

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

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

APN 316-071-004; 33818 State Highway 299, Korbek, County of Humboldt

**Prepared By
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Background

Modified Project Description and Project History –

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015, was included in the environmental baseline for the MND and the MND states that “Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting.” The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

The modified project involves a Conditional Use Permit for continued cultivation of 47,700 square feet (SF) of existing cannabis cultivation in addition to 4,777 SF of ancillary propagation. All water for cultivation is sourced from a permitted, confined aquifer well. Existing available water storage is 147,000 gallons in a series of hard-sided tanks. Estimated annual water usage is 346,500 to 480,000 gallons. Drying and curing occurs onsite in an existing multi-use shed, with all other processing occurring offsite at a licensed processing or manufacturing facility. Power is provided by five (5) generators, with long-term plans to switch to Pacific Gas and Electric Company (PG&E) power. Two (2) harvests from the mixed light cultivation areas and one (1) harvest from the outdoor cultivation areas are anticipated annually for a growing season that extends from May through October.

A search of CDFW’s California Natural Diversity Database (CNDDDB) was performed on September 12, 2022. No special-status species have been documented on the project site. The nearest known Northern spotted owl (NSO) positive observation site is greater than 0.5 miles from the cultivation site and the cultivation site is located approximately 0.37 miles from the nearest NSO activity center. The project proposes mixed-light cultivation and is conditioned to ensure any lighting adheres to Dark Sky Association standards. As previously described, power is currently provided by five (5) generators, although the applicant has long-term plans to switch to PG&E. Conditions of approval require the applicant to submit an 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) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026.

Additional conditions of approval require the applicant to refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. Additional measures that would also protect biological resources are identified in the SMP prepared for the project and include drainage, runoff, and erosion control; watershed and habitat protection measures; and proper application, storage and disposal of fertilizers, pesticides, herbicides, and petroleum products. The project has a dedicated shed for fuel and nutrients near the cultivation area, as shown on the Plot Plan Map for Phase 1. Per the SMP, fertilizers, pesticides, and herbicides are applied at agronomic rates specified on the product label and the applicant keeps a log of their fertilizers, pesticides and herbicides use for annual reporting to the SWRCB. No trash or debris will be allowed to enter a watercourse or riparian setback area. The location of compostable cultivation waste is stored in a location and manner where it cannot be transported to surface waters. 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.

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 47,700 SF of existing cultivation of which 21,942 SF is existing mixed light cannabis cultivation in an existing timberland area. The project will not significantly impact scenic vistas or public views. Ancillary propagation occurs in the northwestern portion of the subject property in three greenhouses totaling 4,777 SF. The project will not significantly impact scenic vistas or public views as the project will occur within an existing open 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 will utilize 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. Less than significant impact.

Air Quality: No construction is proposed for the project. 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, there will be a maximum of five (5) people onsite during peak operations and a significant increase in traffic is not expected under the project. The project gains access directly off of State Highway 299 to the project's private driveway. The project would not result in significant sources of greenhouse gas emissions. The use of these internal roads for this cannabis project does not represent a substantial change or additional significant impact as they have been utilized for this purpose prior to the environmental baseline established under the MND. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. Less than significant impact.

Biological Resources: The project is in the Lower Trinity Planning watershed containing six (6) Class II watercourses and one (1) Class I watercourse (Ruby Creek) a tributary to Willow Creek flowing east to west in the upper portion of the subject parcel and approximately 1,900 feet to the south of the cultivation site. The surrounding lands are agricultural lands with interspersed open areas and stands of timber. Most of the site is forested and hilly. A search of CDFW's California Natural Diversity Database (CNDDDB) was performed on September 12, 2022. No special-status species have been documented on the project site. The nearest known Northern spotted owl (NSO) positive observation site is greater than 0.5 miles from the cultivation site and the cultivation site is located approximately 0.37 miles from the nearest NSO activity center. The project proposes mixed-light cultivation and is conditioned to ensure any lighting adheres to Dark Sky Association standards. As previously described, power is currently provided by five (5) generators, although the applicant has long-term plans to switch to PG&E. Conditions of approval require the applicant to submit an 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) and how much power is required on a monthly and annual basis. The energy plan shall also include a

description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026. 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: A Cultural Resources Investigation, dated November 2022 by Archaeological Research Supply and Company, in which no cultural resources were identified and included the standard inadvertent discovery protocol. The Report recommended inclusion of the standard inadvertent discovery protocol, which has been incorporated into the project as an informational note. The Report found one (1) historic isolate was identified during the archaeological survey. However, the historic isolate is located outside of the Area of Potential Effect (APE) and will remain unaffected by the project activities. The project will adhere to the Inadvertent Discovery Protocol. Less than significant impact.

Energy: Power is provided by five (5) generators, with long-term plans to switch to Pacific Gas and Electric Company (PG&E) power. The generators comprise of four (4) 3-kilowatt (KW) Honda and one (1) 3.6KW self-priming GX160 Honda water pump. As previously described, conditions of approval require the applicant to submit an 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) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. A Technical Memorandum (APN 316-071-004 Erosion Remediation (Sexton Property) was prepared by Stillwater Sciences, dated 5/30/17, to assess the roads and culverts on the subject parcel and develop a remediation plan that decreases sediment delivery to Willow Creek and surrounding tributaries. The subject parcel is located in mountainous terrain with steep slopes (30%-70%) supporting conifer and hardwood stands. It is stated in the Technical Memorandum that evidence of slope instability within the Quaternary unit located along the northern extent of the property directly adjacent to State Highway 299 was observed. Stillwater Sciences inspected thirteen (13) road/stream crossings and one (1) well location, and the Technical Memorandum includes recommendations for numerous improvements on the subject site. As a condition of approval, the applicant shall implement all remaining erosion prevention improvements, culvert upgrades, and Best Management Practices (BMPs) identified in the Technical Memorandum. Less than significant impact.

