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April 6, 2022

Peaksview, Inc
P.O. Box 1951
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RE: Biological Assessment for Relocation Areas on APN: 216-082-006 (PLN-2020-16866-DEV01)

Kevin,

This letter is to address the requirement in the March 3, 2022, deficiency letter from the Humboldt County Planning and Building Department that requests a biological assessment on the proposed relocation areas on APN: 216-082-006, which was not covered by the original August 14, 2020, biological assessment (BA) for the project prepared by Blair Forestry Consultants.

I conducted a site visit on April 4, 2022, to evaluate the temporary and permanent relocation areas for sensitive biological resources. My qualifications to conduct the assessment include a M.A. in Biology and over 25 years of experience conducting botanical surveys, wetland delineations, and other biological work in northern California.

Site Description

The relocation areas are grassland dominated by Harding grass (*Phalaris aquatica*) a non-native species. The cover of Harding grass is generally 90% or higher. Other native and non-native herbaceous plants at the sites include miniature lupine (*Lupinus bicolor*), long beaked filaree (*Erodium boytrys*), and clovers (*Trifolium* spp.).

Special Status Plants

No special status plants were observed in the relocation areas. However, a protocol-level botanical survey was not conducted, which would include multiple site visits over the growing season. As indicated in the original BA, the property includes habitat for several special status plants, of which three taxa are associated with grasslands like the relocation areas:

Beaked tracyina (*Tracyina rostrata*), CRPR 1B.2

North coast semaphore grass (*Pleuropogon hooverianus*), CRPR 1B.1, CT

Siskiyou checkerbloom (*Sidalcea malviflora* spp. *patula*), CRPR 1B.2

Howells's montia (*Montia howellii*), CRPR 2B.2, also could potentially occur on roads or other disturbed areas near the sites.

Beaked tracyina would likely not have been blooming at the time of the site visit. California Natural Diversity Database records on adjacent quadrangles indicate the plants were growing grasslands within or adjacent to oak woodlands or mixed hardwood conifer stands. Beaked tracyina could occur in more open grassland such as the relocation areas, but the sites are infested with Harding grass and are likely poor habitat for beaked tracyina.

The site visit was seasonally appropriate for Howell's montia, which if present would occur on the appurtenant roads system. Although, the roads in the vicinity of the relocation areas appears to be too dry to support Howell's montia.

A reference site for Siskiyou checkerbloom was blooming in late March near Hydesville. Siskiyou checkerbloom would have been clearly visible in vegetative condition and recognizable to genus if it was not blooming at the site.

North coast semaphore grass would have likely not been blooming at the time of the site visit. However, the sites are likely too dry to support North coast semaphore grass, which typically occurs in more mesic grasslands.

Special Status Natural Communities

The grasslands are dominated by Harding grass and do not meet the membership criteria for any special status grassland community. California oatgrass (*Danthonia californica*) was noted at the sites, but at very lower cover overall (<1%). Cover of California oatgrass would need to be at least 10% to qualify as Idaho fescue – California oatgrass grassland (*Festuca idahoensis* - *Danthonia californica* Herbaceous Alliance).

Special Status Wildlife

There are no mature forests, snags, caves, cliffs, waterbodies, riparian vegetation, or other habitat likely to provide nesting or foraging habitat for most sensitive wildlife within or near the relocation areas. The grasslands are potential foraging habitat for raptors such as golden eagle (*Aquila chysatos*) and Cooper's hawk (*Accipiter cooperii*).

Aquatic Resources

There are no indicators of wetlands such as standing water, saturated soil, or hydrophytic vegetation like stands of sedges (*Carex* spp.) or rushes (*Juncus* spp.) within or near the relocation areas. The sites appear to be outside the stream setbacks.

Conclusion

Relocation of the cultivation area will impact grassland dominated by non-native Harding grass. There is a less than significant risk of impacts to sensitive biological resources. The project is potentially environmentally beneficial because it will allow access to PG&E power and will eliminate the use of generations.

Please contact me if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Kyle Wear". The signature is written in a cursive style with a horizontal line at the end.

