



Department of  
Cannabis Control  
CALIFORNIA

**NOTICE of EXEMPTION from CEQA**  
**CALIFORNIA DEPARTMENT OF CANNABIS CONTROL**

P.O. BOX 419106, RANCHO CORDOVA, CA 95741-9106

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To: Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, CA 95812-3044

From: Department of Cannabis Control  
Cultivation Licensing Branch  
P.O. Box 419106  
Rancho Cordova, CA 95741-9106

Project Title:

Project Location:

County:

Project Description:

The Department of Cannabis Control, pursuant to authority granted under Business and Profession Code Division 10, Chapter 2, Section 26012, approved a commercial cannabis license.

Project Activities:

Exemption Status:

- Ministerial [PRC, Sec. 21080(b)(1); CCR, Sec. 15268]
- Declared Emergency [PRC, Sec. 21080(b)(3); CCR, Sec.15269(a)]
- Emergency Project [PRC, Sec. 21080(b)(4); CCR, Sec.15269(b)(c)]
- Categorical Exemption: [Class 1 Categorical Exemption Cal. Code Regs., Title 14, §15301]
- Statutory Exemptions: [CCR, Section 15183]
- General Rule [CCR, Sec. 15061(b)(3)]

Reasons Why Project is Exempt:

The Department of Cannabis Control has determined that the project is consistent with the local jurisdiction community plan and/or zoning designations. CEQA mandates that project is consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified and shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. The project activity fits within the parameters included in CEQA Guidelines Section 15183 and the activity does not require additional CEQA analysis.

This is to certify that the final environmental document, comments and responses, and the record of project approval are available to the public at the following location:

Department of Cannabis Control  
Cultivation Licensing Branch  
P.O. Box 419106  
Rancho Cordova, CA 95741-9106

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Contact Name

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Contact Title

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Phone #

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TO BE COMPLETED BY OPR ONLY

**CALAVERAS COUNTY**  
**CANNABIS CULTIVATION ORDINANCE**

**FINDINGS OF FACT**

**I. INTRODUCTION**

In January 2018, the Calaveras County Board of Supervisors (Board) certified an Environmental Impact Report (EIR) for the “Medical Cannabis Cultivation and Commerce Ordinance Project” (the “EIR Proposed Ordinance”). The EIR Proposed Ordinance was an amendment to Chapter 17.95 of the Calaveras County Code that would regulate the cultivation of, and other activities related to, cannabis within the County in compliance with state law. The EIR identified all potential environmental impacts that could result from the EIR Proposed Ordinance, as well as mitigation measures that could reduce the impacts.

In addition to the EIR Proposed Ordinance, the EIR also analyzed a range of alternatives including: (1) the No Project Alternative, which assumed no changes to the County Code; (2) the Ban on Commercial Cannabis Operations Alternative, which involved a countywide ban on cannabis-related activities to the extent permissible under California law; (3) the Reduced Zoning Designations Alternative, which included a reduction in the zoning designations that would allow commercial cannabis operations; and (4) Minimum Parcel Sizes and Further Reduced Zoning Designations Available for Commercial Cannabis Operations Alternative, which placed further restrictions on cultivation and operations.

When the Board certified the EIR in 2018, it considered two sets of CEQA Findings; one for a slightly modified version of the EIR Proposed Ordinance and one for a slightly modified version of Alternative 2 (the “Ban Ordinance”). The Board ultimately chose to approve the Ban Ordinance. The Ban Ordinance amended Chapter 17.95 of the Calaveras County Code to ban commercial cultivation of, and other activities related to, commercial cannabis within the County in compliance with state law.

Not long after the Ban Ordinance took effect, the composition of the Board changed and the County’s policy regarding cannabis shifted. In January 2019, the Board directed staff to prepare a new ordinance to permit a limited amount of cannabis cultivation subject to strict regulation. Based on several study sessions, Planning Commission meetings, and the Board’s direction, the County prepared the “Cannabis Cultivation Ordinance.” The Cannabis Cultivation Ordinance allows less cultivation and cannabis-related development and operations than the EIR Proposed Ordinance.

The County has prepared an “addendum” to the previously certified 2017 Medical Cannabis Cultivation and Commerce Ordinance EIR (the “addendum”) pursuant to CEQA Guidelines 15164. The addendum explains why there is no new information or changed circumstances that would warrant preparation of a Subsequent or Supplemental EIR under CEQA Guidelines section 15162. All environmental impacts that could potentially occur under the Cannabis Cultivation Ordinance are adequately addressed in the certified EIR, and therefore, the changes to the project reflected in the Cannabis Cultivation Ordinance do not require “major revisions” to the certified EIR. (Public Resources Code, § 21166, CEQA Guidelines, §§ 15162, 15164.) As explained by the California Supreme Court, “[w]hen there is a proposal to modify a project originally approved through [an] EIR, no ‘major revision’ to the initial EIR is required if the initial EIR already adequately addresses any additional environmental effects that may be caused by the proposed modification.” (*Friends of College of San Mateo Gardens v. San Mateo*

*County Community College Dist.* (2016) 1 Cal.5th 937, 953.) As explained in the addendum, all environmental impacts would be reduced under the Cannabis Cultivation Ordinance compared to the impacts analyzed and addressed in the EIR.

## II. STATUTORY REQUIREMENTS FOR FINDINGS

Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same section provides that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” (Pub. Resources Code, § 21002.) Section 21002 goes on to provide that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies may not approve a project with potentially significant environmental effects unless it makes specific findings. (See Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).) For each significant environmental effect identified for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(CEQA Guidelines, § 15091, subd. (a); Pub. Resources Code, § 21081, subd. (a).) Public Resources Code section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.” (See also *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 565.) The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1509; *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal. App. 4th 957, 1001 (*CNPS*); *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1165, 1166 (*Bay-Delta*) [“feasibility is strongly linked to achievement of each of the primary program objectives”; “a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal”].) Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*); *CNPS, supra*, 177 Cal. App. 4th at p. 1001.) An agency may also find that an alternative or mitigation measure is infeasible where it fails to promote policy objectives of concern to the decision-makers. (*Id.* at pp. 992, 1000-1003.)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a Statement of Overriding Considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, §21081, subd. (b).)

Although CEQA Findings are not always required when an addendum is prepared, the Board adopts these Findings to document its reasons for approving the Cannabis Cultivation Ordinance. These Findings constitute the County's best efforts to set forth the evidentiary and policy reasons for its decision to approve the project in a manner consistent with the requirements of CEQA. Moreover, because certain environmental impacts would be significant and unavoidable, the County also adopts a Statement of Overriding Considerations.

### **III. PROJECT OBJECTIVES AND DESCRIPTION**

#### **A. PROJECT OBJECTIVES**

The EIR identified the following project objectives, which are the same for the Cannabis Cultivation Ordinance:

1. Comprehensively regulate premises within the County used for marijuana cultivation or commercial activities related to marijuana or to prohibit those uses within the constraints of state law.
2. Maintain the health, safety, and well-being of the County, its residents, and environment.
3. Minimize risks of and complaints regarding fire, odor, and pollution caused by unregulated cultivation of marijuana within the County.
4. Protect the County's surface and groundwater resources by reducing the discharge of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash, and human waste.

