

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 208-221-013; Dinsmore 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.

A Special Permit for 5,000 square feet of existing mixed light and 1,500 square feet of existing outdoor commercial cannabis cultivation supported by a 600 square foot ancillary nursery. Irrigation water is provided by a well located on adjacent parcel 208-221-009. Estimated annual water usage is 55,000 gallons supported by 57,000 gallons of water storage consisting of 12,000 gallons of existing hard tanks plus an additional proposed 45,000 gallons of hard tanks. Processing including trimming or packaging is proposed to occur on adjacent parcel 208-221-014. Electricity is sourced from one generator. The Special Permit includes restoration of a stream channel.

No known significant archaeological resources are in the project area. Ongoing conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources.

Review of the California Natural Diversity Database (CNDDDB) indicates that the nearest mapped Northern Spotted Owl activity center (HUM0019) is 6,500 feet to the northeast. Per the operations plan, structures using artificial light will have blackout tarps manually pulled to ensure compliance with Dark Sky standards to eliminate light from escaping the structures 30 minutes prior to sunset and 30 minutes after sunrise. Use of the generator is subject to the standard condition limiting noise to 50dB at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact the Northern Spotted Owl.

The CNDDDB also included a notation regarding the potential presence of Bolander’s catchfly (*Silene bolanderi*). This species has a rare plant index of 1B.2 (Plants rare, threatened, or endangered in California and elsewhere; fairly threatened in California). This species is known

to grow under oaks and no oaks are proposed to be removed as part of the project which is for existing cultivation in previously disturbed areas along existing roads. However, the project is conditioned to require a biological assessment for the presence of this species prior to placing any new facilities such as water lines to the well or the additional water tanks.

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 existing cultivation and the existence of greenhouses was contemplated as part of the baseline conditions for the Mitigated Negative Declaration. The

project is consistent with the agricultural visual character of the area. The project as conditioned will not create a source of light or glare. Less than significant impact.

Agriculture and Forestry Resources: The project will utilize agricultural land for agricultural purposes as contemplated in the Mitigated Negative Declaration. 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 net conversion of forest land to non-forest use. No impact.

Air Quality: Minimal construction activities are associated with this project. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project does utilize an unpaved road. The use of the existing unpaved road for this cannabis project is not a substantial change or additional significant impact not considered under the baseline conditions for the Mitigated Negative Declaration. Less than significant impact.

Biological Resources: Review of the California Natural Diversity Database (CNDDDB) indicates that the nearest mapped Northern Spotted Owl activity center (HUM0019) is 6,500 feet to the northeast. Per the operations plan, structures using artificial light will have blackout tarps manually pulled to ensure compliance with Dark Sky standards to eliminate light from escaping the structures 30 minutes prior to sunset and 30 minutes after sunrise. Use of the generator is subject to the standard condition limiting noise to 50dB at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact the Northern Spotted Owl.

The CNDDDB also included a notation regarding the potential presence of Bolander's catchfly (*Silene bolanderi*). This species has a rare plant index of 1B.2 (Plants rare, threatened, or endangered in California and elsewhere; fairly threatened in California). This species is known to grow under oaks and no oaks are proposed to be removed as part of the project which is for existing cultivation in previously disturbed areas along existing roads. However, the project is conditioned to require a biological assessment for the presence of this species prior to placing any new facilities such as water lines to the well or the additional water tanks. The project as conditioned, less than significant impact.

Cultural Resources: The project site contains agricultural related structures such as greenhouses. No historical resources are present or will be affected by the project. No impact.

Energy: The project sources electricity from a generator which will transition to renewable energy within by January 1, 2026, reserving generator use for emergencies only. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. No new grading will occur. Less than significant impact.

Greenhouse Gas Emissions: Generator usage will be phased out by January 1, 2026, and limited to emergency situations only. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides and fuel for use in farm equipment in existing storage structures. All hazardous materials are stored in a locked area with secondary containment in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as very high fire risk. Buildings are located in existing clearings with adequate defensible space. Less than significant impact.

Hydrology and Water Quality: The project obtains irrigation water from a groundwater well on an adjacent property. The well has been assessed by a hydrologist. The well will be subject to forbearance. The project is required to develop a Site Management Plan and best management practices for stormwater runoff which protect water quality. 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: Noise sources from the operation will include typical farm equipment. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The project is conditioned to not produce noise of more than 50 dB at 100 feet or the forest edge, whichever is closer. There is no reason to believe noise will be increased substantially onsite. The project will not result in the generation of excessive groundborne vibration or noise levels. Less than significant impact.

Population and Housing: The project is for existing cannabis cultivation. 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 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: The project will have up to two employees which is consistent with the baseline conditions recognized by the Mitigated Negative Declaration. A road evaluation concludes that access roads function at equivalent to a category 4 if recommended improvements

are made. The project includes conditions to improve visibility and drainage conditions along the access roads. Less than significant impact.

Tribal Cultural Resources: Consultation with the Bear River THPO resulting in no cultural survey being requested. Project conditions include inadvertent discovery protocol. No impact.

Utilities and Service Systems: Solid waste is taken to the local transfer station as needed in an amount the service station is capable of handling. The project will provide portable toilets and handwashing stations for cultivation staff. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. There will be no significant new structures that will increase the risk of wildfire. 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 6,500 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 Site Plan
- Well Analysis
- Road Evaluation
- County GIS
- Disturbed Area Stabilization Plan

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 historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State and Bear River. Consultation with the Bear River THPO resulting in no cultural survey being requested. Project conditions include inadvertent discovery protocol.

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 surface waters, and the project site meets or exceeds the setbacks to streamside management areas. Restoration of a riparian buffer and a stream channel is required per comments from CDFW.

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

- The project is for existing cultivation on a parcel zoned Forestry Recreation (FR). The total amount to cultivation 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 a FR zone. No new increased cultivation will occur. The continued operation and the onsite relocation will not result in additional conversion of timberlands. The project includes enhancement of oak woodlands.

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

- The project operations plan describes measures that will be taken to properly store and handle hazardous materials. Compliance with the operations plan is a condition of project approval. 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 uses a groundwater well for irrigation. The well is subject to forbearance. The project is further conditioned disallowing the use of trucked water except in an emergency.

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

- Generator use will be phased out in favor of renewable energy by January 1, 2026, reserving generator use to emergency situations only.

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)).

- Applicant has provided 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 will conduct drying of harvested cannabis only. All other processing will occur offsite at a licensed facility until an existing building can meet F-1 occupancy.

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

- The project operations plan describes measures such as black out tarps to comply with Dark Sky Association standards.

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 September 2, 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.