

ATTACHMENT 3

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

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

APN 217-271-005; Blocksburg Area, County of Humboldt

**Prepared By
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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 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 Conditional Use Permit for 20,430 square feet (SF) existing cannabis cultivation, 6,480 square feet of which is mixed light cultivation, and 13,950 of which is full sun outdoor, and 1,580 square feet of ancillary nursery space. Cultivation occurs in four (4) sites on the parcel including three (3) greenhouses and one (1) full sun outdoor area. Irrigation water is provided by an existing permitted well, for which the applicant has provided an engineer evaluation. There are currently 35,000 gallons of hard tank water storage on site. Estimated annual water usage is 200,000 Gallons (9.8 gallons per square foot). Processing will occur onsite in a proposed 16,000 SF processing facility. Electricity is provided by PGE, and the applicant has a generator stored onsite for emergency backup use.

The project is within the ancestral territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria. The applicant submitted a Cultural Resources Investigation prepared by Archaeological Research and Supply Company which documented one historic and two prehistoric resources on the property. Report recommendations include removal of bladders from the identified prehistoric site (removal has already been completed), and heightened inadvertent discovery protocol, and the presence and oversight of a professional archaeologist and tribal professionals during any ground disturbing activities within 100 feet of the identified prehistoric site. The report was submitted to the Bear River Band of the Rohnerville Rancheria, who recommended conditional approval. Recommendations from the Cultural Resources Investigation and

conditions recommended by the Bear River Band of the Rohnerville Rancheria have been included as conditions of approval.

Per a review of the California Natural Diversity Database (CNDDDB) the property is within an occurrence of obscure bumble bee (*bombus caliginosus*). The occurrence is based on a specimen collected in June of 1935, and has a low accuracy (the exact location is unknown, the area mapped is a 1 mile radius circle centered on Blocksburg). The nearest Northern Spotted Owl (NSO) activity center is over 1 mile from the property, and the nearest mapped marbled murrelet critical habitat is over eight miles from the property.

The applicant has submitted a Biological Resource Assessment Report prepared by TransTerra Consulting dated March, 2020. The Report assessed areas of cultivation, roads and infrastructure locations, and areas that were at that time targeted for relocation. The report indicated potential habitat for several sensitive species was present onsite, however also found that the scope of the project is unlikely to significantly affect the species for which habitat is present onsite. Recommendations from the Biological Assessment have been included in the recommended conditions of approval.

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 onsite lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources because 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; or
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

A review of Appendix G impacts:

Aesthetics: The project is for 20,430 square feet of cannabis cultivation, 13,950 square feet of which is full sun outdoor cultivation, and 6,480 square feet of mixed light cultivation. The project will not significantly impact scenic vistas or public views as the vast majority will be full sun outdoor cultivation. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare as conditioned. Less than significant impact.

Agriculture and Forestry Resources: The project will utilize land zoned for agricultural use for agricultural purposes as contemplated in the EIR. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. The project will not result in the loss of forest land or conversion of forest land to non-forest use. No impact.

Air Quality: Minimal construction activities are associated with the project. All construction activities are associated with the relocation of cultivation greenhouses, and the construction of a commercial structure for processing activities. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project would not result in significant sources of greenhouse gas emissions. The project is accessed by a paved road, and as the project is pre-existing a significant increase in traffic is not anticipated. Less than significant impact.

Biological Resources: Per a review of the California Natural Diversity Database (CNDDDB) the property is within an occurrence of obscure bumble bee (*bombus caliginosus*). The occurrence is based on a specimen collected in June of 1935, and has a low accuracy (the exact location is unknown, the area mapped is a 1-mile radius circle centered on Blocksburg). The nearest Northern Spotted Owl (NSO) activity center is over 1 mile from the property, and the nearest mapped marbled murrelet critical habitat is over eight miles from the property.

The applicant has submitted a Biological Resource Assessment Report prepared by TransTerra Consulting dated March, 2020. The Report assessed areas of cultivation, roads and infrastructure locations, and areas that were at that time targeted for relocation. The report indicated potential habitat for several sensitive species was present onsite, however also found that the scope of the project is unlikely to significantly affect the species for which habitat is present onsite. Recommendations from the Biological Assessment have been included in the recommended conditions of approval. The findings and conclusions of the Biological Report are consistent with the findings and conclusions of the MND for the CMMLUO. Less than significant impact.