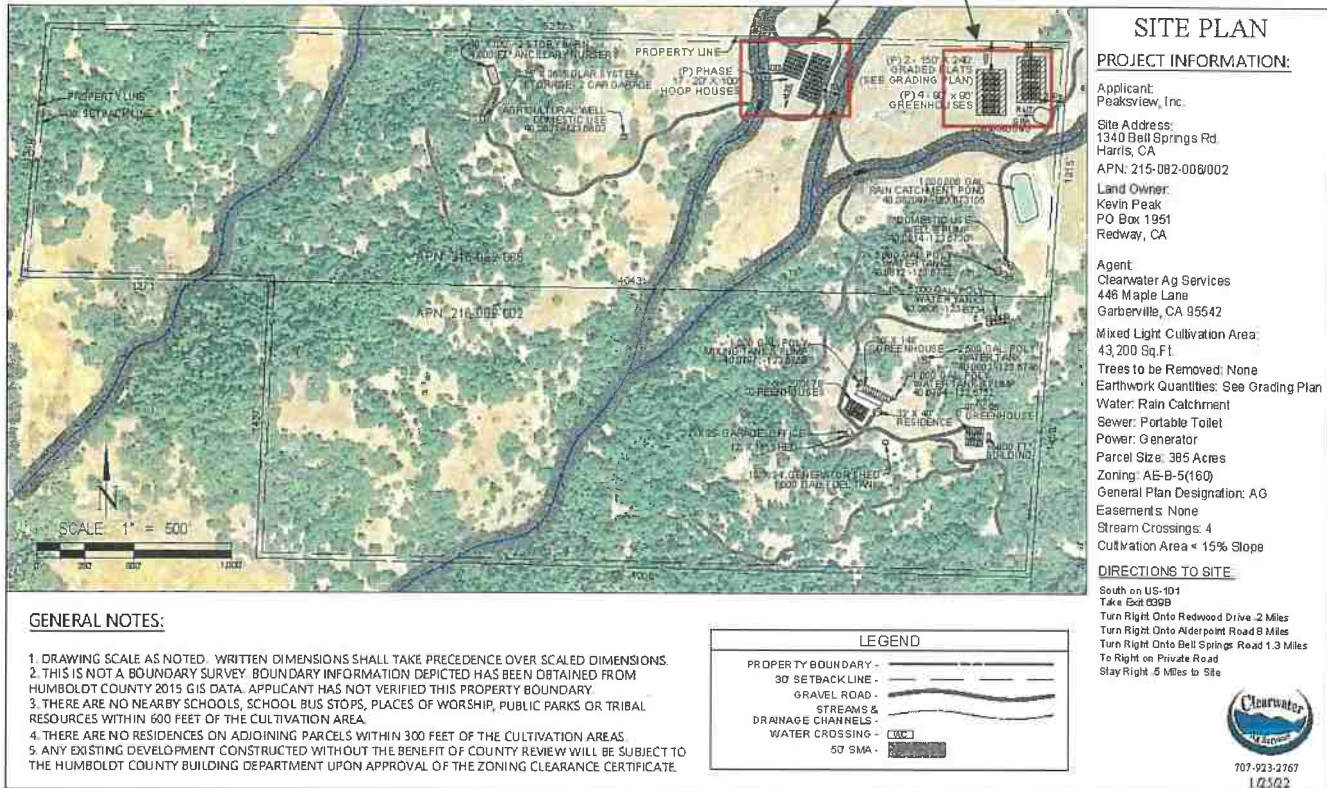
Kyle Wear

Attachments:

- A. Map of the assessment area
- B. Photos of the relocation sites

ATTACHMENT A. Assessment Area.

Assessment Area



SITE PLAN
PROJECT INFORMATION:

Applicant:
Peaksview, Inc.

Site Address:
1340 Bell Springs Rd.
Harris, CA
APN: 215-082-008/002

Land Owner:
Kevin Peak
PO Box 1951
Redway, CA

Agent:
Clearwater Ag Services
446 Maple Lane
Garberville, CA 95542

Mixed Light Cultivation Area:
43,200 Sq.Ft.

Trees to be Removed: None

Earthwork Quantities: See Grading Plan

Water: Rain Catchment

Sewer: Portable Toilet

Power: Generator

Parcel Size: 385 Acres

Zoning: AG-B-5(160)

General Plan Designation: AG

Easements: None

Stream Crossings: 4

Cultivation Area < 15% Slope

DIRECTIONS TO SITE

South on US-101
Take Exit 699B
Turn Right Onto Redwood Drive .2 Miles
Turn Right Onto Alderpoint Road 8 Miles
Turn Right Onto Bell Springs Road 1.3 Miles
To Right on Private Road
Stay Right .5 Miles to Site



GENERAL NOTES:

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

LEGEND	
PROPERTY BOUNDARY -	
30' SETBACK LINE -	
GRAVEL ROAD -	
STREAMS & DRAINAGE CHANNELS -	
WATER CROSSING -	
50' SMA -	

ATTACHMENT B. Photos of the Relocation Areas.



Photo 1. Representative photo of the permanent relocation area.



Photo 2. Representative of photo the temporary relocation area.



