

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 (MND)
(State Clearinghouse # 2015102005), January 2016**

**APN 222-083-007; 1925 Old Somerville Creek Road, Briceland 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 in order 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 an existing 12,100 square foot (SF) mixed light cannabis cultivation, including 1,210 SF of ancillary propagation. Irrigation water is currently sourced from an existing groundwater well; however, the applicant proposes to switch to use of an already permitted stream diversion. Existing available water storage is 40,100 gallons in various hard-sided tanks with an additional 80,000 gallons proposed, for a total of 120,100 gallons of onsite water storage, including 1,100 gallons and 2,500 gallons dedicated to domestic and fire suppression use, respectively. Estimated annual water usage is 171,468 gallons. Drying, bucking, and processing occur onsite. A maximum of four (4) persons will be onsite during peak operations. Power for cultivation is provided by two (2) generators, with a third generator utilized for back-up power. A Special Permit is also requested for development within the Streamside Management Area (SMA) for continued use and maintenance of the point of diversion infrastructure.

No known significant archaeological resources are in the project area. The project was referred to the Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council in April 2021. A Cultural Resources Investigation was performed by Arsenault and Associates (not dated on file and confidential), in which no significant prehistoric or historic cultural resources were found. Ongoing conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources, consistent with the Report and comments received from the Bear River Band of the Rohnerville Rancheria in October 2021.

The project site contains riparian habitat associated with three (3) watercourses that traverse the site, including a Class II (Somerville Creek) and two (2) Class III watercourses. All approved cannabis cultivation activities would occur outside of the required stream setbacks and on slopes less than 50%. The Nearest Northern Spotted Owl (NSO) positive observation is located approximately 0.92 miles from the nearest cultivation area, with the nearest NSO activity center located approximately 1.14 miles away. Artificial lighting is used to support the mixed-light cultivation and propagation area. Two (2) generators are currently utilized for power, with a third generator utilized for back-up. Conditions of approval require the applicant to submit a revised energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing), how the size of the generator is reasonable based on the power demand, and how the operation will

transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026. Additionally, conditions of approval require the applicant use noise attenuation and ensure supplemental lighting associated with the mixed-light cultivation and ancillary propagation is fully contained with black out tarps to ensure the project has a Less than Significant Impact on NSO. Furthermore, conditions of approval also require the applicant refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. 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 supplemental lighting and security lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources as a result 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;
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 12,100 SF of existing mixed light cultivation including ancillary propagation within nine (9) greenhouses. The project will not significantly impact scenic vistas or public

views as the project will occur within an area that is surrounded by forested land. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. Less than significant impact.

Agriculture and Forestry Resources: The project involves an agricultural activity on a parcel zoned as Timberland Production Zone (TPZ), in which all general agricultural uses are principally permitted. 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 timber conversion occurred after the CMMLUO environmental baseline date of January 1, 2016, and no additional timber conversion is proposed or authorized under the permit. Less than significant impact.

Air Quality: Minimal construction activities are associated with the project. Construction activities included development of the cultivation and nursery spaces, storage areas, and water storage tanks, which required 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 a gravel road, and traffic on gravel roads contribute to PM₁₀, for which the North Coast Air Basin is already in non-attainment. However, a maximum of four (4) people will be onsite during peak operations and a significant increase in traffic is not expected under the project, as this is an existing operation. 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 Briceland area west of Somerville Creek (Class II), which traverses the site, in addition to two (2) Class III watercourses. All cultivation outside of all required Streamside Management Area (SMA) buffers.

Surrounding lands include private timberland. Specific information on the slopes where cultivation is located on the subject site was not provided by the applicant. However, natural slopes within the vicinity of where cultivation occurs is mapped between 15% and 50%, as per the County GIS portal.

Per review of CDFW's California Natural Diversity Database (CNDDDB), there are no mapped sensitive species onsite and the nearest Northern Spotted Owl (NSO) sighting and activity center are located approximately 0.92 miles and 1.14 miles from the nearest cultivation area, respectively. Conditions require the applicant to implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife, as well as transition to 80% renewable energy by the end of 2026. It was determined that the project and operations will have less than significant impacts with adherence to the recommended conditions of approval. Less than significant impact.

