

**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 221-111-028; Whitethorn 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 Special Permit for 9,950 square feet (SF) of existing outdoor cannabis cultivation utilizing full-sun and light deprivation techniques. Irrigation water is sourced from rainwater catchment and an onsite point of diversion. Existing available water storage for irrigation is 130,000 gallons in a series of hard-sided tanks, with an additional 32,900 gallons proposed, for a total of 162,900 gallons of onsite storage. Estimated annual water usage is 136,300 gallons. Drying and curing occurs onsite, with all other processing occurring offsite at a licensed processing or manufacturing facility. A maximum of three (3) people may be onsite during peak operations. Power is provided by a 2,500 kilowatt-hour (kWh) solar system, with a 15 kVA WhisperWatt diesel generator utilized for backup.

No known significant archaeological resources are in the project area. The Cultural Resources referral process carried out by staff concluded that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol, which was also recommended by the Bear River Band of the Rohnerville Rancheria in May 2022.

According to Humboldt County Web GIS and the Site Plan, no watercourses are known to traverse the subject site. The Site Plan indicates an approximately 179,000-gallon pond and a groundwater well are located on the property and are noted to historically be utilized solely for domestic use and are not utilized for cannabis irrigation. The project proposes use of the ground water well for irrigation use. All approved cultivation activities and respective infrastructure would occur outside of all required setbacks and on slopes less than 30%. Per review of CDFW’s California Natural Diversity Database (CNDDDB) in July 2022, there are no mapped sensitive species onsite. The nearest Northern Spotted Owl (NSO) positive sighting is located approximately 0.90 miles from the cultivation area, with the nearest NSO activity center located approximately 1.47 miles away. Artificial lighting will be utilized to support the proposed

ancillary propagation space. The applicant has enrolled with the State Water Resources Control Board Cannabis Cultivation Policy.

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 outdoor cannabis cultivation in an existing clearing. The project will not significantly impact scenic vistas or public views as the cultivation site is fully surrounded by dense timber land. The site is accessed off privately maintained roads. The project is consistent with the agricultural visual character of the area. The project will not create a source

of light or glare. No impact.

**Agriculture and Forestry Resources:** The project will utilize agricultural land for agricultural purposes as contemplated in the MND. 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 development of the rainwater catchment infrastructure including water storage tanks, the propagation nursery space, all of which will require minimal grading for placement. 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 does utilize an existing privately maintained gravel road, the use of this gravel road for this cannabis project is therefore not a substantial change or additional significant impact not considered under the MND. No impact.

**Biological Resources:** The project is in the Whitethorn area more than 600 feet from any identified stream channels. The land to the north, west and south is private timberland. Most of the site is forested and hilly. The proposed project will occur in an existing clearing on a site with historic cultivation activities. Per review of CDFW's California Natural Diversity Database (CNDDDB) in July 2022, there are no mapped sensitive species onsite and the nearest NSO positive sighting is located approximately 0.90 miles from the cultivation area, with the nearest NSO activity center located approximately 1.47 miles away. Additionally, the cultivation area is located approximately 1,000 feet (0.19 miles) from NSO Final Critical Habitat. As previously described, power at the site is provided by a 2,500-kWh solar system, with a 15 kVA WhisperWatt diesel generator utilized for backup. As the project is primarily served by solar, with a generator utilized only for backup, potential impacts to NSO are minimized. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species. Less than significant impact.

**Cultural Resources:** The Cultural Resources referral process carried out by staff concluded that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol, which was also recommended by the Bear River Band of the Rohnerville Rancheria in May 2022. No impact.

**Energy:** The project is for outdoor cannabis cultivation with on-site drying and off-site processing. Power is provided by a 2,500 kilowatt-hour (kWh) solar system, with a 15 kVA WhisperWatt diesel generator utilized for backup. Less than significant impact.

**Geology and Soils:** No new structures are proposed that would expose people to risk of life from earthquakes. The project occurs on slopes less than 30% that has historically been used for agriculture. No significant grading will occur. Less than significant impact.

