

ATTACHMENT 3

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

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

**APN 208-341-021; 16533 Cobb Road, Dinsmore
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 10,000-square-foot (SF) outdoor cannabis cultivation within four adjacent greenhouses and within a 971-SF ancillary nursery propagation greenhouse. The parcel does not include any existing residence or septic system. Drying and seasonal cloning would continue in an existing 288 SF drying shed. Security measures include locked containment for product storage, locked gate access, surveillance and monitoring systems, and an alarm system. The project anticipates 2 – 4 employees. The applicant would use generators for 100% of its energy needs until Pacific Gas and Electric connects to Cobb Road or a solar power system capable of supplying 80% of annual energy demands can be established by the beginning of the 2025 cultivation season. The project will ensure that noise from the generator will not be audible by humans on neighboring residences or exceed 50 decibels at the property line.

Irrigation water will be sourced from an existing 350-foot-deep well evaluated by David Lindberg, CEG, titled *Hydrologic Isolation of Existing Well from Surface Waters*. In Lindberg’s professional opinion, the subject well does not appear to be hydrologically connected to, or capable of influencing surface water flows in the Van Duzen River. Nor does this well appear to be hydrologically connected to any local springs or ephemeral wetlands. Given the horizontal distances involved, the elevation differences between the water-producing zone in the subject well, and the surface waters of the nearest watercourses, the potential for significant hydrologic connectivity between surface waters and groundwater in the deeper bedrock aquifer appears low.

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 on 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; 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 cannabis cultivation site consisting of 10,000 SF of cultivation with ancillary nursery propagation. These features were in place at the establishment of the ordinance and adoption of the MND for the project and are considered environmental baseline. The existing cultivation is surrounded by heavy forestland and will not be visible from any public vistas. The project will not create a new source of light or glare. No impact.

Agriculture and Forestry Resources: 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: No additional construction or traffic is proposed as part of this project beyond that

considered in the MND prepared for the CMMLUO. No Impact.

Biological Resources: A Biological Assessment Report has not been prepared for the project. According to the CDFW Resource Map for the project site, there are no special-status species on the project site or adjacent parcels. There are Northern Spotted Owl (NSO) observations within 4,000 feet of the project site to the north. Due to the distance from the parcel, cultivation activities are not expected to affect this activity center. Noise will not likely be a factor since the generator is contained within a shed on APN 208-071-032. The project has been conditioned to abide by the recommendations of the LSAA to have all outside lighting on timers or motion sensors to reduce light exposure to wildlife and their potential habitat and avoid heavy equipment operations during the NSO critical period (February 1–July 31) or perform protocol-level surveys prior to initiating that work. Furthermore, the project is conditioned to adhere to Dark Sky Association standards for any future greenhouse lighting and security lighting, refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect NSO or other sensitive species. Less than significant impact.

Cultural Resources: A records search conducted by the Northwest Information Center indicated that approximately 30% of the proposed project area, identified no cultural resources within those portions of the proposed project area. A Cultural Resources Investigation Report was prepared in April 2018 by Archaeological Research and Supply Company. A pedestrian survey of three acres of the 12 acres parcel was conducted in April 2018. Survey techniques included 15-meter transects and shovel probes every 15-meters where necessary due to limited visibility. No pre-existing resources were located on the subject parcel, and none will be impacted by this project if the mitigation recommendations are followed, including the Inadvertent Discoveries Protocol. The Tribal Historic Preservation Officer with the Bear River Band of Rohnerville Rancheria recommended that the standard inadvertent archaeological discovery language be included. No Impact.

Energy: The applicant would use generators for 100% of its energy needs until Pacific Gas and Electric connects to Cobb Road or a solar power system capable of supplying 80% of annual energy demands can be established by the 2025 cultivation season. The requirement for renewable power does not conflict with or obstruct any state or local plan for renewable energy or energy efficiency. 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 flat land that has historically been used for agriculture. No significant grading will occur.

Greenhouse Gas Emissions: The applicant would use generators for 100% of its energy needs until Pacific Gas and Electric connects to Cobb Road or a solar power system capable of supplying 80% of annual energy demands can be established by the 2025 cultivation season. 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 cultivation area is situated in a topographically flat area with slopes less than five percent. The cultivation areas are approximately 1,460-1,550 feet from the nearest watercourse bank, the Van Duzen River, based on HumWebGIS and the report prepared by a report prepared by David Lindberg, CEG, titled Hydrologic Isolation of Existing Well from Surface Waters (hereafter the “hydrologic evaluation report;” According to this report and the Watershed Resources Protection Plan, there are no watercourse crossings on the subject parcel. In addition, no springs are mapped in Section 11 on the USGS Dinsmore, CA (1977) topographic quadrangle map (Figure 1 in hydrological evaluation report). The elevation of this well site is approximately 2,620 feet. At its nearest point southwest of this well, the elevation of the Van Duzen River is slightly more than 2,400 feet (based on interpolation from the 1977 USGS Dinsmore topographic quadrangle map and the Humboldt County WebGIS in the hydrological report. Therefore, the elevation of the bottom of 350-foot deep well is 2,270 feet, so the well bottom is approximately 130 feet lower than the Van Duzen River.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned to allow for Agriculture. The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact.

