

HUMBOLDT COUNTY GROWERS ALLIANCE

November, 15 2019

Dear Humboldt County Supervisors,

Please accept the following letter on behalf of the Humboldt County Growers Alliance, representing more than 250+ licensed, tax-paying cannabis businesses in Humboldt County who collectively adhere to some of the strongest environmental, public safety, and public health laws of any industry.

Large-Scale Hemp Production in Humboldt County

HCGA remains strongly opposed to large-scale commercial cultivation of hemp in Humboldt County, such as the 28,000 acres of unlimited-scale cultivation proposed originally by staff, due to substantial risks to our county's cannabis industry. Experience in Southern Oregon, Washington, Colorado, and elsewhere has shown that, once the Pandora's Box of large-scale hemp cultivation is opened alongside an existing cannabis industry, litigation and conflict over pollen drift, pesticide drift, and pests will quickly escalate. Permitholders and the County have invested too many resources into the regulation, growth, and support of the cannabis industry to risk the same outcomes here. To substantiate this point, we encourage your Board to review the articles linked below regarding large-scale hemp cultivation elsewhere in the U.S.

"Cross-pollination drives growing disputes between marijuana, hemp farmers" - Hemp Industry Daily article from November 14 on cross-pollination in Washington and Oregon. An Oregon cannabis farmer estimates that 8% of the state's crop has been lost to pollination due to increases in hemp cultivation.
<https://hempindustrydaily.com/cross-pollination-drives-growing-disputes-between-marijuana-hemp-farmers/>

"Shortage of CBD seeds, clones will leave some farmers out of hemp game this year" - Hemp Industry Daily Article discussing the unreliability of "feminized" CBD-hemp genetics, and the high proportion of male plants.
<https://hempindustrydaily.com/shortage-of-cbd-seeds-clones-will-leave-some-farmers-out-of-hemp-game-this-year/>

"Hemp boom spurs cross-pollination disputes" - Capital Press article documenting pollination by hemp plants in Southern Oregon, including hemp plants grown with what was claimed to be "feminized" seed
https://www.capitalpress.com/state/oregon/hemp-boom-spurs-cross-pollination-disputes/article_e5fd1e99c-c903-11e9-8bdd-73e58f5946b5.html

"Pollen Drift: The Cannabis Industry's Ticking Time Bomb" - Dope Magazine article discussing the seeding of cannabis crops by hemp crops in Pueblo, Colorado. <https://dopemagazine.com/pollen-drift-cannabis-industrys-ticking-time-bomb/>

"10 million pot plants worth \$1 billion destroyed in Kern County" - Los Angeles Times article discussing enforcement against hundreds of acres of cannabis grown under the guise of "hemp" in Kern County. <https://www.latimes.com/california/story/2019-11-04/authorities-destroy-10-million-plants-marijuana-hemp>

Our concerns regarding large-scale hemp cultivation are discussed in more detail in the attached letter, originally submitted by HCGA to the Planning Commission on September 3, 2019 and available on our website.

Small-Scale Hemp Production in Humboldt County

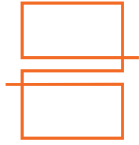
Considerations related to small-scale hemp cultivation are distinct. When conducted on very small scales, HCGA does not have major concerns about pollen drift from CBD-hemp, given that farmers will be able to more easily check their crops for males. As originally communicated in our September 30 letter to the Planning Commission, HCGA remains neutral on small-scale hemp cultivation - such as the 5,000 square foot cultivation allowance originally proposed by staff that included environmental and land use conditions - but with several important caveats:

1. Commercial Viability

There is reason to be skeptical that hemp production will be commercially viable in Humboldt County. The bottom has fallen out of the hemp CBD market this year, with over 500,000 acres of hemp planted nationally, and biomass prices dropping substantially to below \$35/lb. Hemp is being produced nationwide as a commodity product on industrial scales, such as the more than 7,000 acres of hemp currently registered in Kern County alone. The below articles are just a small sample of the widespread reporting over the past several months on the collapse of the hemp market.

Projections: Hemp Supply Increase Threatens Future Margins - Cannabis Business Times article from November 11 assessing current CBD biomass prices at \$2.72 per pound per percentage point of CBD (or, \$27.20/pound of 10% CBD biomass)

<https://www.cannabisbusinesstimes.com/article/projections-hemp-supply-increase-threatens-future-margins/>



HUMBOLDT COUNTY GROWERS ALLIANCE

"Flood of hemp harvest hitting the market could sink price, profits for farmers" - Philadelphia Inquirer article on the collapsing market for hemp CBD due to overproduction.

<https://www.inquirer.com/business/weed/hemp-farming-glut-no-guarantees-supply-us-20190916.html>

The potential for a specialty craft market for hemp flower, particularly for high-CBD smokable flower, is more difficult to project. We are concerned that the existing market for hemp flower is largely due to a short-lived grey area in federal law, the "total THC" loophole, which some have interpreted to allow hemp to contain large quantities of THCa. THCa is a cannabinoid which decarboxylates to THC when smoked, producing the same effects as delta-9 THC in cannabis (i.e. it gets you high). Proposed USDA regulations, once finalized, would clearly close the total THC loophole by incorporating THCa into the definition of hemp, with unclear effects on the market for smokable hemp.

Proposed THC Testing for Hemp Sparks Industry Backlash - Hemp Industry Daily Article discussing the "total THC" issue, proposed USDA rules to close the loophole, and potential effects on the hemp flower market
<https://hempindustrydaily.com/they-just-suffocated-the-farmers-proposed-thc-testing-for-hemp-sparks-industry-backlash/>

Ultimately, we see two possibilities. Either the craft hemp market will not be commercially viable; or, the market will resemble the 'value added' craft THC market, with smokable hemp flower cultivated, processed, and sold in the same manner as cannabis flower, and at comparable prices. In Humboldt County, this means that the future viability of craft hemp production is inextricably tied to Project Trellis marketing efforts funded by Measure S taxes. If this turns out to be the case, and craft smokable hemp flower is commercially viable, it raises significant concerns about parity with cannabis cultivation, land use, taxation and consumer safety, which we outline below.