Cultural Resources: No known archaeological or historic resources occur within the project area. A Cultural Resources Investigation was performed by Arsenault and Associates (not dated on file and confidential), in which no significant prehistoric or historic cultural resources were found. However, the project will adhere to the Inadvertent Discovery Protocol in the event of inadvertent discovery of resources, as recommended in the Report and requested by the Bear River Band of the Rohnerville Rancheria in October 2021. Less than significant impact.

Energy: The project is for existing mixed light cannabis cultivation with on-site ancillary propagation, drying, and processing activities. Power is currently provided by two (2) generators, with a third

generator utilized for back-up. Conditions of approval require the applicant to submit a revised energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing), how the size of the generator is reasonable based on the power demand, and how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026, and utilize noise containment structures for the generators. The project would continue to utilize the generators for back-up 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 parcel is mapped in the County GIS as “moderate instability” (2). Specific information on the slopes where cultivation is located on the subject site was not provided by the applicant. However, natural slopes within the vicinity of where cultivation occurs is mapped between 15% to 50%, as per the County GIS portal. The applicant will be required to secure permits for all structures and grading related to the cannabis cultivation and other commercial cannabis activity, including but not limited to, existing and proposed greenhouses, water tanks over 5,000 gallons, existing and proposed structures associated with drying, processing, and storage, or any activity with a nexus to cannabis, and any noise containment structures as necessary. Additionally, cultivation activities are limited to the immediate area surrounding the greenhouses, and irrigation runoff and erosion control measures are implemented. Less than significant impact.

Greenhouse Gas Emissions: The project currently utilizes two (2) generators, with a third utilized for back-up power. However, conditions of approval require the applicant to submit a revised energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing), how the size of the generator is reasonable based on the power demand, and how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026. The project would continue to utilize the generators for back-up 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 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 a high fire risk area; however, no significant wood framed structures will be constructed as part of this project. Additionally, conditions require fire-resistant materials be utilized for construction of the generator containment structures. 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 12,100 square feet of mixed light cannabis cultivation, including ancillary propagation, and processing activities. 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. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned as Timberland Production Zone (TPZ), 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, surrounded by 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 of typical agricultural operations, and the use of the generators; however, the applicant is required to transition to 80% renewable energy before the end of 2026, and noise attenuation measures will be implemented as conditions of approval. 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. A maximum of four (4) people may be onsite during peak operations. 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 12,100 square feet of cannabis cultivation with ancillary propagation and processing activities on a parcel where agricultural activities are principally permitted. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a school or park. Less than significant 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 four (4) people may be onsite during peak operations. Access to the site is via a private drive on Old Somerville Creek Road (which traverses the site), a non-County-maintained road via Old Briceland Road (a County-maintained road) to Briceland Thorne Road (a County-maintained Category 4 road). A Road Evaluation Report was prepared by a representative of the applicant in July 2018 for a 1.9-mile segment of Old Somerville Creek Road, which indicates the roadway can accommodate the increased traffic from the proposed use. The project is conditioned to require all driveways and public road intersections onto the County Road be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance) and improve the access road (Old Somerville Creek Road) to commercial driveway standards, which includes paving the access road (Old Somerville Creek Road) for a minimum width of 20 feet and a length of 50 feet where it intersects the County road (Old Briceland Road). Less than significant impact.

Tribal Cultural Resources: No known cultural resources are located within the project area. A Cultural Resources Investigation was performed by Arsenault and Associates (not dated on file and confidential), in which no significant prehistoric or historic cultural resources were found. The project will adhere to the Inadvertent Discovery Protocol in the event of inadvertent discovery of resources, as recommended in the Report and requested by the Bear River Band of the Rohnerville Rancheria in October 2021. Less than significant impact.

Utilities and Service Systems: Green waste material is composted onsite within a small area equipped with perimeter and top containment. Other materials, unsuitable for composting, are stored in conventional lid trash containers along with domestic waste, and hauled to an approved transfer station/disposal facility, as needed, as described in the Cultivation and Operations Plan. The project will provide portable toilets and handwashing stations for cultivation staff until permanent ADA accessible facilities are developed. Water for propagation and cultivation is currently sourced from a groundwater

well and associated storage tanks; however, conditions of approval require that use of the well must cease prior to the 2024 cultivation season. The applicant proposes to switch to use of an already permitted spring diversion, and will also be required to add additional water storage tanks and rainwater catchment infrastructure to ensure a sufficient water supply is available to support the project. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. The project will not develop any 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 12,100 square feet of cultivation with onsite 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 (see Attachment 4 for a complete listing of documents):