April 7, 2022

Draft - Biological Assessment for the Peakview Cannabis Cultivation Project - Draft

1. INTRODUCTION

This project entails up to one acre of new mixed-light cannabis cultivation, involving two contiguous parcels (APN 216-082-002 and APN 216-082-006), with ancillary water storage and propagation facilities. Located on a 295-acre property owned and operated by Kevin Peak, proposed cultivation associated with residence at 1340 Bell Springs Road is near the small community of Harris, approximately six miles west of Garberville, in southern Humboldt County.

Currently operating another cultivation under an interim permit (APPS No:11506) on an adjacent parcel (APN 216-082-002), Mr. Peak has requested that I assess the significance of environmental impacts related to PLN-2020-16866-DEV01 in accordance to due process. Specializing in biological impacts analysis for protected and sensitive species in compliance with State and federal law, I am a qualifying “Spotted Owl Expert” (SOE). Having consulted on northern California forest-wildlife matters since 1990, the attached [resume](#) demonstrates my extensive knowledge of environmental regulations and policy.

As such, this biological assessment (BA) addresses proposed commercial agricultural activities in adherence to the California Environmental Quality Act (CEQA) statute (Public Resources Code Section 21000 and following), the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 and following), published court decisions interpreting CEQA, and locally adopted CEQA procedures. Summarizing pre-approval biological scoping and reconnaissance surveys pursuant to Exhibit B of the Commercial Cannabis Land Use Ordinance (CCLUO), potential environmental impacts have been assessed in accordance to the Mitigation Monitoring and Reporting Program (MMRP) for new projects. Streamlining the investigation, it incorporates previous environmental documentation submitted for this project.

Specifically, in addition to information already provided and on file with the Humboldt County Planning and Building Department’s (HCPBD) Cannabis Service Division, this report also builds upon (tiers) comprehensive Initial Biological Scoping Report (IBSR) by Blair Forestry Consulting (BFC), as well as Oak Woodland Restoration Plan (OWRP) for APN 216-082-006 prepared by Timberland Resources Associates (TRC) Registered Professional Forester (RPF) Chris Carroll.

2. PROJECT DESCRIPTION

The Peakview, Inc Cannabis Cultivation Project, or “Peakview Project”, involves up to 43,560 square feet of new mixed-light cannabis cultivation on two contiguous parcels (APN 216-082-002 and APN 216-082-006), with ancillary propagation facilities. Located in the south ½ of Section 25, Township 4 South, Range 4 East, Humboldt Base and Meridian (HBM), this Minor Deviation to approved Special Permit PLN-2020-16866 involves reconfiguring cultivation on APN 216-082-002 into two different sites on APN 216-082-006. According to information on file with Humboldt County Planning and Building Department (HCPBD):

“Cultivation will take place in one cultivation area consisting of four mixed-light greenhouses. A 12,960-square-foot immature plant propagation area will occur adjacent to the greenhouses. The project further proposes relocation of the 9,600-square-foot wholesale nursery from APN 216-082-002 to APN 216-082-006 and repurposing the 4,440 square-foot immature plant propagation nursery and 8,640 square-foot mixed-light greenhouse on APN 216-082-002 for immature plant propagation or wholesale nursery activities.”



Submitted in separate Cultivation Operations Plan, the attached plot plan for Peakview, Inc details the size and configuration of proposed cultivation. Shown in Figure 1 below, although "Site A" involves gently sloping grasslands yet to be graded, "Site B" is located in 2.24-acre unauthorized clearing at the woodland edge. And because the tree cutting it was conducted after 2015, this project includes proposal to mitigate the habitat loss by restoring adjacent oak woodlands. Attached OWRP details proposed restoration of 11.22 acres of Oregon white oak and California black, intended to mitigate post-2015 tree removal on APN 216-082-002 and APN 216-082-006 at the minimum ration of 3:1.

Power is currently provided for existing operations by generators enclosed in separate structures, but PG&E improvements are proposed that would involve changing to grid power. Processing, including drying, curing and trimming, are to occur in an existing barn, and a proposed 2,500 sq.ft. commercial building. According to information on file, this project's estimated annual water usage is approximately 600,000 gallons (13.9 gal/sq.ft), and relying on existing available water storage, chiefly a 1-million-gallon rainwater catchment pond located in the southeast corner of APN 216-082-006, additional proposed water storage will consist of ten (10) 5,000-gallon rainwater catchment storage tanks adjacent to the proposed cultivation areas. Eventually bringing the total available water storage up to 1.05 million gallons.

