

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

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

APN 208-231-015-000; Dinsmore/Mad River Area, County of Humboldt

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Background

Modified Project Description and Project History –

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015, was included in the environmental baseline for the MND and the MND states that “Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting.” The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

The project involves a Minor Deviation to an approved Conditional Use Permit pursuant to the Humboldt County Commercial Medical Marijuana Land Use Ordinance (CMMLUO), Section 314-55.4.8.2.1 et seq. The approved Conditional Use Permit was for 27,825 square feet of existing outdoor cannabis cultivation totaling 22,400 square feet and 5,425 square feet of mixed light commercial cannabis cultivation (Application Number: 13139). The Minor Deviation to the approved project is to allow an error in the reported square footage to be corrected. The corrected cultivation area totals 29,425 square feet which includes 24,000 square feet of outdoor and 5,425 square feet of outdoor commercial cannabis cultivation. This change in approved cultivation is approximately 5.3% and the original referral agencies based their review on the 29,425 square feet of cultivation area. The proposed Minor Deviation will not result in an increase in water usage.

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO which were intended to mitigate impacts of existing cultivation. These include ensuring onsite lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources because of light and noise.

Purpose - Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (MND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, based on substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Summary of Significant Project Effects and Mitigation Recommended

A review of Appendix G impacts:

Aesthetics: The project is for pre-existing outdoor cannabis cultivation in an existing flat. The project will not significantly impact scenic vistas or public views as the project site is surrounded by trees and cultivation will not be visible from the road. The project is consistent with the visual character of the area. The project involves mixed-light cultivation in three mixed-light greenhouses totaling 5,425 SF. The CMMLUO requires

that mixed light cultivation comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). International Dark Sky Association standards exceed the requirements of Scenic Resources policy SR-S4, Light and Glare, that lighting be fully shielded and designed and installed to minimize off-site lighting and direct light within the property boundaries. The project will meet and comply with standards for the International Dark Sky Association. The project is located on lands that are only accessible via private roads and is not located in proximity to any scenic highway or roadway. Compliance with these requirements have been added as conditions of approval to the proposed project. No impact.

Agriculture and Forestry Resources: The project will utilize lands classified as Forest-Recreational for agricultural purposes. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. The project will not result in the loss of forest land or conversion of forest land to non-forest use since the flat is currently existing. No impact.

Air Quality: As a condition of project approval, applications for grading and/or building permits are referred to the North Coast Air Quality Management District (NCAQMD) for review and consultation. Dust control practices during construction and grading shall achieve compliance with NCAQMD fugitive dust emission standards.

Minimal construction activities are associated with the project as many of the structures are preexisting. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project does utilize a gravel road, and traffic on gravel roads contribute to PM-10, for which the North Coast Air Basin is already in non-attainment. However, the project is owner-operated with no use of employees, and no increase in traffic on the gravel road is anticipated as part of the project. No impact.

Biological Resources: All existing cultivation sites and structures with a nexus to cannabis are outside the SMA setbacks. The project has been conditioned to prohibit the removal of oak trees. The closest Northern Spotted Owl (NSO) activity center is approximately 1.7 miles east of the existing project area. No evidence of NSO were overserved on the project parcel, however, potential suitable habitat exists. The project has been conditioned such that applicant be required to mitigate for light and noise impacts to NSO. Less than significant impact.

Cultural Resources: The project was referred to the Tribal Historic Preservation Office (TPHO) of the Bear River band of the Rohnerville Rancheria. The TPHO requested

inadvertent archaeological discovery protocol for the project. The standard inadvertent archaeological discovery language was included as an ongoing Condition of Approval for this permit in addition to the following as Condition of Approval:

- No ground disturbing activities within the site recorded as MRH-01, cultivation shall be limited to above ground planting techniques.
- No ground disturbing activities within the site recorded as MRH-02.

If project activities change to involve additional ground disturbance or cultivation, additional cultural review may be required.

Energy: Electrical power for all agricultural operations/activities is currently supplied by generator (Kubota Wrico 10kW GL110000). Generator operation of the generator is operation from 8:00 AM to 7:00 PM daily. The generator is operated inside an enclosure for noise dampening. Specifications for the generator indicate that the decibel rating at a full load is 68 dB/A at a distance of 23 feet. The generator will be enclosed according to the Engineering Toolbox's reference Machine Noise Level Reduction guidelines to reduce noise levels to approximately 25.2 decibels at 100 feet. The generator is operated inside an enclosure to provide noise dampening. Two (2) 55-gallon gasoline drums are stored with secondary containment inside the Metal Building denoted on the site map. One (1) diesel 500-gallon container is stored in the Generator Shed, which has concrete flooring, secondary containment, and noised attenuation measures in place.