Cultural Resources: The project is within the ancestral territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria. The applicant submitted a Cultural Resources Investigation prepared by Archaeological Research and Supply Company which documented one historic and two prehistoric resources on the property. Report recommendations include removal of bladders from the identified prehistoric site (removal has already been completed), and heightened inadvertent discovery protocol, and the presence and oversight of a professional archaeologist and tribal professionals during any ground disturbing activities within 100 feet of the identified prehistoric site. The report was submitted to the Bear River Band of the Rohnerville Rancheria, who recommended conditional approval. Recommendations from the Cultural Resources Investigation and conditions recommended by the Bear River Band of the Rohnerville Rancheria have been included as conditions of approval. Less than significant impact.

Energy: The project is for 20,430 square feet of cannabis cultivation, 2,030 square feet of ancillary nursery space, and off-site processing until such time as a building meeting F-1 Occupancy (commercial) standards has been constructed on the property with all required permits finalized. Electricity is provided by PGE, and the applicant has a generator stored onsite for emergency backup use. Less than significant impact.

Geology and Soils: The project occurs on flat land that has historically been used for cannabis cultivation. Minor grading has occurred to facilitate relocation of cultivation from environmentally sensitive areas. The proposed processing structure is planned in an area with slopes of 15% or less. No historic landslides are mapped on the subject property. The nearest cultivation area is approximately 1.1 miles from an unnamed fault, and the entirety of the parcel is outside any mapped earthquake fault hazard zones. Less than significant impact.

Greenhouse Gas Emissions: Electricity is provided by PGE, and the applicant has a generator stored onsite for emergency backup use which is not uncommon for agricultural operations in rural areas. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides and fuel for use in farm equipment existing storage structures. The project has been conditioned to property store hazardous materials, including any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as a very high fire risk area. The project would not impair emergency response or create a significant risk from wildfire. The property is accessed via Alderpoint Road, a paved road meeting or equivalent to Category 4 standards. Less than significant impact.

Hydrology and Water Quality: The project is for a total of 20,430 square feet of cannabis cultivation on a property zoned for agricultural use. The project will not degrade any water sources or contribute to sedimentation. The site is enrolled with the State Water Resources Control Board and is subject to a Site Management Plan. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned for Agriculture. The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact.

Mineral Resources: No mining is proposed. The project will not result in the loss of availability of a known mineral resources that would be of value to the region and the residents of the state. The project will not result in the loss of availability of a locally important mineral resource recover site. No impact.

Noise: The project is located in land zoned for agricultural use. The area has historically been utilized for cannabis cultivation. Noise sources from the operation will include fans, water pumps, and other typical farm equipment. The construction and dismantling of temporary hoop houses would create minimal noise. The applicant is proposing to construct a processing building onsite. The temporary noise impacts from these activities would not create a substantial increase in noise levels. There is no reason to believe the noise will be increased substantially onsite. The project will not result in the generation of excessive groundborne vibration or noise levels. The project has been conditioned to limit noise to 50 decibels at 100 feet from any project related noise source. Less than significant impact.

Population and Housing: No housing is proposed nor is any removal of housing proposed. The project will not induce substantial unplanned population growth in an area nor displace substantial numbers of existing people or housing necessitating the construction of replacement housing. No impact.

Public Services: The project is for 20,430 square feet of cannabis cultivation. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

Recreation: The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. No impact.

Transportation: Fourteen full time workers and up to 9 seasonal workers will be on-site. The parcel is accessed from Alderpoint Road, which is a Category 4 or Category 4 Equivalent road per the Department of Public Works. Recommended conditions of approval from the Department of Public Works have been included as recommended conditions of approval. These conditions include meeting sight visibility requirements, upgrading driveways to meet commercial access standards, and ensuring setbacks of gates and fences from the County right of way. Less than significant impact.

Tribal Cultural Resources: The project is within the ancestral territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria. The applicant submitted a Cultural Resources Investigation prepared by Archaeological Research and Supply Company which documented one historic and two prehistoric resources on the property. Report recommendations include removal of bladders from the identified prehistoric site (removal has already been completed), and heightened inadvertent discovery protocol, and the presence and oversight of a professional archaeologist and tribal professionals during any ground disturbing activities within 100 feet of the identified prehistoric site. The report was submitted to the Bear River Band of the Rohnerville Rancheria, who recommended conditional approval. Recommendations from the Cultural Resources Investigation and conditions recommended by the Bear River Band of the Rohnerville Rancheria have been included as conditions of approval. Less than significant impact.