3. ENVIRONMENTAL SETTING

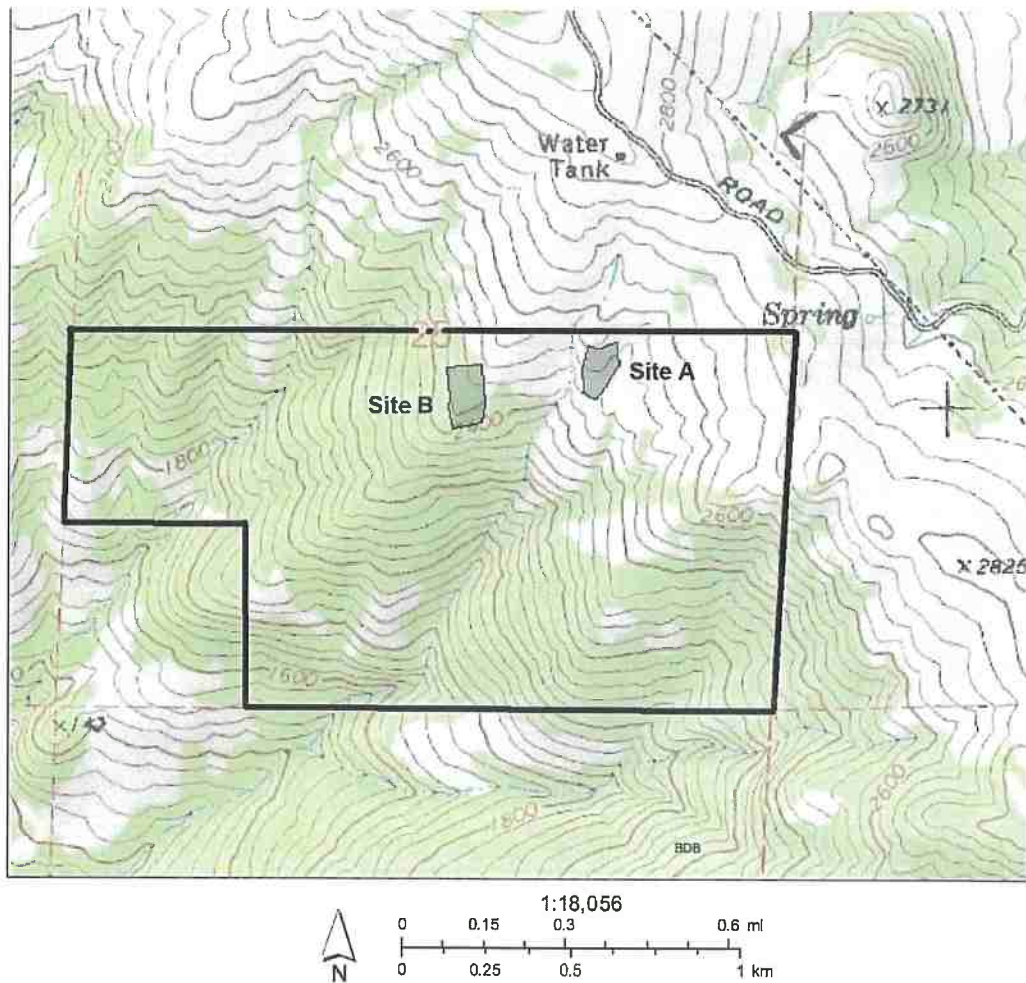
This project is located on the upper southwestern slopes of Mail Ridge, approximately eighteen miles from the coast, at an elevation between 2,200 and 2,600 feet. A moderately sloping grassy meadow, and hardwood forest interphase, classified according to "A GUIDE TO WILDLIFE HABITATS OF CALIFORNIA" (Mayer and Laudenslayer 1988), proposed operation will be conducted in cleared Coastal Oak Woodland, and Annual Grassland Habitat. Having visited this site on December 2 of 2021, and comparing aerial photographs obtained from the National Agriculture Imagery Program (NAIP) against prevailing stand conditions, I found the habitat consistent with the Peakview IBSR:

"Regionally, habitat on and around both parcels 216-082-002 and 216-082-006 consists of a mix Douglas-fir forest, California oak woodland, and grassland prairie. Habitat at both Project Areas #1 and #2 can be characterized as oak woodland/Douglas-fir mixed forest interlaced with prairie openings. Most of the road system has been in place for some time. Douglas-fir encroachment, particularly associated with drainages, is increasing on a landscape level. There were no observed specific special habitat characteristics such as large snags, fish bearing streams, large bodies of water, wetlands, caves, cliffs or serpentine soils associated with the Project Areas."

Although I did not survey oakwood restoration areas, grasslands proposed for cultivation showed signs of heavy grazing. Having previously been used to board horses, a decommissioned livestock well was also observed at Site B. Previously graded; however, rather than existing site conditions, potential detrimental impacts related to clearing 2.24 acres at Site B have been assessed against pre-2016 environmental baseline conditions. And as outlined in the OWRP:

This part of Humboldt County features broad grassy hillsides interspersed between true oak woodlands, surrounded by large blocks of conifer forests. Historically these vegetation types would have been maintained by the regular occurrences of fire, however since the adoption of an aggressive fire suppression policy, Douglas-fir has become a major competitor of many oak woodlands. A variety of aerial imagery indicates this successional change as oak woodlands transition into conifer stands here and in many parts of northern California. Encroachment is widely accepted to be the greatest threat to oak woodlands.

