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To: Wiles, Derek
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Subject: PLN-11682-CUP, APN: 216-271-013
Date: Thursday, February 8, 2024 3:20:59 PM
Attachments: [NOV_012520_HUM_216-271-013_MJ_Starr_Eel_River.pdf](#)

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Good Afternoon,

Please see the comments below regarding the above-referenced project.

Project Number: PLN-11682-CUP

Project Name: Kalifornia Green Akers, MBC - CUP for Existing 29,500 SF total: 26,500 SF OD & 3,000 SF ML

APN(s): 216-271-013

CEQA No: CEQA-2017-0765-R1

Project Description

Kalifornia Green Akers, MBC - CUP for Existing 29,500 SF total: 26,500 SF OD & 3,000 SF ML
A Conditional Use Permit for an existing 27,500 square foot (SF) medical cannabis cultivation operation. 3,000 SF is mixed-light and 24,500 SF is outdoor. Irrigation water is sourced from the onsite rain catchment pond. Total water storage is 107,600 gal in four (4) tanks and one rain catchment pond. Drying and processing is done onsite in an existing commercial 1,900 SF Cultivation Facility with ADA-compliant restroom. Remaining trim will be send offsite to a licensed manufacturing facility. Existing residence is used to house permanent and seasonal employees up to four (4) at peak operations. PGE provides power to the operation.

CDFW COMMENTS:

Thank you for referring this application to the California Department of Fish and Wildlife (CDFW) for review and comment.

On January 25, 2020, and again on July 10, 2023, CDFW staff conducted a site inspection at the subject property on Assessor Parcel Number (APN) 216-271-013. During the site visit, staff walked the property to observe current, historic, and proposed cultivation activities. The following comments are intended to assist the Lead Agency in making informed decisions in the planning process. The following comments shall supersede prior comments submitted by CDFW regarding PLN-11682-CUP. CDFW requests that all comments are incorporated in the final Humboldt County Staff Report.

- On January 25, 2020, CDFW visited APN 216-271-013. While onsite, CDFW observed

activities on the property that were in violation with Fish and Game Code (FGC) 5650 and 5652. On March 13, 2020, CDFW issued a Notice of Violation (NOV, see attached) to document the FGC violations, and to encourage the landowner to cure these violations.

- On July 10, 2023, while onsite, CDFW observed that the applicant was actively diverting water from an on-stream pond during the forbearance period without a valid Lake and Streambed Alteration Agreement (LSAA), which is a Violation of FGC 1602. Additionally, CDFW observed that the applicant has not cured the existing FGC 5650 and 5652 violations documented in the issued NOV (see attached). CDFW requests, as a condition of approval, that the applicant cease all cultivation activities until they cure all outstanding FGC violations.
- CDFW received a Notification from the applicant for a LSAA (EPIMS-40364-R1C) for water diversion from an onstream pond located within a wetland complex. CDFW determined that water diversion from the pond could act to dewater the wetland feature that is hydrologically connected to the pond. Additionally, the State Water Board inspected the site on October 21, 2020, and requested that an analysis of how water diverted from the pond will impact the hydrologically connected wetlands. As of February 8, 2024, CDFW is not aware that the wetland/pond analysis has been completed. The LSAA notification is currently under review and the applicant does not have a valid LSAA to divert water from the hydrologically connected pond. CDFW requests, as a condition of approval, that a wetland/pond water diversion analysis is completed and submitted to CDFW for review. CDFW further requests, as a condition of approval, that the applicant obtain a final LSAA prior to the initiation of cannabis cultivation.
- The Project Description and the Cultivation and Operations Manual states that water will be sourced from the onsite rainwater catchment pond. The onsite pond was inaccurately defined as a rainwater catchment pond as it sources groundwater from hydrologically connected wetlands. As stated above, the applicant does not have a valid LSAA to divert water from the onstream pond. CDFW requests, prior to cannabis cultivation, that the project plan is updated to accurately describe the proposed project.
- The proposed water storage in water tanks (68,200-gallons) does not appear to be adequate to support 29,500 square feet of cannabis cultivation. The proposed project also states that an additional 100,000 gallons will be stored in and sourced from the onsite pond. If the applicant obtains an LSAA to divert water from the on-stream pond they will be required to adhere to a seasonal forbearance period for Cannabis irrigation from April 1st through November 15th of each year. During the diversion season from November 16th to March 31st the applicant will also not be allowed to draw down the pond more than one foot in depth. Additionally, the estimated annual water usage of 244,000 gallons appears to underestimate the total amount of water needed for the proposed project. CDFW requests, as a condition of approval, that the applicant store no less than 260,000 gallons of water on site in water tanks for

cannabis cultivation irrigation.

- While onsite, CDFW observed substantial nutrient loading that was reaching the on-stream pond causing algal blooms. CDFW is concerned that the current buffer from cultivation operations is not adequate to protect the wetland/pond complex from cannabis cultivation runoff. CDFW requests, as a condition of approval, that a qualified professional evaluates the site and provides an appropriate adjusted SMA buffer recommendation as well as mitigation measures to minimize impacts to surface water. CDFW further requests, as a condition of approval, that all cultivation operations are removed from the recommended SMA buffer and mitigation measures are implemented prior to cannabis cultivation.
- The on-stream pond on the parcel is currently providing habitat for the American bullfrog (*Lithobates catesbeianus*). While on site, CDFW observed adult bullfrogs at the pond site. CDFW requests, as a condition of approval, that the applicant provides and implements a Bullfrog Management plan to mitigate the proliferation of the invasive bullfrog population onsite.
- The nutrient loading and the population of the invasive American bullfrog occurring at the onsite pond are posing a significant threat to water quality, sensitive wildlife species, and public trust resources. CDFW requests, as a condition of approval, if the applicant is unable to demonstrate successful mitigation measures to control the invasive bullfrog population and the nutrient loading that are occurring, then the applicant shall submit and implement a pond restoration/decommission plan.
- While onsite, CDFW observed a substantial amount of uncontained trash, including debris located within stream channels and wetland features, posing a significant threat to sensitive wildlife species and public trust resources. CDFW requests, as a condition of approval, that all uncontained trash is cleaned up and properly disposed of at a waste management facility.
- While onsite, CDFW observed uncontained compost and discarded soil associated with cannabis cultivation. CDFW requests, as a condition of approval, that the applicant fully contains compost piles and all imported soil.
- While onsite, CDFW observed smart pots and uncontained soil that was used for cannabis cultivation located in a riparian wetland complex on the parcel. CDFW requests, as a condition of approval, that smart pots, imported soil and refuse are removed from the riparian wetland complex and disposed of at a waste management facility.
- While onsite, CDFW observed sediment discharge to Waters of the State through erosion of hydrologically connected roads. CDFW requests, as a condition of approval, that the applicant implement an erosion control plan (site management plan) to deconcentrate surface flow off roads and away from streams and wetlands. This would include maintenance of ditch relief culverts and water bars as necessary to mitigate sediment delivery.

- While onsite, CDFW observed monofilament netting that was used during cannabis cultivation operations. To minimize the risk of wildlife entrapment, CDFW requests, as a condition of project approval, the prohibition of synthetic netting (e.g., plastic or nylon) including photo or biodegradable plastic netting for the purpose of cultivation operations and/or erosion control.

Thank you for the opportunity to comment on this project.

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