

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 210-144-012; Dinsmore Area, County of Humboldt

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March 2023

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 within the parameters analyzed in 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 Zoning Clearance Certificate 3,792 square feet (SF) of existing mixed-light commercial cannabis cultivation, and a Special Permit for work within the Streamside Management Area (SMA) for culvert replacement and crossing upgrades, as recommended by the Site Management Plan. The project site shares water resources and propagation facilities with two adjacent project sites on separate parcels under the same ownership (APNs 210-144-011 and 210-144-017). Plants are propagated in two (2) nurseries totaling 2,650 SF on APN 210-144-011. Irrigation water is sourced from one (1) 420,000-gallon rainwater catchment pond on an adjacent parcel (APN 210-144-017) and three (3) surface water points of diversion (POD): POD-1 and POD-2 (both located on APN 210-144-011) and POD-3 (APN 210-144-012). Estimated annual water use across the three (3) project sites is 465,000 gallons (11.5 gal/SF). Water is stored in the pond and in forty-one (41) tanks located on the three (3) project sites, including: one (1) 5,000-gallon tank, thirty-five (35) 2,500-gallon tanks, one (1) 1,500-gallon tank, and four (4) 1,000-gallon tanks. Total water storage is 518,000 gallons. The primary source of electrical power is an existing solar system. A 7-kW Honda generator is used as a backup power source.

The project was referred to the California Historical Resources Information System – Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria. After reviewing project materials, the Tribal Historic Preservation Officer for the Bear River Band of the Rohnerville Rancheria, found that the project is unlikely to have significant impacts on cultural resources and recommended that the standard inadvertent discovery protocol be applied to the project.

A Botanical Survey Report was prepared by Hohman & Associates Forestry Consultants (September 5, 2019; revised July 2020). Seasonally appropriate floristic surveys were performed on May 22, July 14, and July 19, 2019. A rare plant species, beaked tracyina, was initially reported as present on one parcel within the project area (210-144-017). However, a follow-up visit to the

site (June 19, 2020) revealed that these reports were made in error, and the identified plants were actually *Crepis pulchra*. No special status plant or animal species were identified within the project area, and no recommendations were made. Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities. Therefore, potential project impacts to biological resources are considered low and unlikely, with implementation of the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016.

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 mixed-light cannabis cultivation on a parcel zoned for such uses. The project will not significantly impact scenic vistas or public views as it is an existing project with limited views from public roads or other vantage points. 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. A Less Than Three Acre Conversion Mitigation Plan was prepared to address the unpermitted conversion of 2.95 acres of timberland. Recommendations of the plan are included as conditions of approval for this project. Less than significant impact.

Air Quality: Minimal construction activities are associated with the project, which is an existing cannabis cultivation project with associated infrastructure. Construction activities would include the removal of two (2) water bladders and relocation of some cultivation areas outside of the streamside management area (SMA). The project would 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 a gravel road, and traffic on gravel roads contribute to PM-10, for which the North Coast Air Basin is already in non-attainment. However, there would be a maximum of three (3) employees onsite during peak operations and a significant increase in traffic is not expected under the project. As such, the continued use of the gravel road for the project is not a substantial change or additional significant impact not considered under the MND for the CMMLUO. Less than significant impact.

Biological Resources: The project is in the Bridgeville area near Panther Creek. A Botanical Survey Report was prepared by Hohman & Associates Forestry Consultants (September 5, 2019; revised July 2020). Seasonally appropriate floristic surveys were performed on May 22, July 14, and July 19, 2019. A rare plant species, beaked tracyina, was initially reported as present on one parcel within the project area (210-144-017). However, a follow-up visit to the site (June 19, 2020) revealed that these reports were made in error, and the identified plants were actually *Crepis pulchra*. No special status plant or animal species were identified within the project area, and no recommendations were made. Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities. Less than significant impact.

Cultural Resources: The project was referred to the California Historical Resources Information System – Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria. After reviewing project materials, Melanie J. McCavour, Ph.D., the Tribal Historic Preservation Officer for the Bear River Band of the Rohnerville Rancheria, found that the project is unlikely to have significant impacts on cultural resources and recommended that the standard inadvertent discovery protocol be applied to the project. Less than significant impact.

Energy: The project is for outdoor cannabis cultivation with drying on an adjacent parcel under

the same ownership and off-site processing. The primary source of power is an onsite solar system. The project would continue to utilize a generator for emergency purposes which is not uncommon for agricultural operations in rural areas. 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 relatively flat land (slopes less than 15%), and cultivation activities are limited to the immediate area surrounding the greenhouses and gardens. Additionally, irrigation runoff and erosion control measure are implemented. Less than significant impact.