**Greenhouse Gas Emissions:** The site uses a 2,500 kilowatt-hour (kWh) solar system. The project includes a generator for emergency purposes 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. 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 a high fire risk area, however no significant wood framed structures will be constructed as part of this project. The project would not impair emergency response or create a significant risk from wildfire. Less than significant impact.

**Hydrology and Water Quality:** The project is for a total of 9,950 square feet of cannabis cultivation. The project will not degrade any water sources or contribute to sedimentation. Of the cultivation, 6,000 SF will be cultivated within greenhouses with the remaining 3,950 SF utilizing full sun cultivation methods. Water is sourced from a mix of rainwater catchment and a point of diversion serving as a backup source. Less than significant impact.

**Land Use and Planning:** The project proposes an agricultural activity on a parcel designated for Agriculture use with Unclassified zoning allowing for agricultural uses. 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 actively managed agricultural land. Noise sources from the operation will include typical farm equipment such as tractors. The applicant is proposing to dry on-site in an existing shed/garage structure. Drying would involve the use of dehumidifiers. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The site does utilize a generator for backup power use which is not uncommon in rural agricultural areas. There is no reason to believe the noise source will be increased substantially onsite. The project is conditioned to adhere to noise generation requirements limiting noise creation from sources related to the proposed activity to not exceed 50 decibels at 100 feet or at edge of clearing. Less than significant impact.

**Population and Housing:** The project is for outdoor 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 is for 9,950 square feet of cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The cultivation areas 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:** Up to three workers will be on-site. The parcel is accessed via a driveway off Doody Ridge Road (which traverses the western portion of the property), to Dutyville Road to Ettersburg-Honeydew Road to Briceland Thorne Road to Redwood Drive to Highway 101. Doody Ridge Road and Dutyville Road are privately-maintained, while Ettersburg-Honeydew Road, Briceland Thorne Road, and Redwood Drive are County-maintained. Highway 101 is a State-maintained highway, managed by the California Department of Transportation (Caltrans). Two Road Evaluation Reports were evaluated, prepared for adjacent properties that evaluated road segments utilized to access the project site which concluded that the access was sufficient for the commercial traffic. The project site will also have adequate emergency access. Less than significant impact.

**Tribal Cultural Resources:** No known significant archaeological resources are in the project area. The Cultural Resources referral process carried out by staff concluded that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol, which was also recommended by the Bear River Band of the Rohnerville Rancheria in May 2022. Less than significant impact.

**Utilities and Service Systems:** Solid waste is taken to the Fortuna Recology facility in an amount the service station is capable of handling. The project will provide access to the residence for use of septic and personal waste services. Water for propagation and cultivation is sourced from an onsite rainwater catchment infrastructure and a point of diversion with watering performed at agronomic rates to reduce overwatering. 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 other than the proposed nursery space conditioned to be no more than 995 SF 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

- Final Streambed Alteration Agreement
- LSAA Extension Receipt
- Road Evaluation (App # 12179)
- Road Evaluation (App # 12196)
- State Water Resources Control Board Water Right Receipt
- Rainwater Catchment Photos
- DEH Worksheet
- Notice of Intent
- 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 historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. No known significant archaeological resources are in the project area. The Cultural Resources referral process carried out by staff concluded that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol, which was also recommended by the Bear River Band of the Rohnerville Rancheria in May 2022. The project site meets or exceeds the setbacks from tribal cultural resources.

#### **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 is not known to contain streams onsite and 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 9,950 square feet of existing cultivation in an Unclassified (U) zone which requires a Special 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 which requires assessment by a Registered Professional Forester for compliance with CalFire regulation.

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 diversionary water source for irrigation and is therefore condition to forebear from May 15<sup>th</sup> to October 31<sup>st</sup> of each year. 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 will not exceed 50 decibels at 100 feet or edge of clearing whichever is nearest to the noise source.

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 does not include onsite ancillary processing though the operations plan describes 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 9, 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.