Greenhouse Gas Emissions: The site uses five (5) generators, with long-term plans to switch to Pacific Gas and Electric Company (PG&E) power. The generators comprise of four (4) 3-kilowatt (KW) Honda and one (1) 3.6KW self-priming GX160 Honda water pump. As previously

described, conditions of approval require the applicant to submit an 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) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026. 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 very 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. The project is accessible via access road directly off of State Highway 299 at all times of the year providing adequate access to any emergency response vehicles. Less than significant impact.

Hydrology and Water Quality: The project is for a total of 47,700 square feet of cannabis cultivation. The project will not degrade any water sources or contribute to sedimentation. Cannabis will be grown in full-sun outdoor and within greenhouse structures utilizing light deprivation techniques, and mixed light cannabis cultivation allowing for retention of evapotranspiration marginally decreasing irrigation needs. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned for Timberland Production Zone (TPZ). 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. The area has been in agricultural production for more than 10 years. Noise sources from the operation will include typical farm equipment such as tractors. The greenhouses utilized for cultivation will utilize fans. The applicant is proposing to dry on-site in a proposed 2,160 square foot drying building. Drying would involve the use of dehumidifiers. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The project is conditioned to include a maximum of 50 decibels at 100 feet or nearest clearing (whichever is closest) from all noise generating sources. 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 full-sun outdoor, outdoor utilizing light deprivation, and 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. The project will not use any employees used for cultivation related activities. No impact.

Public Services: The project is for a total of 47,700 square feet of cannabis cultivation on a site where agriculture and timber production 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: There will not be any employees used for cultivation related activities under the project. The parcel is accessed directly off of State Highway 299, which is maintained by Cal Trans. The project site will also have adequate emergency access. Less than significant impact.

Tribal Cultural Resources: A Cultural Resources Investigation, dated November 2022 by Archaeological Research Supply and Company, in which no cultural resources were identified and included the standard inadvertent discovery protocol. The Report recommended inclusion of the standard inadvertent discovery protocol, which has been incorporated into the project as an informational note. The Report found one (1) historic isolate was identified during the archaeological survey. However, the historic isolate is located outside of the Area of Potential Effect (APE) and will remain unaffected by the project activities. The project will adhere to the Inadvertent Discovery Protocol. Less than significant impact. Less than significant impact.

Utilities and Service Systems: All cultivated related waste will be stored in watertight trash containers in a storage shed and disposed of weekly. The project will only dry and cure onsite and all other processing will be performed by a licensed 3rd party processing company. Water for propagation and cultivation is sourced from a permitted groundwater well. 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 19,500 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:

- Site Plot Plan prepared by Green Road Consulting, dated 12/9/21.
- Site Plan Overview and Cultivation and Operations Plan prepared by Green Road Consulting, dated 1/24/2020.
- Cultivation and Operations Plan Addendum, prepared by Green Road Consulting, received 12/9/21.
- Cultivation and Operations Plan Addendum, prepared by Green Road Consulting, dated 10/8/22.
- California Department of Fish and Wildlife (CDFW), Streambed Alteration Agreement (SAA), No. 1600-2017-0319-R1, received 11/29/17.
- California Department of Fish and Wildlife (CDFW), Amendment to Streambed Alteration Agreement (SAA), No. 1600-2017-0319-R1, dated 12/21/22.
- Site Management Plan (WDID No. 1B161626CHUM) prepared by Green Road Consulting, dated 7/17/2019, prepared for the State Water Resource Control Board (SWRCB) and North Coast Regional Water Quality Control Board (NCRWQCB).
- *Hydrologic Isolation of Existing Well from Surface Waters, 33818 Highway 299, Willow Creek, APN: 316-071-004, WCR2017-001220*, prepared by Lindberg Geologic Consulting, dated 5/31/22.
- State of California, Department of Transportation, Encroachment Permit, received February 2021.
- Technical Memorandum, APN 316-071-004 Erosion Remediation, prepared by Stillwater Sciences, dated 5/30/17.
- A Cultural Resources Investigation of the Willow Creek Machado Property Final Reports APN: 316-071-004, prepared by Archaeological Research and Supply Company, dated November 2022.
- Department of Public Works Humboldt County, Road Evaluation Review Comments, dated 2/7/18.

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 Northwest Information Center at Sonoma State and sent emails requesting information to the Bear River Band of the Rohnerville Rancheria, the Hoopa Valley Tribe, and the Tsnungwe Council in August 2017. A Cultural Resources Investigation dated November 2022, by Archaeological Research Supply and Company, in which no cultural resources were identified and included the standard inadvertent discovery protocol. The Report recommended inclusion of the standard inadvertent discovery protocol, which has been incorporated into the project as an informational note. The Report found one (1) historic isolate was identified during the archaeological survey. However, the historic isolate is located outside of the Area of Potential Effect (APE) and will remain unaffected by the project activities. 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: 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 4: 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 5: Generator Use (55.4.11(o)).

- As conditioned the project will use a generator for emergency backup only. The project is conditioned requiring that noise from the generator will not exceed 50 at 100 feet or nearest edge of habitat whichever is closest.

Mitigation Measure 6: 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 7: 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 ancillary processing, and the operations plan describes processing practices and employee safety standards.

Mitigation Measure 8: 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 9: Sunset Clause for applications

- The application was received on November 5, 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.