Mineral Resources: No mining is proposed. The project will not result in the loss of availability of a known mineral resources that would be of value to the region and the residents of the state. The project will not result in the loss of availability of a locally important mineral resource recover site. No impact.

Noise: Power is provided by one Honda 7000 generator housed within a noise containment shed as Pacific Gas and Electric services are not currently available on Cobb mountain. The project will ensure that noise from the generator will not be audible by humans on neighboring residences or exceed 50 decibels at the property line. The shortest distance from the generator’s normal location to the property line is approximately 50 feet. Honda Specifications for the Honda EU700iS generator indicate that running at a full load will result in 58 decibels of sound at 23-feet away. Doubling that distance to 46-feet away will reduce the noise level by 6 dB resulting in a noise level of 52 dB at the property line. The position of the generator relative to the property line and principles of sound attenuation indicate that the use of the generator will meet noise requirements for generators set forth by the county in the CCLUO (Ord. 2559; section 55.4.11o.). A further reduction of at least 2 dBA will be achieved by adding insulation to the enclosure or by moving the generator to the west until a handheld decibel reader shows a reading of 50 dBA or less at the edge of the habitat (tree line). These practices shall achieve a level of 50 decibels attenuated (dBA) at habitat suitable for Marbled Murrelet and Northern Spotted Owl.
No 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 existing 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: The project anticipates 2 – 4 employees. A photo-documented Road Evaluation Report was prepared for the project by DTN Engineering and Consulting in April 2019 for Cobb Road from Highway 36 to APN 208-341-021 (post mile 0.30). The report checked Box 3 and concluded that the roadway could accommodate the cumulative increased traffic from this project and all known cannabis projects if the recommendations in report are carried out. The recommendations included fixing the exposed culvert, cleaning ditches, re-establishing roadside ditches, and to construct waterbars and rolling dips in accordance with Title III Land Use and Development Division 11 Fire Safe Regulations. With these improvements Cobb Rd would be safe for vehicular travel. Less than significant impact.

Tribal Cultural Resources: A Cultural Resources Investigation Report was prepared in April 2018 by Archaeological Research and Supply Company. A pedestrian survey of three acres of the 12 acres parcel was conducted in April 2018. Survey techniques included 15-meter transects and shovel probes every 15-meters where necessary due to limited visibility. No pre-existing resources were located on the subject parcel, and none will be impacted by this project if the mitigation recommendations are followed, including the Inadvertent Discoveries Protocol. The Tribal Historic Preservation Officer with the Bear River Band of Rohnerville Rancheria recommended that the standard inadvertent archaeological discovery language be included.

Utilities and Service Systems: Solid waste is taken to the Eel River Transfer Station in an amount the service station is capable of handling. Water for propagation and cultivation is sourced from an onsite 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 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:

- Site Plan prepared by A.M. Baird Engineering & Surveying dated 6/23/17, received 9/22/17.
- Operations Manual dated 8/6/17 prepared by AgDynamix, received 8/22/17.
- Water Resource Protection Plan dated 2/1/17 prepared by Natural Resource Management Corporation (NRM) for the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. 2015-0023-DWQ, received 8/22/17.
- Report of Unauthorized Timberland Conversion Inspection and Recommendations dated 12/28/17.
- CDFW No Lake or Streambed Alteration Agreement Needed, Notification No. EPIMSHUM-24860-R1; APN: 208-341-021-000, 2/4/22.
- Well Completion Report prepared by Travis Bowen, received 8/22/17.
- Building Inspection Division referral response dated 2/1/18.
- Cultural Resources Investigation of the Bowen Property prepared by Archaeological Research and Supply Company, dated April 2018, received 10/25/18.
- Confidential email from Erika Cooper, Tribal Historic Preservation Officer of the Bear River Band of the Rohnerville Rancheria, dated 4/5/18.
- Federal Aviation Administration Determination of No Hazard to Air Navigation issued on 4/5/22.
- Well Evaluation Report prepared by Lindberg Geologic Consulting dated August 29, 2022 received September 1, 2022.

Other CEQA Considerations

Staff suggests no changes for the revised project.

EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT

See **Purpose** statement above.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial project for which the MND was adopted.

Project impact analysis of conformance to the Mitigated Negative Declaration Substituted Mitigation Monitoring and Reporting Program

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.10(o) and 55.4.10(c)).

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State and Bear River. A Cultural Resources Investigation was prepared. The investigation final report was reviewed by the Bear River Tribal Historic Preservation Office which recommended the standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval. 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 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 10,000 square feet of existing cultivation in an Unclassified 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 a Unclassified zone. No new increased cultivation will occur. There was tree removal conducted previously which was assessed by a Registered Professional Forester for compliance with CalFire regulation. CalFire was provided a copy of the assessment and provided the opportunity to amend the recommendations of the Forester.

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 does not utilize diversionary water.

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

The project uses a generator and will transition to PG&E or on-site renewable power. The project is conditioned requiring that noise from the generator will not exceed 60 decibels at the property line.

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 ancillary processing and the operations plan describes processing practices and 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 prior to December 31, 2016.

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.