#### **B. PROJECT LOCATION**

Calaveras County is located in California's central Sierra Nevada region. The majority of land within the County falls within the regulatory jurisdiction of the County, with the exception of the City of Angels Camp, the only incorporated city within the county boundaries, and federal and state lands (approximate 13 percent of the land area of the County). The Cannabis Cultivation Ordinance will apply countywide.

#### **C. PROJECT DESCRIPTION**

The Cannabis Cultivation Ordinance is an amendment to Chapter 17.95 of the Calaveras County Code that will regulate the cultivation of, and other activities related to, cannabis within the County in compliance with state law. The Cannabis Cultivation Ordinance is more restrictive than the EIR Proposed Ordinance analyzed in the EIR. The key difference between the Cannabis Cultivation Ordinance and the EIR Proposed Ordinance are the limitation on the number of potential permittees under the Cannabis Cultivation Ordinance, the ability to cultivate cannabis for both medical and adult use, an increase in cultivation area per parcel from 22,000 square feet to 43,560 square feet (one acre) for outdoor cultivation, greater restrictions on zoning and minimum parcel size, and the ability to establish multiple cultivation areas (premises) on a single parcel (one cultivation area per twenty acres of parcel size). In addition, the EIR Proposed Ordinance allowed for the establishment of nurseries, manufacturing, testing, distributing

and transporting, as defined in B&P 26001 and 3 CCR, Section 8201. Of these, only nurseries are permitted under the Cannabis Cultivation Ordinance. However, self-distribution, as defined in 16 CCR Section 5315, is permitted. A more detailed description of the differences is provided in the Table below:

<b>Provision</b>	<b>EIR Proposed Ordinance</b>	<b>Cannabis Cultivation Ordinance</b>
Number of potential cultivation sites	Unlimited (750 outdoor and 15 indoor sites estimated)	Max. 190-200 sites
Percent of land coverage	25%	5%
Maximum cultivation area	22,000 sq. ft.	43,560 sq. ft. (1 acre) for outdoor cultivation, 22,000 sq. ft. for mixed light
Minimum parcel size	2 acres	20 acres/10 acres with CUP
Authorized zoning	RR, RA, U, HS, A1, AP, GF, M1, M2, M4 (allowed in CP as part of dispensary)	RA, U, A1, AP, GF, M1, M2, M4, (remains allowed in CP as part of dispensary)
State license type	Medical only	Medical and adult use
Other state licenses	Nursery, Manufacturing, Testing, Distributing, Transporting	Self-distribution, Nursery
Personal cultivation	100 sq. ft. indoor or outdoor	6 plants indoor or outdoor
Caregiver cultivation	100 sq. ft. per patient, max. 2 patients	None
Local permit requirement Outdoor	Ministerial permit for up to 5,000 sq. ft.; AUP for up to 22,000 sq. ft.; CUP for Nursery	Ministerial permit for cultivation on 20+ acres; CUP for cultivation on parcels 10-19.9 acres
Local permit requirement Indoor	Ministerial permit for up to 5,000 sq. ft. on non-industrial zoned land; AUP for up to 10,000 sq. ft. on industrial zoned land	Ministerial permit for up to 10,000 sq. ft. on non-industrial zoned land and on industrial zoned land
Setback	30'	75'

The Cannabis Cultivation Ordinance is also described in the addendum and was made available to the public on the County's website.

#### **IV. ENVIRONMENTAL REVIEW PROCESS**

The environmental review process commenced on April 7, 2016, when the County issued a notice of preparation (NOP) to inform agencies and the general public that an EIR was being prepared and to invite comments on the scope and content of the document. The NOP was circulated through May 6, 2016, for a 30-day review period. On July 20, 2016, the County held a noticed scoping meeting for the EIR at the Calaveras County Board of Supervisors Chambers in San Andreas, California.

On May 1, 2017, a Draft EIR was released for a 45-day public review and comment period that ended on June 14, 2017. The Draft EIR identified the Medical Cannabis Cultivation and Commerce Ordinance as the "proposed project." At the direction of the Board, a ban ordinance was analyzed as an alternative

in the Draft EIR. The EIR analyzed the potential environmental impacts of both the proposed project and a ban ordinance, as well as two other alternatives.

The County held a public hearing on May 22, 2017, to receive input from agencies and the public on the Draft EIR. The hearing was held at the Calaveras County Board of Supervisors Chambers in San Andreas, California.

The County issued a Final EIR on September 5, 2017. The Final EIR included the comments that the County received from agencies, organizations, and individuals on the content of the Draft EIR, and responses to those comments. The Final EIR also included minor revisions and clarifications, as well as an additional alternative (Alternative 4) titled “Minimum Parcel Sizes and Further Reduced Zoning Designations Available for Commercial Cannabis Operations” and mitigation measures that were proposed during the comment period.

The Calaveras County Planning Commission held a public hearing on September 28, 2017 to consider a recommendation to the Board of Supervisors. Following several additional Planning Commission meetings, and multiple Board hearings, the Board held a special hearing on January 10, 2018. The Board was presented with two sets of findings; one for a slightly modified version of the EIR Proposed Ordinance and one for the Ban Ordinance. The Board certified the EIR and ultimately chose to adopt the Ban Ordinance.

In January 2019, after the composition of the Board changed and the County’s policy on cannabis shifted, the Board directed staff to prepare a new ordinance that would permit a limited amount of cannabis cultivation subject to strict regulations. Based on several study sessions, Planning Commission meetings, and the Board’s direction, the County prepared the Cannabis Cultivation Ordinance. The County prepared an “addendum” to the previously certified EIR pursuant to CEQA Guidelines 15164. The addendum explains why there is no new information or changed circumstances that would warrant preparation of a subsequent or supplemental EIR under CEQA Guidelines section 15162.

The Planning Commission considered the Cannabis Cultivation Ordinance and the addendum at public hearings on August 22, September 12, and September 18, 2019. The Planning Commission recommended that the Board adopt the addendum and approve the Cannabis Cultivation Ordinance, with a few minor revisions. On October 1 and 2, 2019, the Board held a two-day public hearing to consider the Cannabis Cultivation Ordinance and the addendum.

## **V. SUPPLEMENTAL REVIEW**

After certification of an EIR, there is a presumption against subsequent (or supplemental) environmental review. CEQA prohibits such review except in the limited circumstances listed under CEQA Guidelines section 15162:

When an EIR has been certified or a negative declaration adopted 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 will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration 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 EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (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 EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Pursuant to Section 15164 of the State CEQA Guidelines, the lead agency “shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.”

For the reasons set forth in the addendum, the Board finds that none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred, and therefore, an addendum is appropriate. The Board finds that the analysis in the EIR and addendum is reasonable and includes sufficient information for the Board to make a fully informed decision.

## **VI. RECORD OF PROCEEDINGS**

In accordance with Public Resources Code section 21167.6(e), the record of proceedings for the Board’s approval of the Regulatory Ordinance includes the following documents at a minimum:

- The NOP and all other public notices issued by the County in conjunction with the EIR, as well as all comments submitted by agencies or members of the public during the comment period on the NOP;
- The Draft EIR, Final EIR, addendum, and all appendices;
- All comments submitted by agencies or members of the public during the comment period on the Draft EIR;
- All comments and correspondence submitted to the County with respect to the ordinance, in addition to timely comments on the Draft EIR, Final EIR, and addendum;



- Documents cited or referenced in the Draft EIR, Final EIR, and addendum;
- All findings adopted by the Board in connection with the Cannabis Cultivation Ordinance and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the ordinance prepared by the County, consultants to the County, or responsible or trustee agencies with respect to the County's compliance with the requirements of CEQA and with respect to the County's action on the ordinance;
- Matters of common knowledge to the County, including, but not limited to federal, state, and local laws and regulations;
- Any documents expressly cited in these findings, in addition to those cited above; and
- Any other materials required for the record of proceedings by Public Resources Code section 21167.6(e).

