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 221-071-020 Salmon Creek Area
County of Humboldt

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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.

A Conditional Use Permit for 28,500 square feet of existing outdoor commercial cannabis cultivation supported by a 1,900 square foot ancillary nursery. Estimated annual water usage is 300,000 gallons and is sourced from rainwater catchment. Water storage consists of an approximately 600,000-gallon pond and 9,900 gallons in tanks. Onsite processing is proposed, and electricity is provided by solar and generators. The project is conditioned to transition to renewable energy by January 1, 2026 reserving generator use for emergencies only. The project includes onsite relocation and restoration.

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 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 MND if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent Environmental Impact Report (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 28,500 square feet of existing outdoor commercial cannabis cultivation including ancillary propagation. 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 as the project is conditioned to adhere to International Dark Sky Association standards. Less than significant impact.

Agriculture and Forestry Resources: The project involves agricultural activity on a parcel zoned as Unclassified (U), 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 is proposed or authorized under the permit. Less than significant impact.

Air Quality: No new construction is proposed. 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 PM_{10}, for which the North Coast Air Basin is already in non-attainment. However, no additional employees are proposed and 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: A review of the California Natural Diversity Database indicates the likely presence of the Giant Fawn Lily (*Erythronium oregonum*) a rare, ranked plant. A qualified biologist conducted single survey on April 3, 2019 of Cultivation Areas #2 and #3. This survey concluded that the Giant Fawn Lily was not present in these two areas. However, other areas associated with the cannabis operations such as storage buildings and the processing building as well as the immature plant area were not surveyed. An additional analysis by staff indicates that these areas were likely already disturbed for cannabis operations prior to baseline. Therefore, the project is conditioned to require additional survey for the Giant Fawn Lily only if any new ground disturbance, relocation, reconfiguration, or placement of structures is proposed to occur outside the areas surveyed in and around Cultivation Areas #2 and #3 in April 2019 The nearest mapped Northern Spotted Owl activity centers are (HUM0976) approximately 2.2 miles to the north and (HUM0699) approximately 3 miles to the west. The project has been conditioned to ensure supplemental lighting associated with the onsite nursery adheres to Dark Sky Association standards including security lighting 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. 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: The project was referred to the Northwest Information Center, Intertribal Sinkyone Wilderness Council, and the Bear River Band of the Rohnerville Rancheria. A Cultural Resources Investigation was not conducted. The Bear River Tribal Historic Preservation Officer requested the standard inadvertent discovery protocol. Less than significant impact.

Energy: The project is for existing cannabis cultivation with on-site ancillary propagation. Power is provided by solar and generators. The project is conditioned to transition to renewable energy reserving generators for emergency use only. 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 high instability. The existing cultivation is in areas ranging from 30% slope or less. Cultivation areas are located on existing flats. 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 greenhouses, water tanks over 5,000 gallons, existing 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 cultivation areas, and irrigation runoff and erosion control measures are implemented. The project must produce a Site Management Plan in accordance with the State Water Board General Order. The Less than significant impact.

Greenhouse Gas Emissions: Power is provided by solar and generators. The project is conditioned to transition to renewable energy reserving generators for emergency use only Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides, and fuel in compliance with the California Water Resource Control Board pursuant to Cannabis General Order No. WQ 2019-0001-DWQ. 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 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 28,500 square feet of existing outdoor commercial 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 Unclassified (U), 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 resource 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 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. The project is conditioned limiting noise to 50dB at 100 feet or forest edge, whichever is closer. Less than significant impact.

Population and Housing: No housing is proposed nor is any removal of housing proposed. No employees are proposed as part of the project. 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 outdoor 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 eight employees at peak operation are expected as part of the project. Access roads have been determined to be adequate by an engineer if certain improvements are made. The recommendations by the engineer contained in the road evaluation are part of the project conditions. Less than significant impact.

Tribal Cultural Resources: No known archaeological or historic resources occur within the project area. The project was referred to the Northwest Information Center, Intertribal Sinkyone Wilderness Council, and Bear River Band of the Rohnerville Rancheria. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources. Less than significant impact.

Utilities and Service Systems: Trash and recycling are stored then hauled to an approved transfer station/disposal facility. Toilet and handwashing are available through portable facilities. Water for propagation and cultivation will be sourced from a rainwater catchment pond and associated existing and proposed storage tanks. 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. Project conditions require the removal of unpermitted structures. Less than significant impact.

No changes are proposed for the original MND recommended mitigation measures. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 18,953 square feet of outdoor cultivation with ancillary processing activities is fully consistent with the impacts identified and adequately mitigated in the original MND. The project is conditioned to implement responsible agency recommendations, resulting 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
- Cultivation and Operations Plan

- Road Evaluation
- County GIS
- LSAA
- Giant Fawn Lily Report
- Stream Classification Analysis

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)).

- No known significant archaeological or historic resources occur within the project area. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect 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. 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 28,500 square feet of existing outdoor commercial cannabis cultivation

in a Unclassified (U), 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 Unclassified (U) zoning district. No new increased cultivation will occur. No net conversion is associated with the project.

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 sourced from rainwater catchment.

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

- Project is conditioned to transition to renewable energy by January 1, 2026 reserving generator use for emergencies only. .

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)).

- The project is conditioned that the applicant provides a statement declaring thy 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).
- Processing other than drying is proposed to occur onsite. The project is conditioned for wastewater suitability and commercial occupancy.

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

- The project includes ancillary propagation which may include the use of supplemental lighting. Conditions of approval require the applicant to implement light attenuation measures. Such measures include required compliance with International Dark Sky Association standards for 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.

Mitigation Measure 13: Humboldt Artisanal Branding Provision (55.4.15).

- The proposed project is 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 29, 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 the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.