2. Parity

As has been noted many times, high-THC cannabis and low-THC "hemp" are the same plant: *cannabis sativa*, with different genetics expressing different cannabinoid profiles, but the same growing methods, environmental impact, smell, and quality assurance considerations. However, the difference between the regulation of cannabis and hemp is vast. Your Board has put five years of work into the land use and environmental regulation of cannabis in Humboldt County, mirroring a similar investment of resources at the state level. **By contrast, hemp - the same plant, with identical environmental and land use impact - is almost entirely unregulated at the state level.**

Therefore, if your Board chooses to move forward with allowing small-scale hemp cultivation, **it is essential that there is parity between hemp and cannabis.** We recommend parity includes the following:

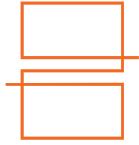
- **Parity in environmental regulation:** including impacts related to water, roads, forests, wildlife, and pesticide use.
- **Parity in land use regulation:** including considerations related to smell, light, and noise, cultural considerations, and community sensitive areas.
- **Parity in local taxation:** If small-scale hemp cultivation is permitted in the county, any economic viability would largely be tied to the development of a value-added marketplace in part built off the efforts of Project Trellis's forthcoming marketing program. Currently, Measure S taxes are only paid by cannabis farmers, enabling prospective hemp farmers to receive the same marketing benefits, for the same plant, without the same commitment to paying into the system.
- **Parity in testing:** While cannabis products are held to strict testing standards for pesticides, solvents, mycotoxins, and heavy metals, there is no comparable final product testing for hemp-derived products. Contaminants in cannabis and hemp products pose identical risks to consumer health, and are particularly important given the frequency with which CBD products are marketed as health products and the increasing prevalence of smokable hemp. Required final product testing is also the only point of accountability to ensure that hemp cultivators do not use prohibited pesticides that risk impact to the environment.

While staff's original proposal for small-scale hemp cultivation included some of these considerations, we strongly suggest more work done to understand who would regulate and enforce these conditions. We recommend developing plans for environmental regulation and enforcement absent state resources, an assessment of the County's ability to collect taxes on hemp cultivation sites under Measure S, and accountability for final product contaminant testing without state oversight.

3. Evolving Policy Climate

Prospective regulations should also consider rapidly-evolving state and federal hemp regulations, which are unfinished and will remain uncertain for the next 12-18 months. Considerations include:

- The total THC loophole, discussed above.
- Hemp-derived consumable products, such as edibles, beverages, tinctures, and dietary supplements, are currently prohibited by both state CDPH regulation and federal FDA regulation. While this may change in the future, it is unclear when and how.



HUMBOLDT COUNTY GROWERS ALLIANCE

- Hemp can only be distinguished from cannabis via sophisticated testing. The recent law enforcement action against 600 acres of “hemp” in Kern County, which tested at 7% THC, underlines the difficulty of enforcement in this context.
- Recently proposed USDA hemp rules would require THC testing to be performed by DEA-registered labs. **HCGA strongly opposes DEA-registered labs in Humboldt County.**
- Other proposed USDA hemp regulations with the potential to substantially impact the hemp market, including required THC testing fifteen days before harvest and required testing from the tops of buds.
- It is unclear whether hemp can be regulated on a local level without triggering a CEQA review process.

Importance of Community Participation in Public Process

Finally, we think it’s important to put the Planning Commission’s proposed ban on hemp cultivation into its proper context. When staff originally proposed a detailed ordinance regulating hemp cultivation in September - including proposing separate regulatory structures for large-scale and small-scale hemp cultivation - several public meetings were held over the course of a month to solicit public input, including two Planning Commission meetings and two scoping meetings held in Redway and Eureka. HCGA membership and staff participated in each of these meetings and communicated our concerns regarding pollen drift, pesticide drift, pests, equitable land use and environmental regulation, and the collapsing market for CBD.

There was no comparable participation by prospective hemp farmers. As a result, the Planning Commission felt that the expenditure of resources to effectively regulate hemp could not be justified by the lack of stated public support for hemp cultivation, and by the risks that unregulated and large-scale hemp cultivation pose to Humboldt County’s environment and cannabis industry. Rather than modify staff’s proposed regulatory framework to account for the many concerns around hemp cultivation, then, the Planning Commission - in the absence of participation by hemp farmers - chose to recommend the ban that is now before you.

While we believe it may be theoretically possible for the County to develop a hemp regulatory framework that accounts for the land use, environmental, regulatory, and

cannabis parity concerns detailed above, we share the Planning Commission's practical skepticism that developing such a regulatory framework is worth a major investment of staff time and public resources. This skepticism was reinforced by the lack of public participation by prospective hemp farmers over the past two months.

If the Board determines that this investment of resources can be justified, and chooses to send the ordinance back to the Planning Commission for further development, HCGA looks forward to working with stakeholders to develop an equitable ordinance that is protective of public health, public safety and the environment and that addresses our stated concerns. However, we hope any conversation of this magnitude and scale would be based on an assessment that hemp cultivation offers a real economic opportunity to our county's small farmers at large, and not based on a gold rush mentality which has already been shown to be a mirage for thousands of hemp farmers across the country.

Thank you for your consideration on this very complicated issue.

Sincerely,

Terra Carver
Executive Director
Humboldt County Growers Alliance
Hcga.co