- Site Plan prepared by ETA Humboldt, received 11/1/21.
- Cultivation and Operations Plan, not dated, and addendum, received 1/23/23.
- Right to Divert and Use Water (Registration ID: H505220; Certificate No.: H100557) issued by the State Water Resources Control Board, dated 12/28/18.
- Site Management Plan (SMP) prepared by ETA Humboldt, dated 10/19/20) for the State Water Resource Control Board (State Water Board) Cannabis Cultivation Policy (Cannabis Policy) and Order WQ 2017-0023-DWQ General Waste Discharge Requirements for Dischargers of Waste Associated with Cannabis Cultivation Activities (General Order).
- Notice of Applicability (WDID: 1_12CC417915) issued by the North Coast Regional Water Quality Control Board, dated 7/31/19.
- Final Streambed Alteration Agreement issued by the California Department of Fish and Wildlife (Notification No. 1600-2016-0094-R1), dated 7/11/16.
- Less Than Three Acre Conversion Exemption (1-15EX-101HUM) issued by CAL FIRE, dated 4/6/15.
- Cultural Resources Investigation for the Burr Road Commercial Cannabis Cultivation prepared by Arsenault & Associates, not dated.
- Energy Generation and Consumption Plan, dated 10/20/21.

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 and the Intertribal Sinkyone Wilderness Council. The project was referred to the Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council in April 2021. A Cultural Resources Investigation was performed by Arsenault and Associates (not dated on file and confidential), in which no significant prehistoric or historic cultural resources were found. The project will adhere to the Inadvertent Discovery Protocol in the event of inadvertent discovery of resources, as recommended in the Report and requested by the Bear River Band of the Rohnerville Rancheria in October 2021.

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. Three watercourses (one Class II and two Class III) watercourses traverse the site. However, all cultivation areas occur outside of all required SMA buffers.

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

- The project is for 12,100 square feet of existing mixed light cultivation with ancillary propagation and processing activities in a Timberland Production Zone (TPZ) 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 the Timberland Production Zone (TPZ) zoning district. No new increased cultivation will occur. Review of historic aerial imagery dating back to 2004 indicates between 2005 and 2009 approximately 0.98 acres of timber was converted on the subject site, before the CMMLUO environmental baseline date of January 1, 2016. A Less Than Three Acre Conversion Exemption (1-15EX-101HUM) was issued by CAL FIRE in April 2015, which authorized a total of 2.5 acres of timberland to be converted on the subject property. The converted areas appear to generally correspond with the timber conversion map included in the Less Than Three Acre Conversion

Exemption; however, it appears a larger conversion area proposed within the southwestern portion of the subject property was not converted. No timber removal is proposed or authorized under this permit, and no restocking is required.

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)).

- Water for propagation and cultivation is currently sourced from a permitted groundwater well and associated storage tanks; however, conditions of approval require that use of the well must cease prior to the 2024 cultivation season, as the well has not been accessed for hydrological connectivity. The applicant proposes to switch to use of an already permitted spring diversion, and will also be required to add additional water storage tanks and rainwater catchment infrastructure to ensure a sufficient water supply is available to support the project. Conditions of approval require continued compliance with all terms and conditions of the *Right to Divert and Use Water* (Registration ID: H505220; Certificate No.: H100557), issued by the State Water Resources Control Board (SWRCB) in December 2018, for use of the spring diversion.

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

- Power is currently provided by two (2) generators, with a third generator utilized for back-up. The project is conditioned to require the applicant to submit a revised energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing), how the size of the generator is reasonable based on the power demand, and how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026. Additional conditions require that noise from generators not exceed 50 decibels at 100 feet or edge of clearing whichever is closer, and utilize noise containment structures.

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 includes onsite processing activities, and the operations plan describes operational practices and employee safety standards.

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

- The project includes mixed light cultivation with ancillary propagation, both of which artificial lighting. Conditions of approval require the applicant to implement light attenuation measures. Such measures include required compliance with International Dark Sky Association standards Lighting Zone 0 and Lighting Zone 1, and requiring the project be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare (BUG). No use

of artificial lighting is authorized by this permit until the applicant can demonstrate compliance with these 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 December 16, 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.