Pursuant to Guidelines section 15091(e), the documents constituting the record of proceedings are available for review during normal business hours at the Calaveras County Planning Department, 891 Mountain Ranch Road, San Andreas. The custodian of these documents is Peter Maurer.

## **VII. FINDINGS FOR IMPACTS**

The Board has reviewed the Final EIR, consisting of the Medical Cannabis Cultivation and Commerce Ordinance Project Draft EIR (May 2017) and the Medical Cannabis Cultivation and Commerce Ordinance Project Responses to Comments Document (September 2017), together which form the Final EIR, and the addendum for the Cannabis Cultivation Ordinance. The Board has considered the public record on the project, which, in addition to the above documents and these Findings, includes the Mitigation Monitoring and Reporting Program (MMRP), which is included as part of these findings.

The Board hereby makes the following findings regarding the significant effects of the Cannabis Cultivation Ordinance. The numeric references for each impact refer to the impact numbers identified in the EIR. Most of the mitigation measures identified in the EIR were suggested amendments to the ordinance, and have been incorporated into the Cannabis Cultivation Ordinance, although the text of the ordinance may not reflect the exact language used for the mitigation measures in the EIR. Further, as explained in the addendum and below, some mitigation measures identified in the EIR are no longer necessary (i.e., are not feasible) because the Cannabis Cultivation Ordinance will not result in the significant environmental impacts that the mitigation measures were identified to address. Also, the ordinance section numbers identified in the EIR mitigation measures do not match the numbering in the Cannabis Cultivation Ordinance, but the measures are incorporated in the appropriate sections, as necessary to mitigate significant impacts.

## **A. Potentially Significant Impacts Identified in the EIR.**

### **Impact 3.1-1: Have a substantial adverse effect on a scenic vista or substantially damage scenic resources.**

The EIR found that the EIR Proposed Ordinance could have a significant effect on scenic vistas due to the possibility that a cultivation site could be seen from the state-designated scenic highway and Federally-designated scenic byway of State Route 4 east of Arnold. Although the potential for this impact is lessened due to the differences in the ordinances, including fewer cultivation sites, larger parcel sizes, increased setback requirements, and allowing cultivation in fewer zones, the possibility still exists that a cultivation site may be visible from the scenic highway. Mitigation Measure 3.3-1, which requires a 1000' separation from the premises to the highway (FEIR, Page 3-2), still applies and is incorporated into the Cannabis Cultivation Ordinance.

#### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

#### Facts in Support of Finding

Mitigation Measure 3.1-1 measure will substantially reduce potential aesthetic impacts by requiring adequate setbacks and restricting views of cannabis-related operations. This mitigation measure has been incorporated into the ordinance under Section 17.95.090(Q), which requires that outdoor and mixed-light commercial cannabis cultivation shall not be located within 1,200 feet of a state scenic highway or national scenic byway, exceeding the setback distance required under the mitigation measure. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance including more restrictive zoning requirements, larger setback requirements and parcel sizes, and greater operating restrictions, that reduce impacts compared to the impacts analyzed in the EIR. With the setback requirement, this impact will be less than significant, the same as the impact identified in the EIR.

### **Impact 3.1-3: Create a new source of substantial light or glare that would adversely affect views.**

As explained in the EIR, exterior lights and lights associated with mixed-light and some indoor cultivation operations could create a source of substantial light or glare, which could result in a significant impact. Mitigation measure 3.1-3 would require standards for shielding lighting that would reduce the impact to less than significant (FEIR Page 3-2). This measure is also incorporated into the provisions of the ordinance.

#### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

#### Facts in Support of Finding

Mitigation Measure 3.1-3: Lighting Standards, will substantially reduce potential aesthetic impacts by orienting new lighting such that light spillover onto adjacent properties would be minimized, and the impact would be reduced to a less-than-significant level. This measure has been incorporated into the ordinance under Section 17.95.090(M). The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements, larger setback requirements and parcel sizes, and greater operating restrictions, that reduce

impacts compared to the impacts analyzed in the EIR. With the lighting standards incorporated into the ordinance, this impact will be less than significant, the same as the impact identified in the EIR.

### **Impact 3.2-2: Long-term operational emissions of ROG, NOx, PM10, and PM2.5.**

The EIR determined that operation of cannabis-related sites permitted under the EIR Proposed Ordinance would result in peak emissions of criteria air pollutants and precursors during the harvest season. While mass emissions thresholds for other criteria air pollutants and precursors were not exceeded, countywide harvest-related emissions of nitrogen oxide (NOx) exceeded the mass emission threshold recommended by Calaveras County Air Pollution Control District. Thus, the EIR determined that operational emissions of NOx, a precursor to regional ozone, could conflict with air quality planning efforts in the Mountain Counties Air Basin and contribute substantially to the nonattainment status of Calaveras County with respect to the federal and state air quality standards for ozone. The EIR included Mitigation Measure 3.2-2 to reduce the impact to a less than significant level.

The EIR used the CalEEMod model to analyze the potential cumulative impacts of construction of cultivation sites, ongoing operations, and transportation of employees and product to and from the sites. Because the number of sites will be reduced by 75% and the area of potential cultivation reduced by 50%, a comparable reduction in air quality impacts would be attributable to the differences in the Cannabis Cultivation Ordinance. Although the maximum cultivation area allowed per parcel would increase under the new ordinance, operations-related activity, as well as the number of employees and vehicle trips, would be far less due to the reduction in the number cultivation sites and the reduction in canopy area. If based on area of canopy rather than the number of cultivation sites, there would be a 50% reduction in air pollutant emissions. The reduction would be greater, up to 75%, if based on the number of sites.

The analysis provided in Table 3.2-7 in the Draft EIR indicated that total NOx produced by cultivation activities under EIR Proposed Ordinance would be 220 lb/day. All other air pollutants studied were shown to be under the Calaveras County Air Pollution Control district threshold of significance of 150 lb/day. The reduction in the amount of potential cultivation sites will reduce this potential impact by 75% to 55 lb/day, lower than the established threshold. Although unlikely, a conversion of cultivation method from mixed light to outdoor would reduce the cultivation area by 50%. This would result in a reduction in NOx to 110 lb/day, which is also below the threshold of significance, when based on cultivation area. The impact will, therefore, be less than significant under the Cannabis Cultivation Ordinance. Mitigation Measure 3.2-2, prohibiting the use of fossil fuel-powered equipment, is no longer necessary.

### **Impact 3.2-3: Generation of greenhouse gas emissions.**

The EIR identified that implementation of the EIR Proposed Ordinance would result in a significant cumulative impact regarding greenhouse gas (GHG) emissions and loss of vegetation that serves as carbon sequestration. Mitigation Measures 3.2-2 and 3.2-3 were developed to reduce that impact to less than significant (DEIR Page 3.2-20). The reduction of potential sites to between 25% and 50% of that analyzed in the EIR will reduce the impact; however, because there is no established threshold of significance in the County for GHG emissions, the impact would still be considered significant.

#### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

### Facts in Support of Finding

Mitigation Measure 3.2-3 will substantially reduce potential impacts related to greenhouse gas emissions, and the impact will be reduced to a less-than-significant level. This measure has been incorporated into the ordinance under Section 17.95.060(B)(11), and 17.95.140(B), which requires that GHG emissions be offset through the use of photovoltaic panels or carbon offset credits. The measure has been revised to ensure that all GHG emissions are fully offset. Because GHG emissions will be completely offset under these provisions in the Cannabis Cultivation Ordinance, Mitigation Measures 3.2-2, is not necessary to reduce any significant impacts, and is therefore rejected. The mitigation measure would be infeasible in any event because electricity-powered equipment is not available in the County and would be cost prohibitive for many permittees. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements and greater operating restrictions, that reduce impacts compared to the impacts analyzed in the EIR. This impact is less than significant, the same as the impact identified in the EIR.

### **Impact 3.2-4: Exposure of people to objectionable odors.**

The EIR concluded that odors under the EIR Proposed Ordinance would be significant. Three mitigation measures were identified to reduce the impact, but it was still found to be significant and unavoidable. These measures (prohibit burning, odor control of indoor cultivation, and increasing the setback from 30' to 75') are incorporated into the Cannabis Cultivation Ordinance. With the reduction of the potential number of cultivation sites, the impact will be further reduced compared to the ordinance analyzed in the EIR, although the impact is still considered significant.

### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County to mitigate or avoid the significant effects on the environment. While the mitigation measures would reduce the significant effects related to odors, feasible mitigation is not available to reduce this impact to a less than significant level. Therefore, the Board finds that specific economic, legal, social, technological, or other considerations make infeasible further mitigation that would avoid or substantially lessen the significant environmental effect, and thus, this is a significant and unavoidable impact.

### Facts in Support of Finding

Mitigation Measure 3.2-4a: Prohibit burning of cannabis and other vegetative material, would require the county to prohibit the burning of excess plant material associated with the cultivation and processing of cannabis. This measure has been incorporated into the Cannabis Cultivation Ordinance under Section 17.95.090(DD).

Mitigation Measure 3.2-4b: Indoor cultivation odor control, would require permittees to install and maintain a filtered ventilation system which relies on activated carbon filtration, negative ion generation, and/or other odor control mechanism demonstrated to be effective in reducing cannabis odors. This measure has been incorporated into the Cannabis Cultivation Ordinance under Section 17.95.090(Z).

Mitigation Measure 3.2-4c: Increase setback requirement, would require a setback of at least 75 feet from any property line instead of 30 feet (the originally proposed distance). This measure has been incorporated into the Cannabis Cultivation Ordinance under Section 17.95.090(I). That section also

includes a setback requirement greater than 75 feet for co-location of cultivation sites as provided in Section 17.95.090(F), and for parcels adjacent to RR, R1, R2, and R3 zoned parcels.

While the mitigation identified above will reduce indoor cultivation and some outdoor cultivation and processing odors by reducing odor generating activities and increasing the distance between potential sources and receptors, it would not preclude the potential for people to perceive objectionable odors within the County attributable to cannabis operations. Although this impact will be reduced under the Cannabis Cultivation Ordinance, it is still considered significant and unavoidable, the same as the impact identified in the EIR.

### **Impact 3.3-1: Impacts to Special-Status Species.**

The EIR found that there would be potential impacts to special status species as a result of vegetation removal from new cultivation sites, impacts to streamside habitat, and disturbance of natural habitat. The mitigation for all of these impacts was to ensure that all cultivation sites met the minimum size requirement to trigger review by the Central Valley Regional Water Quality Control Board (Regional Board) waste discharge requirements, which at the time was 1,000 feet of canopy under the Water Board's general order (MM 3.3-1, DEIR Page 3.3-35). The Regional Board requires a biological assessment to address all of the above issues, as well as other water quality concerns over which the regional board has authority and is a requirement of issuance of a state license. With the reduction in the number of potential sites, these impacts would be reduced, but impacts could still occur if the Regional Board requirements were not imposed.

#### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

#### Facts in Support of Finding

Of the 190 previously licensed cultivation sites that could be permitted under the Cannabis Cultivation Ordinance, only seven had the potential to be less than 1,000 feet based on the license type, with a range up to 5,000 square feet of canopy. Of those seven only one site had a cannabis canopy of less than 1,000 square feet (it was 900 square feet). Under a new general order issued by the State Water Board (Water Board) in January 2019, the threshold was changed to 2,000 square feet and includes not only the canopy area, but all disturbed areas on the parcel associated with cannabis cultivation to determine if the project would require review under the Water Board's permitting authority. This includes access roads, storage structures, and other disturbed areas. Even the one site with 900 square feet of canopy contains additional area of disturbed soil that likely cumulatively exceeds 2,000 square feet, so it is expected that all sites will be subject to the Water Board's permitting authority. If any sites are under the 2,000 feet threshold, a discretionary permit from the County would be required. A provision of the Cannabis Cultivation Ordinance (17.95.090(BB)) is included to implement MM 3.3-1, modified to apply the revised threshold to address impacts to sensitive species, streamside habitat, and sensitive natural communities. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements, larger setback requirements, and greater operating restrictions, that further reduce impacts compared to the impacts analyzed in the EIR. This impact remains less than significant, the same as the impact identified in the EIR.

**Impact 3.3-2: Modification and/or loss of streamside habitat and fill or other disturbance of waters of the United States and/or state.**

The EIR determined that disturbance of natural land cover associated with development of cannabis operations could result in the modification and/or loss of streamside habitat and fill or other disturbance of waters of the United States and/or state resulting in a potentially significant impact. As noted above, the mitigation for this impact was to ensure that all cultivation sites met the minimum size requirement to trigger review by the Water Board waste discharge requirements, which at the time was 1,000 feet of canopy under the Water Board's general order (MM 3.3-1, DEIR Page 3.3-35). The Water Board requires a biological assessment to address this issue, as well as other water quality concerns over which the regional board has authority and is a requirement of issuance of a state license. With the reduction in the number of potential sites, these impacts would be reduced, but impacts could still occur if the Water Board requirements were not imposed.

Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

As explained above, under a new general order, issued in January 2019, the Water Board threshold was changed to 2,000 square feet and includes not only the canopy area, but all disturbed areas on the parcel associated with cannabis cultivation to determine if the project would require review under the Board's permitting authority. This includes access roads, storage structures, and other disturbed areas. It is expected that all sites will be subject to the Water Board's permitting authority and if any sites are under the 2,000 feet threshold, a discretionary permit from the County would be required. A provision of the Cannabis Cultivation Ordinance (17.95.090(BB)) is included to implement MM 3.3-1, modified to apply the revised threshold to address impacts to sensitive species, streamside habitat, and sensitive natural communities. This measure will reduce potential impacts to jurisdictional waters and streamside habitat by requiring conformance with applicable regulations and associated permitting requirements of the State Water Resources Control Board, Central Valley Regional Control Board, US Army Corps of Engineers, and California Department of Fish and Wildlife. With the measure, this impact remains less than significant, the same as the impact identified in the EIR. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements, larger setback requirements, and greater operating restrictions, that further reduce impacts compared to the impacts analyzed in the EIR.