Figure 1. Peakview Project Sites



4. REGULATORY SETTING

Proposition 64 (the California Marijuana Legalization Initiative) gives each municipality the right to make their own rules. As such, the Humboldt County Planning and Building Department (HCPBD) began accepting applications for projects in the Inland Zone, after the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) was adopted by the Board of Supervisors on February 26, 2016. Accordingly:

“It is intended to address the County of Humboldt’s prerogative to license, permit, and control commercial cultivation, processing, manufacturing and distribution of cannabis for medical marijuana as set forth in the MMRSA, including, but not limited to the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360 and Health and Safety Code Section 11362.777, in conjunction with state licensing requirements, in order to protect the public health, safety, and welfare of the residents of the County of Humboldt, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation operations in the County of Humboldt, and to prevent adverse environmental effects of any new commercial cannabis activities which may be permitted in the future in accordance with this Section and state law.”

Before amended on May 8, 2018, the CCLUO's threshold for noise disturbance was limited to 60 decibels (dB), and where applicable:

“...sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary.”

Whereas the ESA prohibits the incidental taking of federally listed species without a Section 10 incidental take permit, the California Fish and Game Code gives CDFW explicit authority to grant incidental take of State listed species. However, it is important to consider that CESA differs from the ESA in ways often not acknowledged by State agencies and stakeholders. Because although the CESA gains its strength from applying to both to formally listed and candidate species still under review, it diverges from the ESA in that its definition of “take” is far more limited (Dwyer and Murphy 1995). Restricted to “*Hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill*”, the CESA has no equivalent to harm or harass. In other words, because the CESA does not mention disturbance, incidental take of State listed species should be more permissive, providing that it involves an otherwise lawful and fully mitigated activity (Kern 1999).

Cannabis cultivators applying for a license from the California Department of Food and Agriculture must also address potentially significant adverse environmental effect in accordance to CEQA. Whereas CEQA does not directly regulate land use, it does require state and local agencies to follow a protocol of analysis and public disclosure. Consequently, environmental impacts have been addressed in accordance to the Mitigation Monitoring and Reporting Program (MMRP) for new projects, put forth in Exhibit B of CCLUO, as amended on May 8, 2018. According to Performance Standards for Biological Resource Protection (Section 313-55.4.12.1.10 and 314-55.4.12.1.10), a reconnaissance survey conducted according to Mitigation Measure (MM) - #3.4-1a; and this BA also addresses the following issues:

- *Special-status amphibian survey and relocation/buffers - MM #3.4-1b*
- *Western pond turtle surveys and relocation/buffers - MM #3.4-1c*
- *Nesting raptor surveys and relocation/buffers - MM #3.4-d*
- *Northern spotted owl surveys - MM #3.4-e*
- *Special-status nesting bird surveys/buffers - MM #3.4-1f*
- *Marbled murrelet habitat suitability surveys/buffers - #3.4-1g*
- *Generator Noise Reduction - MM #3.4-1h*
- *American badger surveys and buffers - MM #3.4-1i*
- *Fisher and Humboldt marten surveys and den site preservation/buffer - MM #3.4 1j*
- *Bat Survey and Buffers – MM #3.4-1k*
- *Vole Surveys and relocation/buffers – MM #3.4-1l*
- *Special-status plants surveys – MM #3.4-3a*
- *Invasive plant species removal and management – MM #3.4-3b*
- *Protection of sensitive natural communities, riparian habitat, wetland vegetation – MM #3.4-4*
- *Protection of Waters of the United States. – MM #3.4-5*
- *Retention of Fisher and Humboldt marten habitat features – MM #3.4-6b*

Nevertheless, because clearing of up to three acres is generally allowed as long as it complies with other federal, State and County ordinances, this assessment also considers State-wide standards environmental protection specifically adopted for small-scale vegetation disturbances by the 1973 Z'berg-Nejedly Forest Practice Act (Public Resources Code Section 4551 et seq.). Hereto referred to as the California Forest Practice Rules (FPRs), these regulations provide legally established thresholds of environmental

significance for special status species functionally equivalent to CEQA. Other relevant laws include the California Endangered Species Act (CESA), the Federal Clean Water Act (CWA), the Bald and Golden Eagle Protection Act, as well as the California Fish and Game Code. The USFWS and the National Marine Fisheries Service (NMFS) have authority over federally listed species, and the USFWS has statutory authority and responsibility for enforcing the Migratory Bird Treaty Act (MBTA). Implementing CESA is the responsibility of California Department of Fish and Wildlife (CDFW), and they are also authorized to comment and make recommendations on CEQA projects. However, as Lead Agency, permitting legal cannabis cultivation in a manner consistent with CEQA and the California Administrative Procedure Act (APA) is ultimately a Humboldt County responsibility.