Greenhouse Gas Emissions: The primary source of electrical power is an existing 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 3,792 square feet of mixed-light cannabis cultivation. The project will not degrade any water sources or contribute to sedimentation, as irrigation runoff, erosion control, and watershed protection measures are implemented by the project, as described in the Cultivation and Operations Plan and Site Management Plan. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned as Forestry Recreation (FR), in which all general agricultural uses are principally permitted. 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 a rural portion of the County in an existing open area, surrounded by open space and forested land. The project will not result in the generation of excessive groundborne vibration or noise levels. Noise sources from the operation will include those typical of agricultural operations, including the occasional use of a backup generator. Less than significant impact.

Population and Housing: The project is for mixed-light 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 3,792 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 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: One (1) to three (3) employees may be onsite during peak operations. The project is located on east side of Burr Valley Road, approximately 8.8 miles southeast from the intersection of State Highway 36 and Burr Valley Road, in the Dinsmore area in eastern Humboldt County. NorthPoint Consulting Group evaluated routes leading to the subject parcel and concluded only minor modifications are required to accommodate increased traffic associated with the project. Humboldt County Department of Public Works (DPW) noted that multiple road evaluation reports have been prepared for segments of Burr Valley Road and other access roads. DPW recommended combining all recommendations from various road evaluation reports into a single action plan, with implementation responsibility falling upon the road maintenance association or divided among cultivators using Burr Valley Road to access their respective project sites. DPW also recommended a standard condition of approval related to proximity of farms be applied to the project. Less than significant impact.

Tribal Cultural Resources: The project was referred to the California Historical Resources Information System – Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria. After reviewing project materials, Melanie J. McCavour, Ph.D., the Tribal Historic Preservation Officer for the Bear River Band of the Rohnerville Rancheria, found that the project is unlikely to have significant impacts on cultural resources and recommended that the standard inadvertent discovery protocol be applied to the project. Less than significant impact.

Utilities and Service Systems: Solid waste is taken to an appropriate offsite waste management facility. The project will provide portable toilets and handwashing stations for cultivation staff. Water for cultivation is sourced from a 420,000-gallon rainwater catchment pond on an adjacent parcel (APN 210-144-017) and three (3) surface water points of diversion (POD), as allowed by Division of Water Rights Certificate H100685: POD-1 and POD-2 (both located on APN 210-144-011), and POD-3 (APN 210-144-012). 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. An existing generator is used only as a backup power source and is located in a covered generator shed with secondary containment. 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 3,792 square feet of cultivation 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 (see Attachment 3 for a complete listing of documents):

- Cultivation and Operations Plan prepared by Natural Resources Management Corporation, dated 11/2/2022 (Attachment 1B)
- Site Plan prepared by Omsberg & Preston, dated 6/11/2021 (Attachment 1C)
- Right to Divert and Use Water Certificate No. H100685, issued by California State Water Resources Control Board, dated 7/1/2020 (Attachment 4A)
- Site Management Plan (WDID No. 1_12CC427340) prepared by Natural Resources Management Corporation, dated 11/2/2022 (Attachment 4B)
- Lake and Streambed Alteration Agreement (Notification No. 1600-2020-0288-R1), dated 7/26/2021 (Attachment 4C)
- Botanical Survey Report prepared by Hohman & Associates, dated 9/5/2019 (Attachment 4D)
- Cannabis Relocation and Restoration Plan prepared by Natural Resources Management Corporation, dated 11/2/2022 (Attachment 4E)
- Road Evaluation Report prepared by Praj White, PE, of NorthPoint Consulting Group, dated 2/18/2019 (Attachment 4F)
- Less Than Three Acre Conversion Mitigation Plan prepared by Steven Hohman, RPF, dated February 2021 (Attachment 4G)

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 similar, with no substantial increase than the initial project for which the MND was adopted.

Project impact analysis of conformance to the Mitigated Negative Declaration and 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 California Historical Resources

Information System – Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria. After reviewing project materials, Melanie J. McCavour, Ph.D., the Tribal Historic Preservation Officer for the Bear River Band of the Rohnerville Rancheria, found that the project is unlikely to have significant impacts on cultural resources and recommended that the standard inadvertent discovery protocol be applied to the project, which has been incorporated as a condition of approval (**Condition A17**).

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 several watercourses 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 3,792 square feet of existing mixed-light cultivation in a Forestry Recreation (FR) 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 a Forestry Recreation (FR) zone. No new increased cultivation will occur. A Less Than Three Acre Conversion Mitigation Plan was prepared to address the unpermitted conversion of 2.95 acres of timberland. Recommendations of the plan are included as a condition of approval for this project (**Condition A21**).

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 (**Condition A23**).

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

- The project uses in part a diversionary water source for irrigation and is therefore conditioned to forebear from May 15th to October 31st of each year (**Condition A10**).

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

- The project uses a generator for emergency backup only. The generator must comply with standard regulations pertaining to noise (**Conditions B1 and B3**).

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 (**Condition B20**).

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).

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

- The project is for mixed-light cultivation. All artificial light utilized in mixed-light greenhouses shall be limited to 6 watts per square foot and shall be fully contained within structures such that no light escapes it. Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife (**Condition B2**).

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 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.