**Impact 3.3-3: Degradation or removal of sensitive natural communities.**

The EIR identified that the degradation and removal of sensitive natural communities would be significant. The DEIR indicated that there was no feasible mitigation, but the FEIR established Mitigation Measure 3.3-3 (FEIR Page 3-5). This measure required that the County hire or contract with a biologist to review biological studies to determine the impact on sensitive natural communities. With this measure, the EIR found that the impact would be less than significant.

Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

### Facts in Support of Finding

Since certification of the EIR in 2018, the Water Board has issued a revised order regarding discharges of waste associated with cannabis cultivation (Order WQ 2019-0001-DWQ). In addition, the Water Board adopted a policy document, Cannabis Cultivation Policy, Principles and Guidelines for Cannabis Cultivation, on February 5, 2019, which was approved by the Office of Administrative Law on April 16, 2019. Appendix A of the Guidelines provides for the following:

Prior to commencing any cannabis land development or site expansion activities, the cannabis cultivator shall retain a Qualified Biologist to identify sensitive plant, wildlife species, or *communities* at the proposed development site. If sensitive plant, wildlife species, or *communities* are identified, the cannabis cultivator and Qualified Biologist shall consult with CDFW and CAL FIRE to designate a no-disturbance buffer to protect identified sensitive plant, wildlife species, and *communities*. A copy of the report shall be submitted to the appropriate Regional Water Board. (Emphasis added.)

As explained above, with changes incorporated into the ordinance regarding Water Board jurisdiction, it is expected that all cannabis cultivation sites will require enrollment in the Water Board's waste discharge program, and a qualified biologist must identify sensitive plant, wildlife, and natural communities, and where they are identified on the site they must be referred to the California Department of Fish and Wildlife to establish adequate buffers to protect the communities, the potential impact on sensitive natural communities will be addressed by the review and permitting process of the Water Board. Any cultivation site not qualifying for Water Board enrollment and review would be subject to County permitting requirements, thus ensuring impacts associated with land disturbance are avoided or mitigated. Therefore, the impact will be less than significant, the same as the impact identified in the EIR.

Given the Water Board's revised order, Mitigation Measure 3.3-3 would be redundant and is no longer necessary for the purpose of mitigating impacts to sensitive communities. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements, larger setback requirements, and greater operating restrictions, that reduce impacts compared to the impacts analyzed in the EIR.

### **Impact 3.3-4: Conflicts with any local policies protecting biological resources.**

As explained in the EIR, cannabis cultivation could result in disturbance of natural habitat, which could conflict with the policies protecting biological resources in the Calaveras County General Plan.

### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

### Facts in Support of Finding

As explained in the EIR, implement Mitigation Measure 3.3-1 requires cannabis-related operations to comply with the regulations of the Regional Board and its associated regulatory controls. As explained above, the State Board issued a new order and cannabis policy that changed the threshold for Water Board oversight from 1,000 feet of canopy to 2,000 feet of disturbed area. It is expected that all sites will be subject to the Water Board's permitting authority, and if any sites are under the 2,000 feet threshold, a discretionary permit from the County would be required. A provision of the Cannabis Cultivation Ordinance (17.95.090(BB)) is included to implement MM 3.3-1, modified to apply the

revised threshold to address impacts to sensitive species, streamside habitat, and sensitive natural communities. Due to regulatory controls afforded by cannabis-related orders to be implemented and enforced by the Water Board, this impact will be less-than-significant, the same as the impact identified in the EIR. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements, larger setback requirements, and greater operating restrictions, that further reduce impacts compared to the impacts analyzed in the EIR.

**Impact 3.3-5: Disturbance or loss of wildlife migratory corridors.**

As discussed in the EIR, development of cannabis-related sites within or in proximity to natural environments could alter the vegetation that wildlife use as cover potentially resulting in disturbance or loss of wildlife migratory corridors. The mitigation for this impact identified in the EIR was to ensure that all cultivation sites met the minimum size requirement to trigger review by the Water Board's waste discharge requirements, which at the time was 1,000 feet of canopy under the Water Board's general order (MM 3.3-1, DEIR Page 3.3-35). The Water Board requires a biological assessment to address this issue, as well as other concerns over which the regional board has authority and is a requirement of issuance of a state license. With the reduction in the number of potential sites, and reduction in the overall level of cultivation, this impact would be reduced, but impacts could still occur if the Water Board requirements were not imposed.

Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

As explained above, a provision of the Cannabis Cultivation Ordinance (17.95.090(BB)) is included to implement MM 3.3-1, modified to apply the revised Water Board's threshold, which will ensure that potential impacts to sensitive species, streamside habitat, and sensitive natural communities are addressed through the Water Board's regulatory process. As noted above, a qualified biologist must identify sensitive plant, wildlife, and natural communities, and the California Department of Fish and Wildlife must establish adequate buffers to protect the species. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements, larger setback requirements, and greater operating restrictions, that further reduce impacts compared to the impacts analyzed in the EIR. This impact remains less than significant, the same as the impact identified in the EIR.

**Impact 3.4-1: Change in the significance of an historical resource.**

As explained in the EIR, cannabis operations could potentially occur on undeveloped lands and/or near historic resources, and as such, disturbance of historic resources could occur during construction and/or operation of cannabis-related activities.

Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.



### Facts in Support of Finding

Similar to the impacts associated with biological resources, Mitigation Measure 3.3-1 was found to reduce the impacts to less than significant for the impacts to historical resources. The Water Board order and cannabis policy include robust requirements that address potential impacts to historical, archaeological, and tribal cultural resources. As discussed under Biological Resources, it is expected that the permitting requirements of the Water Board will be required for all future permittees, and the County's permit requirements would address any that are not covered by the Water Board. The reduction in the potential number of cultivation sites that could be permitted under the Cannabis Cultivation Ordinance will reduce potential impacts compared to the impacts analyzed in the EIR. The impact will be less than significant, the same as the impact identified in the EIR.

### **Impact 3.4-2: Disturb unique archaeological resources.**

As explained in the EIR, cannabis operations could occur on properties that contain known or unknown archaeological resources and ground-disturbing activities could result in discovery or damage of undiscovered archaeological resources as defined in CEQA Guidelines Section 15064.5.

### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

### Facts in Support of Finding

Similar to the impacts associated with biological resources, Mitigation Measure 3.3-1 was found to reduce the impacts to less than significant for the impacts to archaeological resources. The Water Board order and cannabis policy include robust requirements that address potential impacts to historical, archaeological, and tribal cultural resources. As discussed under Biological Resources, it is expected that the permitting requirements of the Water Board will be required for all future permittees, and the County's permit requirements would address any that are not covered by the Water Board, thereby mitigating any potential impact to archaeological, historical and cultural resources to a less than significant level. The reduction in the potential number of cultivation sites that could be permitted under the Cannabis Cultivation Ordinance will reduce potential impacts compared to the impacts analyzed in the EIR. The impact will be less than significant, the same as the impact identified in the EIR.

### **Impact 3.5-1: Construction water quality impacts.**

As explained in the EIR, development of new cannabis cultivation or commercial cannabis sites would require ground-disturbing activities that could result in erosion and sedimentation, leading to degradation of water quality.

### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

### Facts in Support of Finding

Similar to the impacts associated with biological resources, Mitigation Measure 3.3-1 was found to reduce water quality impact impacts to less than significant. Since all cultivation under the Cannabis Cultivation Ordinance will be required to secure a Water Board permit under the state licensing requirements or a discretionary County permit, such impacts will be addressed through existing permitting requirements. Coupled with the County's existing program of storm water pollution

prevention and remediation, cannabis-related activities within the County would be required to implement BMPs, subject to regular inspections by local and state regulators, thus limiting the amount of pollution entering receiving waterways. Consequently, impacts to surface and groundwater quality from construction activities at cannabis operations within the county will be less than significant, the same as the impact identified in the EIR. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements, larger setback requirements, and greater operating restrictions, that further reduce impacts compared to the impacts analyzed in the EIR.

### **Impact 3.5-2: Operational water quality impacts.**

As explained in the EIR, cannabis cultivation and commercial cannabis facilities have the potential to modify surface drainage and flows in such a manner that increased sedimentation and erosion could take place, leading to water quality degradation. The long-term operational use of unregulated pesticides, fertilizers, and other chemicals can also have a negative effect on water quality and ultimately affect the health and sustainability of organisms that rely on high quality waters.

#### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

#### Facts in Support of Finding

Similar to the impacts associated with biological resources, Mitigation Measure 3.3-1 was found to reduce water quality impact impacts to less than significant. Since all cultivation under the Cannabis Cultivation Ordinance will be required to secure a Water Board permit under the state licensing requirements or a discretionary County permit, such impacts will be addressed through existing permitting requirements. Coupled with the County's existing program of storm water pollution prevention and remediation, cannabis-related activities within the County would be required to implement BMPs, subject to regular inspections by local and state regulators, thus limiting the amount of pollution entering receiving waterways. Consequently, impacts to surface and groundwater quality from construction activities at cannabis operations within the county will be less than significant, the same as the impact identified in the EIR. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements, larger setback requirements, and greater operating restrictions, that further reduce impacts compared to the impacts analyzed in the EIR.

### **Impact 3.5-3: Groundwater supply impacts.**

As explained in the EIR, groundwater pumping for cannabis cultivation has the potential to impact groundwater supply and recharge.

#### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

#### Facts in Support of Finding

The EIR found that there could be a significant impact on groundwater supplies from wells drilled to support irrigation of cannabis. The EIR determined, and the Calaveras County Water District concurred, that the amount of cultivation that could occur under the EIR Proposed Ordinance would not adversely

affect groundwater supplies in the County but localized impacts to groundwater could potentially occur. (FEIR 2-28, 2-33). The mitigation for this impact was to require testing of wells and if the testing resulted in an observed decline in water levels for a period of five consecutive years an alternative water source would need to be procured (MM 3.5-3, DEIR Page 3.5-21, as modified in the FEIR Page 3-6). The vast majority of the County's groundwater is found in fractured rock. As stated in a publication by the California Department of Water Resources ("Water Facts, Ground Water in Fractured Hard Rock", April, 2004) interference between neighboring wells is difficult to measure. The best insurance against such problems is large parcel sizes. The increase in the minimum parcel size under the Cannabis Cultivation Ordinance will significantly reduce, and most likely avoid, the potential for groundwater supply impacts. However, although it is unlikely that there will be significant groundwater impacts due to the parcel size requirements and distance between wells, they cannot be ruled out entirely. Therefore, a modified version of the measure has been incorporated into the Cannabis Cultivation Ordinance (Sections 17.95.070(I), 17.95.090(EE) and 17.95.140(C)). The first provision requires a written report prepared by a qualified professional demonstrating, based on test pumping, that there are adequate water supplies to serve the operations for the site. The second and third provisions require monitoring of the well for five consecutive years. These provisions were developed in consultation with the Environmental Health Department, which is the department responsible for managing groundwater resources and permitting wells in the County. Given groundwater conditions in the County and the type of cultivation permitted under the ordinance, including the minimum parcel size and other restrictions, the monitoring period will account for potential fluctuations in groundwater levels and recharge and will ensure that groundwater pumping at cultivation sites will not adversely affect the groundwater supply in the County. Moreover, the reduction in the potential number of cultivation sites that could be permitted under the Cannabis Cultivation Ordinance will reduce potential impacts to groundwater supply compared to the impacts analyzed in the EIR. Impacts to groundwater supply will be less than significant, the same as the impact identified in the EIR.

#### **Impact 3.5-4: Surface drainage impacts on onsite and offsite flooding.**

As explained in the EIR, the construction of new cannabis facilities could alter local drainage characteristics of individual sites and influence onsite or offsite flooding.

#### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County that mitigate or avoid the significant effects on the environment.

#### Facts in Support of Finding

The EIR determined that Mitigation Measure 3.3-1 would reduce this impact to less than significant. Since all cultivation under the Cannabis Cultivation Ordinance will be required to secure a Water Board permit under the state licensing requirements or a discretionary County permit, drainage impacts related to flooding will be less than significant, the same as the impact identified in the EIR. The Cannabis Cultivation Ordinance also includes changes that make it more restrictive than the EIR Proposed Ordinance, including more restrictive zoning requirements, larger setback requirements, and greater operating restrictions, that further reduce impacts compared to the impacts analyzed in the EIR.

#### **Impact 3.9-2: Long-term increase in traffic.**

As explained in the EIR, adding trips associated with the cannabis-related activities could cause the Level of Service (LOS) on certain State highway segments and potentially other local roadways to degrade to unacceptable levels.

### Finding

Changes or alterations have been required in, or incorporated into, the project by Calaveras County to mitigate or avoid the significant effects on the environment. While the mitigation measures would reduce the significant effects related to traffic, there is no feasible mitigation available that would reduce the impact to a less than significant level. Therefore, the Board finds that economic, legal, social, technological, or other considerations make infeasible further mitigation that would avoid or substantially lessen the significant environmental effect, and thus, this would be a significant and unavoidable impact.

### Facts in Support of Finding

The EIR determined that several road segments on SR 12, 26 and 49 would be degraded from an acceptable LOS of C to D or E under the EIR Proposed Ordinance. The recommended mitigation measure of participating in the County Road Impact Mitigation (RIM) fee program would reduce the impact, but due to the timing of the RIM fee collection and the length of time necessary to construct road improvements, the impact would still be significant and unavoidable (MM3.9-2, DEIR Page 3.9-18).

Vehicle trips were calculated in the EIR based on an estimate of 15 employees per cultivation site during the peak harvest season of September through November. The reduction in the allowed number of cultivation permits to 190 under the Cannabis Cultivation Ordinance would have a direct correlation to the expected number of trips generated within the County. With a potential increase in size of some outdoor cultivation sites there could be an increase in trips for the large sites, but the potential area of cultivation is much less than what was analyzed in the EIR, corresponding to a reduction of 50% to 75%. Although the number of trips would therefore be reduced by 50% to 75%, to between 350 and 700 peak hour trips, there would still be a cumulative impact from those trips on the County's road system. The RIM fee has been carried over as a provision of the proposed ordinance to mitigate the impact. (Section 17.95.070(D).)

Although the Cannabis Cultivation Ordinance allows for self-distribution, there will be no increase in the number of trips or vehicle miles traveled since the same number of trips would be necessary to transport cannabis product to distributors, and no resulting decrease in LOS to any county roads or state highways. In fact, as noted previously, allowing self-distribution will likely reduce the number of trips generated as a result of the ordinance.

This impact will be significant and unavoidable, the same as the impact identified in the EIR.