5. BIOLOGICAL COMMUNITIES

My preliminary environmental scoping included a literature review of floral and faunal communities reasonably impacted by the proposed cannabis cultivation using CDFW's List of Special Animals (2021). Including a March 30, 2022 query of the California Natural Diversity Data Base (CNDDDB) for occurrences of special status species within a 1.3-mile radius of proposed operations. Consistent with the assessment area established by the CCLUO for consideration of NSOs, the report limits its assessment of sensitive biological resources to the same 1.3-mile zone.

Last detected in 1996, the closest NSO detection is just over 1.3 miles to the southeast. Whereas the CNDDDB does not record any other special status species within 1.3 miles, foothill yellow-legged frogs (*Rana boylei*) were recorded 1.5 miles to the west in Squaw Creek. And oval-leaved viburnum (*Viburnum ellipticum*) about three miles to the east. However, adopting a nine-quadrant assessment area typically employed for much bigger projects, the IBSR identifies 18 additional special status animals (Table 1), and 18 such plant species (Table 2).

My pre-approval biological reconnaissance survey, conducted in December of 2021, did not detect sensitive biological resources potentially impacted by this project. Located on previously cleared sites, or gently sloping dry pasture, more than 100 feet from the closest stream, its near hilltop location lessens environmental concerns. Confirming the absence of wetlands and/or other sensitive habitats, historical land-use practices appeared to have significantly altered natural communities associated with this project to the point that its pristine ecological values were diminished long ago.

Nevertheless, in accordance to the CCLUO's MMRP, a more complete assessment of floral and faunal communities potentially impacted by proposed cannabis cultivation has been conducted in terms of management guilds. As such, MMs #3.4-1b, #3.4-1c, #3.4-4 and #3.4-5 have been lumped together and addressed as potential impacts to Aquatic/Wet Site Species, #3.4-d as potential impacts to Bald Eagle, Osprey and Forest Raptor Guild Species, #3.4-e and #3.4-1h as Northern Spotted Owl and Late Mature Forest Guild Species. Furthermore, #3.4-1f as Special-status Nesting Birds, #3.4-1i, #3.4-1j, #3.4-1k, #3.4-1l and #3.4-6b as Forest Mustelids and Other Small Mammals. Lastly, Special-status Plants and Exotic Invasive Species have been addressed as per #3.4-3a, #3.4-3b and #3.4-4, in a separate botanical report, including an evaluation of western bumble bee (*Bombus occidentalis*) habitat.

6. DISCUSSION OF ENVIRONMENTAL IMPACTS

Article 5 of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Sections 15000-15387) provide rules for preliminary review of projects. Concerned with present plant or animal communities threatened by local elimination, in jeopardy of experiencing substantial habitat reduction, or dropping below self-sustaining levels as a result of proposed project [§15065(a)(1)], CEQA requires that a decision-making body provide substantial evidence of significant environmental effects before empowering lead agency to authorize additional mitigations or alternatives [§15126.4 (a)(3)].

To the best extent possible, such arguments should contain an element of Forecasting (§15144), as well as a degree of Specificity (§15146), and Technical Detail (§15147). Limited to activities which are within the agency's area of expertise [§15096 (d)], comments need to be written in a manner that is meaningful and useful to decision making body and the public [§21003(b)].

“Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence” [§21080(e)(2)].

Within these guardrails, biological resources potentially impacted by proposed cannabis cultivation have been discussed with emphasis on CEQA significance. Starting with species listed under the ESA, followed by those considered under the CESA, and lastly, non-listed sensitive species and sensitive plant communities. Although potential significant effects to animals with large territories were considered inside 1.3 miles, impacts to species with smaller ranges were evaluated within the appropriate distance from the action area, as specified by the MMRP.

As such, this report addresses potential presence of special-status amphibian populations within 400' (#3.4-1b), and potential western pond turtle habitat (*Emys marmorata*) within 200' of the project (#3.4-1c). Potential impacts to nesting raptors has been addressed within 500' (#3.4-1d), and disturbance of special-status nesting birds assessed within 100' (#3.4-1f). Potential habitat for denning badgers may occur in association with grasslands and open woodlands. Although suitable habitat for fisher is likely not present, and this project is outside the Humboldt marten's range (#3.4-1j), detrimental impacts to special-status bats were considered within 400' (#3.4-1k), and special-status voles within 200' (#3.4-1l). Special-status Plants and Exotic Invasive Species have been addressed in a separate botanical report.

