dates and all other reporting requirements of Final LSAA 1600-2019-0096-R1. Also grant requested amount is \$186K more than LSAA notification</i>	\$230,000	\$0
Serendipity Road Improvements	Reinforces & replaces five (5) culverts. <i>Recommend no funding until the project costs are aligned with CDFW ((LSAA 1600-2018-0721-R1). Project cost difference is approximately \$46K more than LSA notification.</i>	\$99,426	\$0
Nooning Creek	Reinforces & replaces two (2) culverts. <i>Recommend no funding until the project costs are aligned with CDFW (LSAA No. 1600-2019-0156)</i>	\$51,816	\$0
Walker Ridge	Reinforces & replaces eight (8) culverts on Class III streams. <i>Recommend no funding because they are out of compliance with reporting requirements of LSAA 1600-2019-0576-R1. Also grant application project cost is inconsistent with LSAA project cost. Project cost difference is approximately \$27K more than LSA notification.</i>	\$67,486	\$0
Bamboo Farms Remediation	Three (3) culverts were replaced, inlets/outlets were reinforced with rip-rap, and new gravel placed on the road over the culverts, work completed as required by Code Enforcement action. <i>Recommend no funding because the work is already completed.</i>	\$21,362	\$0

Diamond Sky Farm	Implements conditions of approval of WRPP. <i>Recommend no funding until the project costs are aligned with CDFW cost estimate (LSAA No. 1600-2020-0053-R1)</i>	\$15,000	\$0
Van Dyke	Four (4) culverts to be replaced inlets/outlets, implements WRPP and PW condition pave public road entrance, work completed. <i>Recommend no funding because the work is already completed.</i>	\$12,594	\$0
	Totals:	\$1,328,719	\$138,395

With more extensive public outreach efforts and better coordination with state agencies, staff anticipates more applications for projects that are “shovel-ready” will be submitted in upcoming grant cycles. Staff and state agencies have agreed to invest in more extensive public outreach efforts with Round 2 to begin later this year. Some applications not selected for funding in Round 1 may be competitive in Round 2 with updated information provided to the state agencies. Pending the Board’s concurrence, staff will reach out to the unfunded Round 1 applicants to assist with revising those applications to become competitive for Round 2 funds.

Monitoring implementation and completion of the projects will be performed by County staff knowledgeable in implementation of grading and erosion control projects. Release of the final twenty percent of the funds for each project will be withheld pending verification of completion of the project to the satisfaction of the Planning Director in consultation with the Department of Public Works based on the report from County staff and other factual evidence.

**Environmental Review**

The proposed allocation of 2021-2022 water quality improvement grant program funds from the Commercial Cannabis Land Use Ordinance (CCLUO) Mitigation and Remediation Fund is exempt from environmental review pursuant to CEQA, under CEQA Guidelines §15308, actions by regulatory agencies for protection of the environment. The purpose of the program is to protect water quality in streams creeks and rivers.

**FINANCIAL IMPACT:**

This action will reduce the CCLUO Mitigation and Remediation Fund by \$138,395. The remaining three (3) years of the program will be funded through twenty percent (20%) of the collected fines and penalties from cannabis civil enforcement actions, up to \$1,100,000 each year, as well as unused funds from this first year - \$ 861,605. Administration of the Mitigation and Remediation Fund is estimated to involve 0.5 FTE Planner II at an annual cost of \$48,639.31 which is proposed to be supported by the General Fund through a supplemental budget request (Attachment 3).

**STRATEGIC FRAMEWORK:**

This action supports your Board’s Strategic Framework by facilitating public/private partnerships to solve problems.

OTHER AGENCY INVOLVEMENT:

Auditor-Controller, County Counsel, Public Works, California Department of Fish and Wildlife and the Regional Water Quality Control Board

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board may choose alternative funding amounts at its discretion to better fit the administration of the Mitigation and Remediation Fund. The recommended funding amounts are consistent with the Program Guidelines with input from the referral agencies, particularly CDFW and RWQCB, so staff does not recommend further consideration of this alternative.

ATTACHMENTS:

1. Resolution for Approval for Round 1 Funding
2. Comments from state agencies on the Grant Applications and the Grant Applications themselves
3. Supplemental budget request.

PREVIOUS ACTION/REFERRAL:

Board Order No.: J-2

Meeting of: August 17, 2021

File No.: 21-1136