In 2023, the permit holder received a grant to install a 12.5 kw ground mounted solar array with 60 mounted panels and a solar trailer with inverters and battery bank. Completion of this project is scheduled for August of 2025. Less than significant impact.

Geology and Soils: The project site is not located in a mapped Alquist-Priolo fault zone, nor is it subject to liquefaction. The project also does not pose a threat to public safety related to exposure to natural or man-made hazards. The applicant must secure a grading permit and as part of the permit the applicant will, at a minimum, incorporate the standard erosion control measures enumerated in the General Plan. Additional erosion control measures that shall be implemented have been identified in the Water Resource Protection Plan. These measures are a condition of approval of this permit. No significant grading will occur, and topsoil is preserved through the use of annual rotation and cover cropping. No impact.

Greenhouse Gas Emissions: The site currently used a mobile 10 kW generator for the mixed light cultivation, curing, fans, and the well pump. The cultivation of full sun outdoor does not require power. The permit holder is currently switching to all solar

which is to be completed by August of 2025. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides and fuel for use in farm equipment existing storage structures. All hazardous materials are stored in a locked area with secondary containment in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as a very high fire risk area; however no significant wood framed structures will be constructed as part of this project. The project would not impair emergency response or create a significant risk from wildfire. Less than significant impact.

Hydrology and Water Quality: The project is for a total of 29,425 square feet of cannabis cultivation in an open flat. The project will not degrade any water sources or contribute to sedimentation. The water source for the project comes from a permitted well and from a surface water diversion from the Mad River. The applicant is utilizing portable toilets on site. The Division of Environmental Health recommended conditional approval with the conditions that 1) no processing be approved until and acceptable site suitability reports can establish potential for onsite waste treatment and 2) an invoice, or equivalent documentation, be provided to DEH to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of annual permit. The project has been conditioned to meet the requirement of the Humboldt County Health Code.

The project site falls within Tier 2 of the North Coast Regional Water Quality Control Board's (RWQCB) Order No. R1-2015-0023, which requires preparation of a Water Resources Protection Plan (WRPP). The applicant has registered and is permitted through the North Coast RWQCB. The applicant retained Timberland Resource Consultants for the preparation of a WRPP. The WRPP has been prepared to describe and address the required elements and compliance with the 12 Standard Conditions established by the Order. Completion of the mitigation measures identified in the WRPP is a Condition of Approval of this permit. Completing these measures will ensure that this project conforms to the requirements of the General Plan. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned Forest Recreation. The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Cannabis cultivation is an agricultural activity and an allowable use type in this designation, consistent with this policy. The project is adjacent to public lands (Six Rivers National Forest) which is managed by the

United States Forest Service; however, cultivation activities are located more than 600 feet from the National Forest boundary. No impact.

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

Noise: The subject parcel is located in an area that requires special noise attenuation measures due to the presence of special status, threatened, or endangered wildlife in the surrounding Six Rivers National Forest. The existing and proposed cultivation areas are mixed-light and use electrical generator as a primary power source. Noise generated from the generators will comply with the standards set forth in Section 314-55.4.11(o) of the CMMLUO and Department Policy Statement #DPS-16-005 and the project has been conditioned accordingly.

Population and Housing: The project is for outdoor cannabis cultivation. No housing is proposed nor is any removal of housing proposed. The project will not induce substantial unplanned population growth in an area nor displace substantial numbers of existing people or housing necessitating the construction of replacement housing. No impact.

Public Services: The project is for 29,425 square feet of cannabis cultivation on an existing site. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

Recreation: The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. There are no recreational facilities located within 600 feet of the project. No impact.

Transportation: The project parcel access roads were evaluated by a Professional Engineer for an adjacent project parcel (208-231-012-000) and the roads were determined to be less than equivalent to a Category 4 Standard for the segment of River Road that runs east-west from the Trinity County Line. The engineer's Road Evaluation Report (RER) detailed measures that must be undertaken to ensure safe travel along the road. A condition of approval has been incorporated that requires that the RER measures be completed. The project is accessed from a non-county-maintained road that originates in Trinity County. The Trinity County portion of the access road begins at the first crossing of the Mad River off Highway 36 in onto a US Forrest Service Road for approximately 500 feet then branches off to the left to County Line Creek Road. County

Line Creek Road is a non-county-maintained private road that is maintained by the residents. A Road Evaluation was completed for this section of road by neighboring property owner, and supplied the County with maps and photographs to show that the road is equivalent to Category 4 Standards. No Impact.

Tribal Cultural Resources: The project was referred to the Tribal Historic Preservation Office (TPHO) of the Bear River band of the Rohnerville Rancheria. The TPHO requested inadvertent archaeological discovery protocol for the project. The standard inadvertent archaeological discovery language was included as an ongoing Condition of Approval for this permit in addition to the Conditions of Approval noted above. Less than significant impact.