### **B. Impacts Determined to be Less Than Significant or No Impact in the EIR.**

The Board, relying on the facts and analysis in the Draft EIR, Final EIR, and addendum, which were presented to the Board and reviewed and considered prior to any approvals, concurs with the conclusions regarding the potential environmental effects of the Cannabis Cultivation Ordinance. As explained above, the Cannabis Cultivation Ordinance is a modified version of the EIR Proposed Ordinance that was analyzed in the EIR. Because the Cannabis Cultivation Ordinance is more restrictive than the EIR Proposed Ordinance, it will have less environmental impacts. Based on the Draft EIR, Final EIR, and addendum, the Board finds that impacts that were identified as less than significant or no impact in the EIR are also less than significant or no impact for the Cannabis Cultivation Ordinance.

## VIII. ALTERNATIVES

Although CEQA does not required agencies to reconsider alternatives that were analyzed in a previously certified EIR when utilizing a CEQA addendum, the Board adopts the following findings to document its reasons for approving the Cannabis Cultivation Ordinance. In addition to the EIR Proposed Ordinance, the EIR analyzed the following alternatives:

- Alternative 1: No Project
- Alternative 2: Ban on Commercial Cannabis Operations
- Alternative 3: Reduced Zoning Designations Available for Commercial Cannabis Operations
- Alternative 4: Minimum Parcel Sizes and Further Reduced Zoning Designations Available for Commercial Cannabis Operations Alternative

### A. Alternative 1: No Project

CEQA Guidelines Section 15126.6(e)(1) requires that the no project alternative be described and analyzed “to allow decision makers to compare the impacts of approving the project with the impacts of not approving the project.” The no project analysis is required to discuss “the existing conditions at the time the notice of preparation is published...as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services” (Section 15126.6[e][2]). Under this alternative, the County would not adopt regulations related to the growing, processing, and distribution of cannabis within the county limits. This alternative would not meet any of the project objectives because no comprehensive regulations would be adopted that would ensure the health and safety of the County, its residents, and the environment. This alternative would also not allow the County to permit a limited amount of cannabis cultivation and related activities, which is contrary to the Board’s policy vision for the County. It would also deprive the County of revenue needed to address the problems associated with illegal cultivation and would provide no benefits for the local economy. For these reasons, the Board of Supervisors rejects Alternative 1 as infeasible.

As explained above, the Board adopted the Ban Ordinance in 2018. If the Board did not approve the Cannabis Cultivation Ordinance, the Ban Ordinance would remain in place. As explained below for Alternative 2, the County’s policy regarding cannabis has changed, and therefore, the Board has determined that continuing the Ban Ordinance is not the direction envisioned for the County and is rejected on policy grounds.

### B. Alternative 2: Ban on Commercial Cannabis Operations

When the Board certified the EIR in 2018, it chose to approve the Ban Ordinance, which was analyzed as an alternative in the EIR. The Board determined that Alternative 2 was the “environmentally superior” alternative for purposes of CEQA. Although the Board determined that Alternative 2 would not provide funding (through taxation of cannabis-related revenue) that could otherwise be used by the County to police and monitor the County for the presence of illegal grows, which is considered necessary to maintain the health, safety, and well-being of the County, its residents, and the environment, and therefore would not meet key objectives to the extent of the EIR Proposed Ordinance, it made a policy decision to adopt the Ban Ordinance. That was a policy decision that the Board, as it was then composed, had discretion to make.

Since that time, the composition of the Board has changed and the County’s policy on cannabis has shifted. The Board now determines that the countywide ban on cannabis cultivation imposed under the Ban Ordinance is not in the best interest of the County or its residents and is not the policy direction that the Board envisions for the County. Rather, on behalf of the County, the Board now seeks to allow some cannabis activities to occur subject to strict regulations that will protect the health, safety, and well-being of the County, its residents, and the environment. Continuing with the ban would also deprive the County of revenue needed to address the problems associated with illegal cultivation, as well as the benefits to the local economy. Accordingly, the County finds that the Ban Alternative is not feasible for policy reasons. (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 [“an alternative that ‘is impractical or undesirable from a policy standpoint’ may be rejected as infeasible”].)

### **C. Alternative 3: Reduced Zoning Designations Available for Commercial Cannabis Operations**

Alternative 3 involved a reduced number of zoning and land use designations that would have allowed for commercial cannabis operations through either an administrative use permit, zoning clearance certificate, or conditional use permit. Under this alternative, Rural Residential (RR) would not be considered an acceptable zone within which outdoor and indoor cultivation could occur through either a zoning clearance certificate or administrative use permit. Based on the environmental analysis contained in the EIR, Alternative 3 would result in largely similar impacts to the EIR Proposed Ordinance, but could allow for more cannabis-related activities, thereby resulting in greater impacts, notably those related to air quality emissions, odors, and transportation. As explained in the addendum, the Cannabis Cultivation Ordinance would reduce impacts compared to the EIR Proposed Ordinance, and therefore, would result in far less impacts compared to Alternative 3. Accordingly, the Board rejects Alternative 3.

### **D. Alternative 4: Minimum Parcel Sizes and Further Reduced Zoning Designations Available for Commercial Cannabis Operations Alternative**

Similar to Alternative 3, Alternative 4 involved a reduced number of zoning and land use designations that would allow for commercial cannabis operations through either an administrative use permit, zoning clearance certificate, or conditional use permit, however, it would represent a further reduction in the number of parcels within the County that would qualify for cannabis-related operations. Based on the environmental analysis contained in the EIR, Alternative 4 would result in largely similar impacts to the EIR Proposed Ordinance. However, this alternative could allow for more cannabis-related activities than under the EIR Proposed Ordinance, thereby resulting in greater impacts, notably those related to air quality emissions, odors, and transportation. As explained in the addendum, the Cannabis Cultivation Ordinance would reduce impacts compared to the EIR Proposed Ordinance, and therefore, would result in far less impacts compared to Alternative 4. Accordingly, the Board rejects Alternative 4.

## **XII. STATEMENT OF OVERRIDING CONSIDERATIONS**

A public agency may approve a project despite its significant and unavoidable impacts if it makes the necessary findings and adopts a “Statement of Overriding Considerations” setting forth the specific reasons why the agency finds that the project’s “benefits” render “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The Board’s decision to approve the Cannabis Cultivation Ordinance despite its significant and unavoidable impacts is guided by CEQA Guidelines Section 15093, which provides as follows:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

In accordance with the requirements of CEQA and the CEQA Guidelines, the Board finds that the mitigation measures identified in the Final EIR, as amended and incorporated into the Cannabis Cultivation Ordinance, will avoid or substantially lessen nearly all of the Cannabis Cultivation Ordinance’s significant environmental effects. Certain significant impacts, however, are unavoidable even after incorporation of all feasible mitigation measures. These significant and unavoidable impacts are related to odors and traffic.

The Board finds that the significant and unavoidable effects are outweighed and are found to be acceptable due to the following specific overriding economic, legal, social, or other benefits identified below. The Board finds that any one of the benefits set forth below is sufficient by itself to warrant approval of the Cannabis Cultivation Ordinance. This determination is based on the findings herein and the evidence in the record. Having balanced the unavoidable adverse environmental impacts against each of the benefits, the Board hereby adopts this Statement of Overriding Considerations for the following reasons.