Utilities and Service Systems: The project has been conditioned to contain refuse in wildlife proof storage containers, at all times, and dispose of refuse at an authorized waste management facility. The project has also been conditioned to provide portable toilets and handwashing facilities to serve the needs of cultivation staff. Irrigation water is provided by an existing permitted well, for which the applicant has provided an engineer evaluation prepared by Marvin Chapman of Chapman Engineering. The report concludes that the well exhibits a low probability for hydrologic connectivity or negative impact on adjacent surface water resource, and that the project will not substantially adversely affect an existing water or hydrologic resource. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. The only new structure proposed is a processing building, which will comply with all building and fire codes. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of

10,000 square feet of cultivation with ancillary propagation and processing activities 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:

- Operations Plan and Plot Plan
- Site Management Plan
- Groundwater Analysis
- Road Evaluation
- Cultural Resources Investigation
- County GIS

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.

Project impact analysis of conformance to the Mitigated Negative Declaration Substituted Mitigation Monitoring and Reporting Program

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.10(o) and 55.4.10(c)).

- The project is within the ancestral territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria. The applicant submitted a Cultural Resources Investigation prepared by Archaeological Research and Supply Company which documented one historic and two prehistoric resources on the property. Report recommendations include removal of bladders from the

identified prehistoric site (removal has already been completed), and heightened inadvertent discovery protocol, and the presence and oversight of a professional archaeologist and tribal professionals during any ground disturbing activities within 100 feet of the identified prehistoric site. The report was submitted to the Bear River Band of the Rohnerville Rancheria, who recommended conditional approval. Recommendations from the Cultural Resources Investigation and conditions recommended by the Bear River Band of the Rohnerville Rancheria have been included as conditions of approval.

Mitigation Measure 2: Curing violations of state, county code (55.4.11(a)).

- The project is for existing cultivation and project approval includes a compliance agreement to cure unresolved violations of state or county code.

Mitigation Measure 3: Required setbacks from watercourses, wetlands, and Environmentally Sensitive Habitat Areas (55.4.11(d)).

- The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel contains intermittent streams and wet areas. The project site meets or exceeds the setbacks to streamside management areas.

Mitigation Measure 4: Permitting Tiers and related requirements (55.4.8.2 et seq.)

- The project is for 20,430 square feet of existing cultivation in an Unclassified (U) zone which requires a Conditional Use Permit. The project complies with the requirements described in 55.4.8.2 et seq.

Mitigation Measure 5: Retirement, Remediation, and Relocation Program (55.4.14)

- The project is not participating in the Retirement, Remediation, and Relocation program therefore this mitigation measure does not apply.

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for existing cultivation consistent with baseline conditions which is eligible in an Unclassified (U) zone. No new increased cultivation will occur. There was tree removal conducted previously in the years between 2005 and 2009, however the cleared areas are not proposed for cannabis use. Additionally, the cleared areas appear to have been left to naturally revegetate, and as such the historic tree removal does not constitute a conversion of timberland. The project was referred to CALFIRE, who provided standard comments.

Mitigation Measure 7: Use of fertilizer, pesticide, fungicide, rodenticide, or herbicide (55.4.11(j)).

- The project has been conditioned to properly store hazardous materials, including any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide in accordance with applicable regulations. The use of anticoagulant rodenticide is prohibited. The project is conditioned requiring the applicant to provide written compliance with the Certified Unified Program Agency (CUPA) requirements.

Mitigation Measure 8: Diversion of surface water and trucked water (55.4.11(l)-(m)).

- The project groundwater well for irrigation. The project is further conditioned disallowing the use of trucked water except in an emergency.

Mitigation Measure 9: Generator Use (55.4.11(o)).

- The project uses a generator for emergency backup only. The project is conditioned requiring that noise from the generator and any other project related noise sources not exceed 50 decibels at 100 feet from the noise source, or the edge of the tree line, whichever is more restrictive.

Mitigation Measure 10: Storage of Fuel (55.4.11(p)).

- The project is conditioned that fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

Mitigation Measure 11: Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).

- Conditions of approval require the applicant to provide a statement declaring they are 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).
- The project includes onsite ancillary processing, and the operations plan describes processing practices and employee safety standards.

Mitigation Measure 12: Performance Standards for Mixed Light Cultivation (55.4.11).

- The project is for outdoor cultivation and does not use artificial light.

Mitigation Measure 13: Humboldt Artisanal Branding Provision (55.4.15).

- The proposed project is for more than 3,000 square feet therefore this measure does not apply.

Mitigation Measure 14: Sunset Clause for applications

- The application was received on December 27, 2016, prior to the sunset of the ordinance.

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.