Ultimately, environmental impacts have been discussed in terms of potential CEQA significance, considering (1) the species occurrence and distribution in relation to the project area, (2) its sensitivity to disturbance, (3) environmental baseline conditions and population size, and (4) the species legal status. A species would be dropped from further consideration, if the project area was found to occur outside its range, or vital habitat requirements were absent.

Northern Spotted Owl and Late Mature Forest Guild Species

Although initially believed to be old growth obligate, spotted owls commonly occur in younger forest types of northern California (USDA 1994). The Coastal Oak Woodland ecotone associated with this ownership is unsuitable as habitat for NSOs, and there are no known occurrences within 1.3 miles of this project. Nevertheless, rather than habitat encroachment, the closely related, exotic and invasive barred owl (*Strix varia*) is now regarded as the largest threat to the California NSO population (USFWS 2011).

Older forest components are not present in association with the proposed project, and it is unlikely to adversely impact Late Mature Forest Guild Species. Nevertheless, the potential for noise disturbance has been assessed as per **Revised Transmittal of Guidance: Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California** (USFWS 2020). Accordingly, sound disturbance may reach the level of incidental take when one of the following conditions is met:

- *Project-generated sound exceeds ambient nesting conditions by 20-25 decibels (dB)*
- *Project-generated sound, when added to existing ambient conditions, exceeds 90 dB*
- *Human activities occur within a visual line-of-sight distance of 330 feet or less from a nest*

Although concern for this species has been dropped, this project nevertheless adopts measures to protect NSOs from disturbance unique to Humboldt County that limit operational noise to a 50 decibel (dB) threshold at 100 feet, or the edge of habitat.

Bald Eagle, Osprey and Forest Raptor Guild

Bald eagles (*Haliaeetus leucocephalus*) and osprey (*Pandion haliaetus*) typically prefer to nest close to streams and rivers. However, golden eagles (*Aquila chrysaetos*) favor large trees and rock faces on prominent ridges associated with grassy meadows. Bald eagles and ospreys are regularly observed in the Eel River watershed; the CNDDDB also records American peregrine falcons (*Falco peregrinus anatum*) nesting in association with river corridor to the west.

Fully protected, as are all nesting raptors, the CNDDDB does not record nesting birds of prey within 1.3 miles of this project. Although no suitable raptor nesting sites or rookeries were observed in association with this project, golden eagles are known to forage in these mountain rangelands. However, the populations of these large birds are generally increasing, and given and that proposed cannabis cultivation did not involve substantial raptor habitat removal, it is reasonable to conclude that this project will not significantly impact these guild species.

Evaluated according to guidance provided in MM #3.4-d (Nesting raptor surveys and relocation/buffers), proposed cannabis growing is unlikely to significantly impact nesting forest raptors and/or herons. However, a pre-construction raptor survey is recommended for areas of proposed vegetation removal within 500' of cultivation activities during the breeding season (February 1 through August 15). Including areas proposed for oakwood restoration, a focused survey for active raptor nests shall be conducted by a qualified biologist, no more than seven days prior to the beginning of project-related activities. If a nest is found, the Permittee shall consult with CDFW regarding appropriate actions to comply with the MBTA and Fish and Game Code.

Special-Status Nesting Birds

The MMRP (#3.4-1f) identifies willow flycatcher (*Empidonax traillii*), bank swallow (*Riparia riparia*), tricolored blackbird (*Agelaius tricolor*), western yellow-billed cuckoo (*Coccyzus americanus occidentalis*) and western snowy plover (*Charadrius nivosus nivosus*) as special-status birds potentially impacted by commercial cannabis development. Habitat for the abovementioned species is not present, but a pre-construction nesting bird survey for other nesting birds, within 100' of substantial vegetation removal, is recommended during the migratory bird breeding season (March 1 through August 15). As such, a focused survey for nesting birds shall be conducted by a qualified biologist, within seven days prior to the beginning of project-related activities. If a nest is found, the Permittee shall consult with CDFW regarding appropriate actions to comply with the MBTA and Fish and Game Code.

