



February 11, 2020

Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

Leslie Hubbard
Deputy Director of Planning
Trinity County Planning Department
PO Box 2819
Weaverville, CA 96093

Subject: Review of the Mitigated Negative Declaration for Amalgamated Growers, Inc. Commercial Cannabis Cultivation Type 3 Use Permit CCUPT3-2018-004, State Clearinghouse Number 2020019034

Dear Ms. Hubbard:

The California Department of Fish and Wildlife (Department) has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) dated January 2020, for the above-referenced project (Project). As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitat. As a responsible agency, the Department administers the California Endangered Species Act and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee and responsible agency pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code section 21000 et seq.

Project Description

The Project as proposed includes commercial cultivation of up to one acre of cannabis outdoors and within hoop houses that would be developed on previously disturbed portions of the parcel. The activities would include the use of existing agricultural facilities including hoop houses, water storage tanks, roads, and storage and processing facilities on previously graded and disturbed land. These sites have had vegetation removed, been graded into terraces, and have existing road access.

Comments and Recommendations

Biological Report

The IS/MND makes several references to a biological report prepared by Tributary Biological Consultants as part of the Project's environmental review; however, this report was not included in the appendix as indicated in the document. Without the

biological report, it is difficult to determine if the report results support the conclusions made in the IS/MND.

Section IV (Biological Resources)

Item A- Determination of Potentially Significant Impact to Special-Status Species

An evaluation of the potential for substantial impacts to special-status species, including those identified as endangered, threatened, candidate, sensitive, and others presented in the IS/MND determined the Project would have a potentially significant impact unless mitigation is incorporated. However, the subsequent discussion in the IS/MND is inconsistent with this finding by stating that none of the 29 species identified in the biological report would be affected, and no mitigation measures are proposed. The Department recommends clarification regarding the determination and that the IS/MND make a clear connection between species analyzed in the biological report and mitigation measures adopted for the Project.

Section VII (Geology and Soils)

Item B- Determination of Less Than Significant Impact as a Result of Substantial Erosion or Loss of Topsoil

The applicant submitted a Fish and Game Code section 1602 Streambed Alteration Agreement Notification (Notification) for the cultivation of commercial cannabis on December 15, 2017. During the Notification process the Project was evaluated and Department staff documented three violations of Fish and Game Code 1602 related to streambed alteration and five Fish and Game Code 5650 violations related to discharge of a deleterious material (sediment) into waters of the State. The five violations of Fish and Game Code 5650 for sediment discharge originating from steep, untreated road surfaces and exposed earthen slopes associated with cannabis cultivation were documented by Department staff during site inspections. A Streambed Alteration Agreement was executed for remediation of the Fish and Game Code violations on July 9, 2018 (Attachment). During a subsequent site inspection conducted on June 18, 2019, it was determined that the violations were ongoing and had not yet been remediated.

The IS/MND finding of less than significant impacts to soil erosion and loss of topsoil is therefore contrary to direct observations of site conditions made by Department staff. Potentially significant impacts to special-status species and their habitats occurring immediately downslope of the Project in Weaver Creek and other downstream receiving waters are possible as a result of ongoing sediment discharge. Potentially impacted species include steelhead trout (*Oncorhynchus mykiss irideus*), foothill yellow-legged frog (*Rana boylei*), and western pond turtle (*Emys marmorata*), all of which have been documented as occurring within Weaver Creek or within the vicinity. To minimize potential impacts to these species, the Department recommends immediate

implementation of soil stability, road surface treatment, and erosion prevention best management practices (BMPs) in order to reduce ongoing erosion and loss of topsoil impacts to less than significant.

Section X (Hydrology and Water Quality)

Item A- Determination of Less Than Significant Impact as a Result of Degradation of Surface Water Quality

As previously mentioned, five violations of Fish and Game Code 5650 for sediment discharge originating from steep, untreated road surfaces and exposed earthen slopes associated with cannabis cultivation were documented by Department staff during Project inspections conducted in January and February of 2018. The IS/MND finding of less than significant impacts to degradation of surface water quality is therefore contrary to direct observations of site conditions made by Department staff. The movement of sediment from untreated road surfaces and exposed earthen slopes resulted in observable elevation of turbidity above background levels within an ephemeral tributary located directly adjacent to cannabis cultivation activities. Elevated turbidity has been shown to detrimentally affect salmonids by impacting spawning habitat.

The Department recommends immediate implementation of soil stability, road surface treatment, and erosion prevention best management practices (BMPs) in order to reduce ongoing surface water quality impacts to less than significant.

Section XXI (Mandatory Findings of Significance)

Item A- Determination of Potentially Significant Impact to Quality of the Environment

An evaluation of the potential for the Project to degrade the environment determined the Project would have a potentially significant impact unless mitigation is incorporated. The subsequent discussion, however, is inconsistent with this finding as it is stated that the Project does not have the potential to degrade the quality of the environment, and no mitigation measures are proposed. The Department recommends clarification regarding the effect determination and the lack of proposed mitigation measures.

Filing Fees

The Department anticipates the Project will have an impact to fish and/or wildlife habitat, and assessment of filing fees is necessary (Pub. Resources Code, § 21089; Fish & G. Code, § 711.4.). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by the Department.

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Thank you for the opportunity to comment on this Project. If you have any questions, please contact Matt Mitchell, Environmental Scientist, at (530) 225-2103, or by e-mail at matthew.mitchell@wildlife.ca.gov.

Sincerely,



Curt Babcock
Habitat Conservation Program Manager

Attachment

Ec: Leslie Hubbard, Deputy Director of Planning
Trinity County Planning Department
lhubbard@trinitycounty.org

State Clearinghouse
state.clearinghouse@opr.ca.gov

Adam McKannay
California Department of Fish and Wildlife
adam.mckannay@wildlife.ca.gov