Utilities and Service Systems: Solid waste is taken to the Eureka or McKinleyville transfer station at least once a week. The project utilizes portable toilets on site. Water for propagation and cultivation is sourced from an approved well and an approved surface water diversion from the Mad River. Power is currently provided by a generator but will be provided by solar after August of 2025. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. There will be no significant new structures that will increase the risk of wildfire. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 29,425 square feet of cultivation with ancillary propagation and curing activities is fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents:

- Addendum to Cultivation & Operations Plan and Cultivation & Operations Plan
- Site Plan
- Property Survey
- Notice of Applicability letter from the State Water Resources Quality Control Board
- Site Management Plan

- Road Evaluation
- Department of Environmental Health Worksheet
- County GIS

Other CEQA Considerations

Staff suggests no changes for the revised project.

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

See **Purpose** statement above.

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

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

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

- The project is within the historic aboriginal territory of the Bear River Band. The project was referred to the Northwest Information Center at Sonoma State and the Bear River Band. The NWIC requested that the project be conditioned that there be no ground disturbing activities within certain sections of the property. The project site meets or exceeds the setbacks from tribal cultural resources.

Mitigation Measure 2: Curing violations of state, county code (55.4.11(a)).

- The project is for pre-existing cultivation and project approval includes a compliance agreement to cure unresolved violations of state or county code.

Mitigation Measure 3: Required setbacks from watercourses, wetlands, and Environmentally Sensitive Habitat Areas (55.4.11(d)).

- The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel does contain streams and/or wetlands in which setbacks were requires. The project also meets the setbacks required from property lines, schools, school bus stops, church or other place of religious worship or tribal

cultural resource.

Mitigation Measure 4: Permitting Tiers and related requirements (55.4.8.2 et seq.)

- The project is for 29,425 square feet of pre-existing cultivation in an Forest-Recreation (FR) zone which requires a Conditional Use Permit. The project complies with the requirements described in 55.4.8.2 et seq.

Mitigation Measure 5: Retirement, Remediation, and Relocation Program (55.4.14)

- The project is not participating in the Retirement, Remediation, and Relocation program therefore this mitigation measure does not apply.

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for pre-existing cultivation consistent with baseline conditions which is eligible in a Forest-Recreation (FR) zone. No new increased cultivation will occur. There was no tree removal conducted for cannabis cultivation activities.

Mitigation Measure 7: Use of fertilizer, pesticide, fungicide, rodenticide, or herbicide (55.4.11(j))

- The project operations plan describes measures that will be taken to properly store and handle hazardous materials. Compliance with the operations plan is a condition of project approval. The use of anticoagulant rodenticide is prohibited. The project is conditioned requiring the applicant to provide written compliance with the Certified Unified Program Agency (CUPA) requirements.

Mitigation Measure 8: Diversion of surface water and trucked water (55.4.11(l)-(m))

- The project will utilize rain catchment for irrigation. No surface water diversion is a part of the project.

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

- A 10-kW generator was the original approved power source of this project. In 2023, the permit holder received a grant to install a 12.5 kw ground mounted solar array with 60 mounted panels and a solar trailer with inverters and battery bank. Completion of this project is scheduled for August of 2025.

Mitigation Measure 10: Storage of Fuel (55.4.11(p))

- The project is conditioned that fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

Mitigation Measure 11: Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).

- The project will be owner-operated with no employees.

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

- The project involves mixed-light cultivation in three mixed-light greenhouses totaling 5,425 SF. The CMMLUO requires that mixed light cultivation comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). International Dark Sky Association standards exceed the requirements of Scenic Resources policy SR-S4, Light and Glare, that lighting be fully shielded and designed and installed to minimize off-site lighting and direct light within the property boundaries. The project will meet and comply with standards for the International Dark Sky Association. The project is located on lands that are only accessible via private roads and is not located in proximity to any scenic highway or roadway. Compliance with these requirements have been added as conditions of approval to the proposed project.

Mitigation Measure 13: Humboldt Artisanal Branding Provision (55.4.15)

- The proposed project is for more than 3,000 square feet therefore this measure does not apply.

Mitigation Measure 14: Sunset Clause for applications

- The application was received on December 30, 2016, prior to the sunset of the ordinance.

Based upon this review, the following findings are supported:

FINDINGS

1. The proposed project will permit an existing cannabis operation and bring the operation into compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.
3. For the current proposed project, there has been no new information of

substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

CONCLUSION

Based on these findings it is concluded that an Addendum to the certified MND is appropriate to address the requirements under CEQA for the current project proposal. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.