Aquatic/Wet Site Guild

Listed as a candidate species under the CESA, foothills yellow-legged frogs (*Rana boylei*) have been recorded 1.5 miles to the west, downstream in an adjacent drainage. Extant in this portion of the Eel River; however, located outside 50-foot Stream Management Areas (SMAs), suitable yellow-legged frog habitat is not present in association with this project. Grouped together based on affinity for water, wet areas and riparian habitat, my reconnaissance survey observed no special-status amphibians within 400' of this project. Although southern torrent salamanders, northern red-legged frogs (*Rana aurora*), Del Norte salamander (*Plethodon elongatus*), Pacific giant salamander (*Dicamptodon tenebrosus*) and rough-skinned newt (*Taricha granulosa*) may be seasonally present in mesic sites on this ownership, western

Pond turtle (*Actinemys marmorata marmorata*) habitat was not observed within 200', and is unlikely to occur in any irrigation ponds created for cannabis cultivation. However, as this project cannot reasonably be expected to result in significant impacts to Aquatic/Wet Site Guild Species, pre-construction surveys and/or monitoring for special-status amphibians are not recommended for operations outside the SMA.

Forest Mustelids and Other Small Mammals

Outside the geographic range of the Humboldt marten (*Martes americana humboldtensis*); although fishers are regularly observed in this region, the project area lacks functional habitat for this species. Too far inland to constitute suitable white-footed vole (*Arborimus albipes*) habitat, while sites proposed for cultivation are unsuitable for Sonoma Tree Vole (*Arborimus pomo*), habitat for this species may occur where on this ownership, where Douglas-firs are encroaching on what historically was pure stands of oak woodlands. Similarly, American badger (*Taxidea taxus*), North American porcupine (*Erethizon dorsatum*), pallid bat (*Antrozous pallidus*) and Townsend's big-eared bat (*Corynorhinus townsendii*) are special-status small mammals with ranges coinciding with this project.

Nevertheless, my pre-approval biological reconnaissance survey did not detect signs of special status mammals associated with proposed cultivation sites. And contingent on a pre-construction survey for these guild species in grasslands and open woodlands within 400', it can reasonably be concluded that proposed cannabis development will not significantly impact special-status mammals.

Special-Status Plants and Exotic Invasive Species

Although my reconnaissance survey did not observe plant species classified as invasive by the California Invasive Plant Council, Special-status Plants and Exotic Invasive Species have been addressed in a separate botanical report. Nevertheless, the CNDDDB records no special status plants inside this project's biological assessment area. The closest, Oval-leaved viburnum (*Viburnum ellipticum*) is about three miles to the east. Ranked 2B on the California Native Plant Society's (CNPS) watchlist, according to the CNPS all California Rare Plant Rank 1B and 2B species meet the definitions of the California Endangered Species Act of the California Fish and Game Code, and are eligible for state listing:

"Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, or those considered to be functionally equivalent to CEQA, as they meet the definition of Rare or Endangered under CEQA Guidelines §15125; (c) and/or §15380."

Proposed cannabis cultivation typically does not involve ground disturbance of a magnitude potentially affecting sensitive plant communities in ways that could be CEQA significant. And taking into account existing environmental baseline conditions, potential impacts to sensitive botanical communities and western bumble bee (*Bombus occidentalis*) populations can reasonably be mitigated by a seasonally appropriate field investigation.

7. DISCUSSION OF SIGNIFICANT ENVIRONMENTAL IMPACTS

A determination of potential significant environmental effects calls for careful judgment on the part of the public agencies involved. Because not only does CEQA require that a project's potentially harmful impacts be discussed with an emphasis in proportion to their severity and probability of occurrence (§15143), those impacts must also be judged against existing baseline conditions. According to the CCLUO, Exhibit A – FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS:

“The EIR adopts as its baseline for analysis of impacts the existing environmental conditions that include the legacy of a half century of unregulated cannabis cultivation in remote and environmentally sensitive areas of Humboldt County that unquestionable caused harmful environmental impacts that are documented in the EIR...”

Although this portion of Humboldt County has a long history of cannabis cultivation, and a century of livestock grazing is likely to have diminished natural values long before that, the implementation of the CCLUO mitigates environmental impacts of past and present cannabis growing. Limiting noise disturbance and light pollution in particular, I recommend regularly monitoring greenhouse structures utilizing artificial light for adherence to Dark Sky Association guidelines for both Lighting Zone 0 and Lighting Zone 1. Compelling growers to address unrelated watershed issues also adds considerable conservation value to the permitting process. Moreover, as other States legalize cultivation, and wholesale cannabis prices continue to fall, it can reasonably be forecasted that cannabis cultivation will gradually decrease in this portion of the State.

In conclusion, this project it is unlikely to impact sensitive plant or animal communities in manner that would be CEQA significant. Consistent with information presented in the IBSR and OWRP, this determination is contingent on (1) a separate botanical report, (2) survey for nesting raptors within 500' of vegetation disturbance, (3) breeding bird survey within 100', and (4) a survey to reaffirm the absence of special status mammals in grasslands and open woodlands within 200' of proposed operations.

signature-----

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