1. The Cannabis Cultivation Ordinance establishes a county-wide policy regarding cannabis and provides a means for the County to regulate cannabis activity. Although the Ban Ordinance has been in effect since 2018, illegal cannabis operations continue to proliferate, leading to environmental harm and putting the health, safety, and welfare of county residents at risk. Although the Ban Ordinance was intended to address some of these problems, they have not been eliminated or substantially reduced, in part, because the County does not have a steady revenue stream for enforcement. The Cannabis Cultivation Ordinance establishes regulations to protect the health, safety, and welfare of County residents, provides a revenue source to address the problems caused by illegal operations, and will boost the local economy.
2. The Cannabis Cultivation Ordinance will reduce conditions that create public nuisances by enacting regulations including, without limitation, restrictions as to location, type, size, and operation of cannabis cultivation sites, and the use of adequate screening, security, and other protective measures to more effectively control the adverse impacts on County residents and the environment associated with cannabis cultivation and other commercial cannabis activities.

3. The Cannabis Cultivation Ordinance will have environmental benefits that outweigh its significant and unavoidable impacts. Unregulated cannabis activities can cause environmental harm, including impacts related to, among others, hazardous substances, water pollution, air pollution, erosion, and loss of habitat or other harm to endangered or threatened species. By establishing strict rules to regulate cannabis activities in the County, the Cannabis Cultivation Ordinance will help assure that these types of impacts can be avoided. It will also help minimize risks of and complaints regarding fire, odor, and pollution caused by unregulated cultivation of marijuana within the County.
4. The Cannabis Cultivation Ordinance will provide revenue to the County that it can use to enforce the regulations and eliminate those cannabis activities that are prohibited, as well as the adverse effects that are associated with them. This includes both permitting fees and ongoing tax revenue. In addition to this tax revenue, allowing certain cannabis activities to occur, as strictly regulated under the Cannabis Cultivation Ordinance, would also have other economic benefits for the County including increased employment and labor income.<sup>1</sup>

### **MITIGATION MONITORING AND REPORTING PROGRAM**

In accordance with CEQA, Calaveras County prepared an EIR for the “Medical Cannabis Cultivation and Commerce Ordinance Project” that identified significant impacts related to several environmental resources. The EIR also identified mitigation measures that would reduce the identified impacts. The County later prepared an addendum to the EIR for a revised ordinance (the “Cannabis Cultivation Ordinance”), which explained why none of the conditions specified in CEQA Guidelines section 15162 that would trigger the need for a subsequent EIR have occurred.

CEQA and the CEQA Guidelines require that as part of making the findings required under CEQA Guidelines section 15091, public agencies must “adopt a reporting or monitoring program for changes to the project which it has adopted or made a condition of project approval to mitigate or avoid significant effects on the environment.” (CEQA Guidelines, §§ 15091(d), 15097.) The CEQA Guidelines specify that where the project at issue is an ordinance or other plan-level document, the monitoring plan may consist of provisions included in the ordinance. (CEQA Guidelines, § 15097(b).)

### **PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM**

This mitigation monitoring and reporting program (MMRP) has been prepared to ensure that all required mitigation measures are implemented and completed in a satisfactory manner. The attached table identifies the impact, mitigation measures, monitoring responsibility, mitigation timing, and provides space to confirm implementation of the mitigation measures. The numbering of mitigation measures follows the numbering sequence found in the EIR. Mitigation measures that are referenced more than once in the EIR are not duplicated in the MMRP table.

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<sup>1</sup> See *An Economic Impact Assessment of the Cannabis Cultivation Industry in Calaveras County* (February 2, 2017) prepared by Center for Business and Policy Research, Eberhardt School of Business, and McGeorge School of Law.



## ROLES AND RESPONSIBILITIES

Unless otherwise specified herein, the County is responsible for taking all actions necessary to implement the mitigation measures under its jurisdiction according to the specifications provided for each measure and for demonstrating that the action has been successfully completed.

Inquiries should be directed to:

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891 Mountain Ranch Road  
San Andreas, CA 95249

The County is responsible for overall administration of the MMRP and for verifying that County staff has completed the necessary actions for each measure (i.e., appropriate amendments to the ordinance).

## REPORTING

The County shall document the compliance of the activity with the required mitigation measures either within the attached table or a separate monitoring report. The report shall be maintained by the Planning Department.

Mitigation Monitoring and Reporting Program

Impact	Mitigation Measure	Responsibility	Timing	Verification
Impact 3.1-1: Have a substantial adverse effect on a scenic vista or substantially damage scenic resources.	Mitigation Measure 3.1-1: Distance from designated scenic resources.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	This mitigation measure has been incorporated into the ordinance under Section 17.95.090(Q), which requires that outdoor and mixed-light commercial cannabis cultivation shall not be located within 1,200 feet of a state scenic highway or national scenic byway, exceeding the setback distance required under the mitigation measure.
Impact 3.1-3: Create a new source of substantial light or glare that would adversely affect views.	Mitigation Measure 3.1-3: Lighting standards.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	This measure has been incorporated into the ordinance under Section 17.95.090(M).
Impact 3.2-3: Generation of greenhouse gas emissions.	Mitigation Measure 3.2-3: Reduce GHG emissions associated with the cultivation, processing, and distribution of cannabis.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	This measure has been incorporated into the ordinance under Section 17.95.060(11), and 17.95.140(B), which requires that GHG emissions be offset through the use of photovoltaic panels or carbon offset credits.
Impact 3.2-4: Exposure of people to objectionable odors.	Mitigation Measure 3.2-4a: Prohibit burning of cannabis and other vegetative material.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	This measure has been incorporated into the Cannabis Cultivation Ordinance under Section 17.95.090(DD).
	Mitigation Measure 3.2-4b: Indoor cultivation odor control.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	This measure has been incorporated into the Cannabis Cultivation Ordinance under Section 17.95.090(Z).

Attachment: Revised Findings for BOS Adoption (10-22) (4874 : Cannabis Ord Final Action)

Mitigation Monitoring and Reporting Program

Impact	Mitigation Measure	Responsibility	Timing	Verification
	Mitigation Measure 3.2-4c: increase setback requirement.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	This measure has been incorporated into the Cannabis Cultivation Ordinance under Section 17.95.090(I). That section also includes a setback requirement greater than 75 feet for co-location of cultivation sites as provided in Section 17.95.090(F), and for parcels adjacent to RR, R1, R2, and R3 zoned parcels.
Impact 3.3-1: Impacts to special-status species. (applies for several impacts)	Mitigation Measure 3.3-1: Minimum size of commercial cultivation activities.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications	This measure has been incorporated into the ordinance under Section 17.95.090(BB), modified to apply the revised threshold to trigger the Water Board’s regulatory authority.
Impact 3.5-3: Groundwater supply impacts.	Mitigation Measure 3.5-3: Groundwater monitoring requirements.	Calaveras County Environmental Health Department	Prior to implementation of the ordinance and during consideration of applications	A modified version of this measure has been incorporated into the ordinance under Section 17.95.070(I).
Impact 3.9-2: Long-term increase in traffic.	Mitigation Measure 3.9-2: Participation in County Road Impact Mitigation Fee Program.	Calaveras County Planning Department	Prior to implementation of the ordinance and during consideration of applications.	This measure has been incorporated into the ordinance under Section 17.95.070(D).

Attachment: Revised Findings for BOS Adoption (10-22) (4874 : Cannabis Ord Final Action)